Recommendation Report for Planning Permission

REF NO: **BR/317/13/**

LOCATION: Bickley Court
Richmond Avenue
Bognor Regis

PROPOSAL: Change of use from redundant community facilities within original sheltered housing to form 3 No flats (C3 Dwelling Houses) for occupation by members of the armed forces with no age restriction.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The proposal is for the change of use of three existing and now redundant former communal areas in the building to create 3 flats. The first area is a first floor hairdressers and this will become a studio flat. The second area is a ground floor communal lounge & laundry area and this will become two 2 bed flats. The two ground floor flats will have external private garden/patios.
SITE AREA	0.3206 Ha.
RESIDENTIAL DEVELOPMENT DENSITY (NET)	Existing: 149.7 dph. Proposed: 162.2 dph.
TOPOGRAPHY	Predominantly flat.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	Hedging along the pavement and low walling to the rear.
SITE CHARACTERISTICS	Modern purpose built block of flats 2.5 storeys brick with slate roof. The area around the building is laid to lawn. Car parking and bins storage to the rear of the site. The property is currently being marketed to prospective purchasers.
CHARACTER OF LOCALITY	Predominantly residential.

RELEVANT SITE HISTORY

BR/259/11/	Application for removal of Condition 13 of previously approved planning application BR/608/76 relating to age restricted occupation.	Withdrawn 08-12-2011

BR/314/12/	Application for removal of condition no.13 imposed on planning application BR/608/76 regarding age restricted occupancy	ApproveConditionally 13-03-2013
BR/222/75	O/L for erection of 12 no 2 storey terraced dwellings & garages	ApproveConditionally 04-06-1975
BR/199/75	Erection of grouped flats for the elderly	ApproveConditionally 25-06-1975
BR/100/76	Erection of grouped flats for elderly and 2 wardens flat	Withdrawn 21-07-1976
BR/608/76	Erection of grouped flats for the elderly 38 No single 6 No double units 2 No wheel chair units & 2 wardens units	ApproveConditionally 17-11-1976
BR/393/77	Resiting and variation in design being revision flats approved under BR/608/76	ApproveConditionally 24-08-1977

The site was developed to provide flats for the elderly on land previously belonging to Nyewood Church of England School granted consent under application reference BR/608/76. As that development could not provide the car parking as required by the standards applicable at that time, a condition was imposed to restrict the occupation of the flats to the elderly.

Planning Application BR/314/12/ was then submitted to remove this restriction so that the building could be renovated to provide 48 flats for people who are serving or have served in the armed forces. At that time there were only 13 parking spaces to the rear but the application proposed a new layout of 29 spaces and this was considered to be acceptable having regard to both the 32 space requirement for private flats and the 13 space requirement for low cost market housing. County Highways raised no objection to the 29 spaces. The application was approved.

It is noted that the application was not subject to a affordable housing contribution as the flats were existing and the residential use would not change. However, there was also no legal agreement attached to this approval to restrict the flats to former/current members of the armed forces and so in theory, the flats can be let/sold to the general public.

The permission was subject to a condition requiring the parking area to be completed prior to occupation. However, it is apparent that the flats are currently being occupied but that the parking area is not yet complete (work is currently being carried out on it). Furthermore, that the parking area does not accord with the plan approved by BR/314/12. The parking plan submitted with this application does however reflect what is on the ground/proposed.

REPRESENTATIONS

Representations received:

Bognor Regis Town Council

Bognor Regis Town Council - no objection

One letter from a neighbour living on Richmond Avenue stating that:

"We were led to believe:

1. that the flats were going to be maintained and occupied by residents of the Armed Forces and Veteran Estates.
2. that all apartments would have an allocated parking space.
3. that the occupants would access the property from the OFFICIAL FRONT of the property on the un-named from parallel and (not) between Richmond Avenue & Aldwick Road
4. that the flats would not be sold, let or sub-let to the public
5. no 'estate agent advertising hoardings' would be placed at the rear of the property (that is on Richmond Avenue).
6. All the land surrounding Bickley Court would be maintained by 'Armed Forces and Veteran Estates' and not sold off to occupants and/or left completely unmaintained.

However since the plans were displayed we have become concerned about the following changes/ actualities taking place.

1. Flats are being sold to the general public and not ex-military
2. The forty (40) apartments do not all have parking space. The new tenants (they are only a few) are accessing the previously rarely-used Richmond Avenue entrance. The already congested Richmond Avenue could have up to 80 more cars in it (based on two cars per household). This will be a huge problem for Richmond Avenue which already has a large number of 'house to flat conversions' and very little parking and almost no off-road parking.
3. see item 2 above
4. There are flats being sold and rented on the open market.
5. There are five estate agent hoardings on Richmond Avenue - the back of the property. They are unsightly. Furthermore with forty flats to rent or let THEY WILL ALWAYS BE THERE! The agents that have 'let' a property have kept a sign up for longer than the permitted two weeks.
6. The surrounding land has been left is full of litter and rubbish with no pruning or maintenance at all, and I have even seen a rat in one of the bushes. Furthermore tenants have erected or are planning to erect ugly latch panels above the 1metre height for properties near roads. One tenant when he found out he owned the land removed all the landscaping and has filled the land with
rubbish - for months!

Our property already faces being overlooked by a 3-story multi-occupancy which is bad enough but acceptable as the building already exists, however all of these other problems has left us with no other choice but to write to you. I hope this is the right course of action."

Comments on Representations received:

It should be noted that whilst the intention was clearly set out that the flats would be restricted to use by current/former members of the Armed Forces, there is actually no restriction in place to this effect. However, the new application for the 3 flats does include such a restriction on first disposal of the flats. With regard to parking, it is quite clear from the parking layout approved by BR/314/12 that 29 spaces were proposed but that at the time of that application, there were 48 flats.

An enforcement case was made as regards the breach of the condition requiring the parking to be in place prior to the occupation of the flats.

CONSULTATIONS

Environmental Health

Consultations responses received:

Planning Solicitor - stated that the Section 106 Agreement was complete as of the 26th

February 2014.

Comments on Consultation responses:

Comments noted.

POLICY CONTEXT

Designation applicable to site: Within the Built up Area Boundary.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003:	GEN2	Built-up Area Boundary
	GEN7	The Form of New Development
	GEN12	Parking in New Development
	DEV17	Affordable Housing
Publication Version of the Local Plan (October 2014):		

PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework

SUPPLEMENTARY POLICY GUIDANCE

XXX6	Interim Affordable Housing Policy

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 215 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 agreed the majority of the Arun Local Plan in February 2014 (Publication Version) and this is a material consideration in the determination of this planning application. The remaining chapters of the Local Plan namely: the Spatial Portrait, Employment & Enterprise, Housing Allocations, Transport, Monitoring and Implementation will be considered for publication at a later meeting of Full Council. Following 'publication' of the Local Plan a formal public consultation, examination and adoption process takes place. The chapters that have been published will undergo public consultation alongside the remaining chapters when they have been agreed. The weight given to the current published policies can be significant depending:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given);
- the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

The policies within this published version of the plan are at an advanced stage as they have been agreed by Full Council for regulation 19 consultation, they have been subject to independent audit and are considered to meet the NPPF and there are no known significant unresolved issues arising from regulation 18 consultation for the published policies.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The statement of representations procedure and statement of fact produced by the Council under regulation 19 explains that the consultation will take place once the remaining chapters / policies have been published.

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 should be noted that this is an existing residential flatted building containing 48 flats and other existing communal rooms/spaces. Furthermore, the car parking provision has always been lower than the total number of flats and it is clear that there is no additional space to provide parking.

CONCLUSIONS

PRINCIPLE:
The site lies within the built up area boundary where development is acceptable in principle subject to normal development control criteria such as visual and residential amenity being satisfied. Furthermore this is an existing residential flatted building. The change of use concerns existing redundant space within the building.

THE PROPOSAL:
As set out above, the proposal is for the change of use of three existing and now redundant former communal areas in the building to create 3 flats. Two of the flats will have private gardens but the studio flat is at first floor level and the building does not have any existing balconies.

CAR PARKING PROVISION:
Currently 29 parking spaces are in the process of being laid out for the existing 48 flats. No further spaces are being provided in respect of the new flats but is noted that the parking layout indicates that the new flats will each have designated spaces. According to the West Sussex County Council parking matrix, 51 private flats (1x3 bedroom, 5x2 bedroom, 6 x 1 bedroom & 39 studios) require a total parking provision of 51 spaces. However, the current approved parking provision is already short of the requirements. The parking demand for the 3 new flats is only 4 spaces. Given that this is a sustainable location close to the central area of Bognor Regis and on a main bus route, and that 39 of the flats are studios, it is considered acceptable to allow an exception to be made to the parking standards.

INTERNAL & EXTERNAL SPACE STANDARDS:
The Emerging Local Plan has recently been approved for development management purposes and it is therefore necessary to have regard to policies D DM2 and D DM3. Policy D DM2 relates to internal space standards and requires a certain amount of internal floorspace for new residential flats & houses. As there is no specific standard for studio flats, the standard given for 1 bedroom / 1 person flats is to be used instead. This is 50m2. Given that the plans show one 2 bedroom flat having a double & a single bed and the other having 2 double beds, the standards to be referred to for these two flats are 61m2 (for 3 people) and 70m2 (for 4 people). It is clear from the floor plans that the studio flat is only 15.2m2 and that the two 2 bedroom flats are both 61m2.

However, whilst only one of the flats meets the new standards, regard is had to the fact that these are redundant parts of an existing residential building. In the case of the studio flat, no other use of this former hairdresser's space would be compatible with the surrounding residential use and rather than leave it as a dead space it makes sense to create a small residential unit that might be attractive to someone. The same argument applies to the two 2 bedroom flats, although it is also noted that whilst one of the two flats shows a double bed in the spare room in contrast to a single bed in the spare room of the other flat, in actual fact there is only 2.5m2 difference between the two rooms and it seems likely that both second bedrooms will actually be single occupancy - and therefore, these two flats comply with the standards.

Policy D DM3 requires external amenity space to be provided and this can either be in the form of a balcony or garden. The studio flat offers no private amenity space but does have a share of the communal gardens. Furthermore, the site is located within only a short walk of two large parks and the sea front and it is therefore considered that an exception can be made. As noted in the proposal section above, the two 2 bedroom flats both have private amenity space and this complies with the requirements of the policy.

RESIDENTIAL AMENITY:
Although there are to be changes to the fenestration of the two new ground floor flats, these do not overlook any nearby residential properties and are also screened by new fencing.

SUMMARY:
The proposal to create these three new flats is seen as a acceptable use of existing redundant space within the building and it is recommended that permission subject to the following conditions which include a plans condition which makes reference to the parking layout currently being laid out on site and a requirement to lay out the parking prior to the occupation of the three new flats. There is no requirement for an affordable housing contribution as the housing units already exist and there is no change to the residential use of the building. However, the

application does include a legal agreement to ensure that the flats will in the first instance be occupied by former or current member of the armed forces and to ensure that the flats are sold or let at an affordable rate.

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.

SECTION 106 DETAILS

A Section 106 Agreement has been submitted (and completed). This specifies that the three flats will be affordable (on the basis of sale or rent at no more than 80% of market value) and will be first disposed to a former or current member of the armed forces.

RECOMMENDATION

APPROVE CONDITIONALLY SUBJECT TO A SECTION 106 AGREEMENT

1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

2 The development hereby approved shall be carried out in accordance with the following approved plans:

Proposed communal lounge/kitchen/laundry floor plan and elevations Rev A;
Existing communal lounge/kitchen/laundry floor plans and elevations Rev A;
Proposed ground floor plan;
Proposed floor plans flat 50;
Existing first floor plan for flat 50;
Site plan;
Existing and proposed part elevations for first and second floors;
Location plan;
Proposed Elevations and Floor Plans; and
Block Plan.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with GEN7 of the Arun District Local Plan.

3 The three new flats shall not be occupied until the parking spaces and turning facilities shown on the submitted A3 colour site plan have been provided and constructed. The areas of land so provided shall not thereafter be used for any purpose other than the parking or turning of vehicles.

Reason: To ensure that adequate and satisfactory provision is made for the accommodation of vehicles clear of the highways in accordance with policy GEN7 of the Arun District Local Plan.

4 INFORMATIVE: Statement pursuant to Article 31 of the Town and Country Planning (Development Management Procedure)(England) (Amendment No. 2) Order 2012. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.