

Recommendation Report for Removal of a Planning Obligation

REF NO: BR/99/17/PO

LOCATION: Essex House
3 Walton Road
Bognor Regis

PROPOSAL: Application to Discharge a Planning Obligation dated 10/02/89 under BR/484/88/ relating to S52 agreement.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

The Planning Obligation in question restricts occupations to persons over the state pensionable age.

TOPOGRAPHY

Predominantly flat

TREES

None affected by the proposed development.

BOUNDARY TREATMENT

1.5m high brick & flint wall to Walton Walls and similar to no. 2 Walton Road (the adjoining property) but open to the rear.

SITE CHARACTERISTICS

Essex House (3 Walton Road) is a two storey end of terrace dwellinghouse comprising of 2, two bed & 1, one bed flats. Two are on the ground floor and the third is on the third floor. There is also additional accommodation within the roof which is accessed from the other dwellings within the terrace.

The building is part flint and part light grey coloured brick. There is a small part hardstanding, part lawned rear garden area with space for bins. The property does not benefit from any off-street parking.

CHARACTER OF LOCALITY

Predominantly residential but of mixed styles and designs. The adjacent buildings to the south and west have the benefit of a planning permission for use by Butlins as staff accommodation. The site is within only a short walk of Hotham Park, the beach, Butlins and the Bognor Regis central shopping area. Not all residential properties within the surrounding area have off-street parking however, there are a number on on-street permit & short stay parking bays.

RELEVANT SITE HISTORY

BR/484/88	Conversion of existing 5 bedroom house into 3 self contained flats for elderly persons.	App Cond with S106 10-02-1989
BR/348/16/PL	Change of use of St Joseph's, Essex House (1 & 2 Walton Road) & Blackbird Cottage including on-site stand alone conservatory building, from a care home (Class C2 use) to a House in Multiple Occupation (HMO) to provide team member accommodation for up to 90 team members on behalf of Butlin's Bognor Regis, together with an on-site manager accommodation, two car parking spaces (one disabled space), a minibuss parking space, a designated cycle store for 20 spaces, a designated bin store, smoking shelter & associated landscaping.	ApproveConditionally 02-03-2017

Noted.

REPRESENTATIONS

Representations received:

Bognor Regis Town Council

"No objection".

Comments on Representations received:

Noted.

CONSULTATIONS

Planning Solicitor

WSCC Strategic Planning

Consultations responses received:

WSCC HIGHWAYS: No objection -

"The local highway authority (LHA) is unable to discern the connection between the age-related occupation of the property in question and the provision of car parking spaces, of which there are two on-site. There is adequate parking near the property based on application for a permit and public transport and other facilities are within easy walking distance of the property."

ADC SOLICITOR: No objection -

"I see that the deed very clearly sets out at Schedule 2 (2) and the planning permission that the aim is to restrict occupation to age restricted residences/elderly occupation - on the belief [which motivated this policy I am advised] that elderly people, did not drive cars as regularly as younger occupiers so requiring less car park spaces.

This belief about elderly car driving is questionable, not evidenced and may need to be reconsidered, in light of WSCC comments when it is consulted. WSCC as highway authority backed this reason for imposing these restrictions in the 1980s/1990s so they should be re consulted to see if they have views/evidence either way in 2017 as to this application site.

It may be that County Highways no longer back this age restriction in this case, but it may still serve a useful purpose if there is evidence to show (judged by you as a planner) that there is

another planning ground for keeping the age restriction e.g. lack of amenity open space, adverse affect on amenity from mixed age groups, discharge or variation will mean a loss of affordable housing for a needy sector of the population.

Arun Local Plan 2003 policy DEV22 refers to the acceptability of parking in the neighbourhood. These factors tend to suggest this restriction can be removed in this case:-

- * I can find no equivalent to DEV 22 in the ELP;
- * Unlike modern purpose built blocks for elderly accommodation, there is no lift and there appear to be at least 2 maybe 3 floors for 3 flats [contrast Rock Gardens which the applicant refers to to distinguish the inspectors upholding of an age restriction] elderly accommodation has expanded in the area, with more attractive, more suitable accommodation provided
- * It may, if possible, be a good idea to check age of occupiers - possibly by enquiry of the applicant - because occupation by people younger than pensionable age would fall within S84(1)(b) as an implied breach of the age restriction. I suggest in this case that there are no useful purposes identified so you can grant in my opinion"

Comments on Consultation responses:

The flats have historically been occupied by Nuns employed by the adjacent care home (St Josephs).

POLICY CONTEXT

Designations applicable to site:

Within Built Up Area Boundary;
No Public Sewer; and
Adjacent to a Building of Character (Walton Wells).

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003:	<u>DEV21</u>	Accommodation Restricted to Occupation by the Elderly
	<u>DEV22</u>	Relaxation of Restrictions (Occupation by the Elderly)
	<u>GEN2</u>	Built-up Area Boundary
	<u>GEN7</u>	The Form of New Development
Publication Version of the Local Plan (October 2014):	<u>GEN12</u>	Parking in New Development
		D DM1 Aspects of Form and Design Quality
		SD SP1 Sustainable Development
		SD SP2 Built-Up Area Boundary
		T SP1 Transport and Development

PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2003, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

A new local plan is in preparation may be a material consideration when determining Planning Applications. At this stage the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and supporting documents were submitted for independent examination on 30 January 2015. The Examination into the submitted plan was commenced but is currently suspended whilst Arun District Council addresses matters raised by the Inspector.

A number of Main Modifications to the Arun District Local Plan 2011-2031 (Publication Version) October 2014 were approved by the Council on 22nd March 2017 and consultation on these is taking place 10 April 2017 to 5pm on Tuesday 30 May 2017. The Main Modifications should be read alongside the Arun District Local Plan 2011-2031 (Publication Version) October 2014 and where there are changes the Main Modification may also be material consideration to take into account.

Arun District Council's Development Plans:

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.

Paragraph 216 of the NPPF confirms that weight can be given to policies in emerging plans from the day of publication. The Council resolved that the policies and maps in the Publication Version of the Local Plan be used are material considerations in the determination of this planning application. The emerging Plan was submitted in January 2015 and the examination is currently suspended. The examination is due to re-commence in summer 2017 following publication of modifications to the Plan.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards it being made. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation (Reg.14).

Made Plans in Arun District Council's Local Planning Authority Area are: Aldingbourne; Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Walberton; Yapton. The written Ministerial Statement of 13 December 2016 confirms that relevant policies for the supply of housing in Neighbourhood Plans should not be deemed to be out of date where all of the following circumstances arise;

- The NDP has been part of the development plan for 2 years or less or the ministerial statement is less than 2 years old

- The NDP allocates sites for housing
- The Council can demonstrate a three-year supply of deliverable housing sites

Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation (Reg.14).

Bognor Reiss had a made Neighbourhood Development Plan, but this contains no policies of relevance to this particular 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 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

PROPOSAL & BACKGROUND:

This application is for the removal of the restriction on the three flats within the property which essentially prevents occupation by persons other than those over the state pensionable age. This restriction was imposed under a Section 52 Agreement following the approval of BR/484/88 and because at the time of the application, there was not sufficient parking proposed to meet the Council's standards. Restricting occupation to the elderly meant that the parking standards could be relaxed. It is understood that the intention of the application is to accommodate Butlins staff within the building as part of the approved use at St Josephs next door.

PRINCIPLE:

The site is within an urban residential area where the principle of development is considered to be acceptable. The NPPF supports the effective and efficient use of land for sites in the built up area but also advises that new housing should be well integrated with and should complement neighbouring buildings and the local area in terms of scale, density, layout and access. The proposal is acceptable in principle given its location in a sustainable edge of town centre location within only a short walk from local shops, the beach and the Butlins complex.

POLICY DEV22 "RELAXATION OF RESTRICTIONS RELATING TO OCCUPATION BY THE ELDERLY":

Policy DEV22 states that:

"The amendment of planning agreements or obligations relating to units of accommodation for persons over state pensionable age will not be agreed unless the development remains in accordance with other policies in this plan in particular:-

(i) adequate parking, amenity space and public open space to the standards required by unrestricted accommodation is provided and;

(ii) in cases where only a proportion of units are to be de-restricted, a satisfactory environment is maintained for those units that remain restricted under the terms of the legal agreement."

In this case, as a result of this application, the whole of the building will be derestricted, therefore criteria (ii) does not apply.

With regard to (i), the property does benefit from a small rear garden and this links into the additional space to the rear of St Josephs. Furthermore, it is considered that the site is within easy walking distance of nearby amenity spaces (i.e. the beach, Hotham Park) such that residents will be able to find outdoor space to play or relax.

In respect to parking, there are two things to consider. Firstly, that it is no longer appropriate and there is no evidence to support the view that persons over the state pensionable age will be less likely to own or operate a car than those under that age.

Secondly, that the site is in a highly environmentally sustainable location such that residents do not need a car to access local shops, services, the beach, the nearby park, the railway station, bus routes or places of work. Indeed, it is the intention of the application to remove the restriction and allow for occupation by staff employed by the nearby Butlins which is only 300m to the east of the site. Butlins staff also have access to parking spaces within the resort site.

However, even if the property were to be allowed to fall into general market use, then it is not considered that the lack of parking provision would be inappropriate given the location. West Sussex Highways have been consulted and they support this view. It should also be noted that since the agreement was signed in 1989, car parking standards have gradually been adjusted downwards.

CONCLUSIONS:

For the reasons given above, it is considered that the discharge of this Planning Obligation is in accordance with policy and should be approved.

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