Recommendation Report for Removal of a Planning Obligation

REF NO: **BR/248/13/PO**

LOCATION: 55 & 57 Victoria Drive and land to the rear.
Bognor Regis

PROPOSAL: Application to discharge the planning obligation dated 19th September 2007 under planning reference BR/217/07 and replace it with an amended obligation.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	This application relates to the original consent for the demolition of 55 & 57 Victoria Drive and replacement one detached dwelling with a garage, six semi-detached dwellings and six flats which was allowed under reference BR/217/07 and its associated planning obligation dated 19th September 2007. The application simply proposes to pay the required commuted sums in respect of Education, Libraries, Children's Play and the Fire Service by staged payments rather than as lump sums. The current obligation requires these payments to be paid in full on or before the start of development. The amendment will split the payments in half and require each half on the commencement of phase 1 and then phase 2 of the development. Previously, no phases were specified.
SITE AREA	0.3 hectares.
RESIDENTIAL DEVELOPMENT DEN	43 dwellings per hectare.
TOPOGRAPHY	Predominantly flat.
TREES	Fir Trees in Garden but of poor quality.
BOUNDARY TREATMENT	No. 55 - 0.6m high brick wall to front, 1.8m high close boarded fence to south, 2m hedge to the north; No. 57 - 1m high stone wall to the front.
SITE CHARACTERISTICS	No. 55 is a detached dwelling with brown facing brick and clay tile hanging to the first floor and roof. No. 57 is also detached and has a stone front elevation with buff bricks to other elevations and a slate roof.
CHARACTER OF LOCALITY	Predominantly residential. Two storey buildings to Marshall Avenue, 1.5 storey buildings to the south.

RELEVANT SITE HISTORY

BR/217/07/	Residential development - one detached with a garage, six semi-detached and six flats	ApproveConditionally 26-09-2007

The approval for BR/217/07 included a planning obligation as dated 19th September 2007.

REPRESENTATIONS

Representations received:

Bognor Regis Town Council

Bognor Regis Town Council - Initially raised objection but after a request was made by the case officer to reconsider the application, the Town Council revised their recommendation and stated that: ".... on the belief the planning obligation is amended to make staged payments, the Committee wish to change their comment to NO OBJECTION."

Comments on Representations received:

Comments noted.

CONSULTATIONS

Planning Solicitor

Consultations responses received:

Arun District Council Planning Solicitor - "The economy affects developers. The DCLG recognises this by Growth and Infrastructure Act 2013 and DCLG Guidance issued in April 2013. Many are seeking staged payments. DCLG encourages LPA's to be proactive and understanding. This developer has sought staged payments. I assume the economy is the reason, though I haven't seen the application in full. Also, in this case the developer has threatened court action about the validity of the deed and an agreed solution is preferable to expensive and risky litigation. Previously the Planning Obligation provided for lump sum payments. The parties agree to stage or instalments payments at start and finish of the development. This is soon to be signed. The application should be granted in the terms of the Deed of Variation attached."

Comments on Consultation responses:

Comments noted.

POLICY CONTEXT

Designations applicable to site:

Class C Road;
PD Restriction; and
Area of Special Character.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:

PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework

POLICY COMMENTARY

The above policies combine to describe the criteria against which the application will be assessed particularly with regard to visual and residential amenity.

The Development Plan consists of the Arun District Local Plan 2003.

Paragraph 214 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight.

The weight afforded to the policies with Local Plan policies can be assessed according to their level of consistency of the various policies with the National
Planning Policy Framework. It should be noted that the NPPF states that weight is given to individual policies and not to the plan as a whole.

NPPF Paragraph 216 confirms that weight can be given to policies in emerging plans following publication. The Council published the Draft Arun Local Plan in July 2012
and this is a material consideration in the determination of this planning application. A pre-submission Plan has yet to be endorsed and published.

Following publication of a pre-submission draft, there is required to be a formal public consultation, resolution of objections, examination and formal adoption. At this time, the emerging Local Plan is afforded very limited weight in terms of the decision making process.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is considered to comply with relevant Development Plan policies in that it would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, nor would it have an adverse impact upon the established character of the surrounding area.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

This application relates to the original consent for the demolition of 55 & 57 Victoria Drive and replacement one detached dwelling with a garage, six semi-detached dwellings and six flats which was allowed under reference BR/217/07 and its associated planning obligation dated 19th September 2007.

The application simply proposes to pay the required commuted sums in respect of Education, Libraries, Children's Play and the Fire Service by staged payments rather than as lump sums.

The current obligation requires these payments to be paid in full on or before the start of development. The amendment will split the payments in half and require each half on the commencement of phase 1 and then phase 2 of the development. Previously, no phases were specified.

It is not considered that that the changes to the existing S106 agreement will have a material

impact on the development as approved, on surrounding land users or the visual amenity of the area.

No objection has been raised by either the Town Council or the Council's Solicitor and it is therefore recommended that the application be approved subject to the satisfactory finalisation of the Section 106 agreement.

HUMAN RIGHTS ACT

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

RECOMMENDATION

APPROVE