

BR/293/06/PO**PLANNING APPLICATIONS REPORT**

DESCRIPTION/ ADDRESS	- Application for the modification of planning obligation dated 19.6.2001 to reduce the age restriction to 50 years of age. Flat 7 Magnolia Court, 119 Victoria Drive, Bognor Regis.
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THE SITE AND ITS SURROUNDINGS

DESCRIPTION OF APPLICATION	As above. The proposal relates to Flat 7 Magnolia Court only and seeks to vary the planning obligation relating to the whole of Magnolia Court so that Flat 7 is restricted to age 50 years rather than 60 years.
SITE AREA	N/A
RESIDENTIAL DEVELOPMENT DENSITY (NET)	N/A
TOPOGRAPHY	Predominantly flat.
TREES	None.
BOUNDARY TREATMENT	Open to front.
SITE CHARACTERISTICS	A three storey block of 15 no. flats
CHARACTER OF LOCALITY	A predominantly residential area with examples of similar blocks of flats, and two storey detached dwellings opposite. Garage area to the north.

RELEVANT PLANNING HISTORY

REFERENCE	DESCRIPTION	DECISION
BR/40/00/	Residential development of 6 no. 3 bedroom houses.	Withdrawn 07-04-2000
BR/95/00/	14 no. sheltered flats in 3 storey block.	Withdrawn 21-06-2001
BR/9/01/	Revision to existing planning approval to include for 1 additional flat at 2 nd floor level, minor extension to house fire escape stair & some minor elevational amendments.	Approved Conditionally 19-06-2001
BR/258/06/PO	Application to modify planning obligation dated 19/6/2001 to reduce age restriction to 50 years of age. (<i>Flat 12</i>)	Awaiting Decision
BR/298/06/PO	Application to modify planning obligation dated 19/6/2001 to reduce age restriction to 50 years of age. (<i>Flat 1</i>)	Awaiting Decision
BR/299/06/PO	Application to modify planning obligation dated 19/6/2001 to reduce age restriction to 50 years of age. (<i>Flat 15</i>)	Awaiting Decision

BR/293/06/PO**RELEVANT PLANNING HISTORY**

REFERENCE	DESCRIPTION	DECISION
BR/309/06/PO	Application for the modification planning obligation imposed on BR/9/01 dated 19/06/01 to reduce age restriction to 50 years. (Flat 6)	Awaiting Decision
BR/328/06/PO	Application to modify planning obligation dated 19/6/01 imposed on BR/9/01/ to reduce age restriction to 50 years of age. (Flat 3)	Awaiting Decision

REPRESENTATIONS RECEIVED

SOURCE	SUMMARY OF CONTENT
Bognor Regis Town Council	Objection. This would change the tenure of the area where people of pensionable age believed at the time of purchase that they could enjoy a peaceful retirement. The application is unneighbourly.
Local Groups	None
1 Letter of Objection	- Much younger people could live here as joint residents. - Increased cars/movement as most people in their 50s work. - Limited parking on and off site. - Bought flat on the basis of it being restricted to age 60. - Those who sell their flats more easily will not be here to suffer the consequences.

CONSULTATION RESPONSES

CONSULTEE	SUMMARY OF RESPONSE
Planning Solicitor	S106A applies and the statutory time limit of 5 years has passed so as to allow this application to be made. DEV21 and DEV22 should be applied to judge whether this restriction still serves a 'useful purpose' as per S106A.
County Highways	No objection.

POLICY CONTEXT

DESIGNATION APPLICABLE TO SITE
Within Built-up Area Boundary Class C Road

DEVELOPMENT PLAN POLICIES

West Sussex Structure Plan : LOC1, DEV1, DEV5, CH1 Arun District Local Plan : GEN2, GEN7, DEV21, DEV22

PLANNING POLICY GUIDANCE

PPS1	- Delivering Sustainable Development
PPG3	- Housing

BR/293/06/PO**PLANNING POLICY GUIDANCE**

PPG13 - Transport

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 and parking provision.

COMMENT ON CONSULTATION RESPONSES

Noted. The application will be assessed in accordance with Arun District Local Plan Policies.

COMMENT ON REPRESENTATIONS RECEIVED

Noted and agreed that neighbouring residential amenity may be adversely affected by this proposal. County Highways have raised no objection with regards to parking provision.

ASSESSMENT OF PROPOSAL**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 conflict with relevant Development Plan policies in that the development is not considered to provide sufficient amenity space and facilities for unrestricted use, nor is it considered to maintain a satisfactory environment for those units that remain restricted under the terms of the legal agreement.

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 is to modify the age restriction from 60 years old to 50 years old on flat 7 that was imposed under a Section 106 Agreement dated 19th June 2001 following the approval of application BR/9/01/ for 15 no. flats.

1. Original Development BR/9/01/

The original application for the construction of Magnolia Court was approved subject to a S106 Agreement including an age restriction due to its inadequate parking provision and amenity space that would normally be required for unrestricted development. The Agreement therefore allowed the development to proceed where a similar unrestricted development may have failed to obtain planning permission. Current occupiers have subsequently chosen to live in this development in part due to this age restriction providing a quieter environment than they may experience in unrestricted developments. The proposed modification of the age restriction of flat 7 therefore conflicts with the understanding that the Local Planning Authority had in approving application BR/9/01/, and the perception of

BR/293/06/PO

CONCLUSIONS

neighbouring residents in occupying neighbouring units.

Further, as the development was originally intended for those persons over the age of 60, it is considered that the current design and layout of the building may not be as suitable for a younger population as for a population over the age of 60.

2. Serving a 'Useful Purpose'

In determining this application, emphasis is placed on whether this restriction serves a 'useful purpose' as per Section 106(A) of the Town and Country Planning Act 1990 as amended. However, the Local Planning Authority is not confined to the consideration of matters that were applicable when the obligation was made, but can consider current criteria that are considered to serve a 'useful purpose'.

In this case, it is accepted that the obligation no longer serves a 'useful purpose' by restricting car parking. County Highways have raised no objection to this application as PPG13 was amended in September 2004 to allow more relaxed parking provision for developments in town centre locations.

However, this obligation is considered to serve a 'useful purpose' in terms of amenity space due to there being an inadequate provision than would be required by unrestricted development. Further, the precedent that the approval of this application may set for the modification of age restrictions in other flats within the same development or in the surrounding area is considered to cause detrimental harm to the character of the area.

3. Neighbouring Residential Amenity

Whilst this application proposes only a reduction in the age restriction from age 60 years to 50 years, a 50 year old inhabitant may be accompanied by a younger spouse and dependent family residing within the same unit. Therefore if this application were to be approved, it is considered that the residential amenity of neighbouring restricted units may be unduly harmed by general disturbance in conflict with Policy DEV22 of the Arun District Local Plan.

4. Housing Stock

The population of Bognor Regis comprises a significant proportion of older people, of state pensionable age, in demand for housing to meet their needs. Therefore, the provision of flats designed and restricted specifically to meet these needs is considered necessary. If age restrictions on existing flats become modified or discharged, then further restricted developments may be required. It is therefore considered that the age restriction should remain at 60 years old to maintain an adequate supply of housing stock across Arun District.

5. Conclusions

Having taken the above factors into consideration, it is considered that the obligation still serves a 'useful purpose' as per S106(A) due to the development lacking amenity space to the standards that would be required by unrestricted accommodation. Further, it is not considered that a satisfactory environment can be maintained for those units that remain unrestricted.

The application is therefore in conflict with Policy DEV22 of the Arun District Local Plan, and it is recommended that the application be refused for the reason set out overleaf.

BOGNOR REGIS

BR/293/06/PO

Application for the modification of
Planning Obligation dated 19.6.2001 to
reduce the age restriction to 50 years of
age.

Flat 7 Magnolia Court
119 Victoria Drive
Bognor Regis

RECOMMENDATION

Refuse

- 1 The whole development was assessed and granted planning permission on the basis that the development would be occupied by persons of retirement age. To remove this restriction in a piecemeal fashion flat by flat to a younger age restriction would result in development that did not make adequate provision for on-site facilities such as amenity areas needed to serve general family unit accommodation. The partial conversion of the flatted schemes would also lead to conditions of noise and general disturbance that would adversely affect the residential amenities of the remaining elderly occupiers who had purchased the accommodation specifically to provide themselves with a particular environment. The proposal would reduce the type of housing that is required in Arun District to meet the population profile of the area which has a high proportion of persons over the age of 60 years. The proposal is therefore contrary to policy DEV22 of the Arun District Local Plan.

