

Recommendation Report for Removal of a Planning Obligation

REF NO: LU/179/18/PO

LOCATION: 1 Madehurst Court
Gloucester Road
Littlehampton
BN17 7BX

PROPOSAL: Application to remove a planning obligation dated 01/08/1986 under planning permission LU/283/85 relating to age restriction

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The application requests the modification of a Planning Obligation made under S52 of the Town and Country Planning Act 1971, to enable the property at No.1 Madehurst Court to be occupied by persons of any age instead of the current restriction resulting from the modified agreement which currently allows occupation by any person of retirement age. The block of flats is a 3 storey building comprising 18 flats (12 x 1 bed and 6 x 2 bed). Under the Section 52 Agreement out of the total 18 flats 9 were originally restricted to those of state pensionable age. Two of these 9, have been varied to persons 50 years of age or over. The agreement was made on 01.08.1986. The 9 restricted flats were numbers 1, 4, 7, 8, 10, 11, 13, 14, and 16 (6 flats on the ground floor and 3 flats on the 1st floor). Flats 7, 8, 10, 11, 14 and 16 have subsequently had the obligation discharged.
RESIDENTIAL DEVELOPMENT DENSITY (NET)	N/A
TOPOGRAPHY	Predominantly flat
TREES	None affected by the proposed development.
BOUNDARY TREATMENT	The building faces directly onto the pavement.
SITE CHARACTERISTICS	The site is occupied by an L-shaped block of two storey flats that have painted render exterior walls and a tiled, Sussex hipped roof with dormers. There are 12 car parking spaces provided to the rear with an additional 4 accessed from Gloucester Road.
CHARACTER OF LOCALITY	The site is located on a residential road that is characterised by high density residential use with nearby buildings generally being a mixture of two storey terraced dwellings and blocks of two and three storey flats, a number of which are used for sheltered accommodation. Littlehampton Railway Station is directly to the south and the road runs parallel to the railway line.

RELEVANT SITE HISTORY

LU/362/08/PO	Application for the discharge of a planning obligation dated 01/08/1986 under planning application ref no. LU/283/85 relating to restriction of occupation to persons over state pensionable age.	Approve 08-04-09
LU/378/17/PO	Application to remove a modified planning obligation dated 01/08/1986 under planning application LU/283/85 relating to age restriction	Approve 02-02-18
LU/5/09/PO	Application for the Modification or Discharge of a Planning Obligation dated 1/8/1986 under planning application LU/283/85 relating to restriction of occupation to persons of state pensionable age	Approve 02-07-09
LU/50/10/PO	Application for discharge of planning obligation dated 1st August 1986 imposed on planning permission LU/283/85 limiting occupancy to persons of state pensionable age	Approve 13-04-10
LU/377/17/PO	Application to remove a planning obligation dated 01/08/1986 under planning application LU/283/85 relating to age restriction	Approve 30-01-18
LU/283/12/PO	Application to Modify a Planning Obligation dated 1st August 1986 relating to age restriction under Planning Application LU/283/85	Approve 13-03-13
LU/410/17/PO	Application to remove a planning obligation dated 01/08/1986 under planning application LU/283/85 relating to age restriction	Approve 30-04-18

Officers note other flats within Madehurst Court that have had the restrictive age restriction (Planning Obligation) removed.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Littlehampton Town Council
Littlehampton Town Council: No Objection.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted

CONSULTATION RESPONSES RECEIVED:

None

COMMENTS ON CONSULTATION RESPONSES:

Comments noted

POLICY CONTEXT

Designation applicable to site:

Within Built-Up Area Boundary
Planning Obligation

DEVELOPMENT PLAN POLICES

DDM1	D DM1 Aspects of form and design quality
DDM2	D DM2 Internal space standards
TSP1	T SP1 Transport and Development
HDM1	H DM1 Housing mix
Littlehampton Neighbourhood Plan 2014 Policy 1	The Presumption in Favour of Sustainable Development
Littlehampton Neighbourhood Plan 2014 Policy 2	A Spatial Plan for the Town

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

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

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. 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.

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).

The relevant policies in the Littlehampton Town Neighbourhood Plan have been taken into account in the determination of this application.

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

PRINCIPLE:

This application is for the removal of an age restriction on one flat which is part of a group of 18 flats, 9 of which were originally age restricted to occupation of state pensionable age. The restriction was imposed under a Section 52 Agreement following the approval of LU/283/85. This restriction was imposed since any future change of use from elderly occupation to unrestricted occupation would require a greater number of car parking spaces in accordance with the Council's adopted car parking standards. However, there are other material planning considerations that must be taken into account, particularly the potential impact of younger people occupying units amongst those that are still subject to age restrictions and open space considerations. There are other flats within the development that are occupied by younger residents and it is not considered the removal of the age restriction would adversely affect the residential amenity of existing residents to a material extent.

HIGHWAY CONSIDERATIONS:

County Highways have been consulted on other similar applications in this block in the past. Under application LU/283/12/PO they stated:

" County Highways no longer back this age restriction so the highway justification based on the theory that elderly residents do not drive or require car transport cannot be used to seek retention, but it may still serve a useful purpose if there is evidence to show that there is another planning ground for keeping the age restriction, e.g. lack of amenity open space, adverse effect on amenity from mixed age groups, discharge of variation will mean a loss of affordable housing for a section of the population.

It is suggested that there is no useful purpose identified for the obligations. Noise and nuisance from younger residents can be addressed via landlord management of covenants for quiet enjoyment. If there is a refusal there may be an appeal to the Lands Tribunal which the Council would find difficult to defend."

RELAXATION OF RESTRICTIONS RELATING TO OCCUPATION BY THE ELDERLY:

Officers note that previous approvals assessed the removal of the age restriction on Policy DEV 22 Relaxation of Restrictions Relating to Occupation by the Elderly, whereby:

The amendment of planning agreements or Planning 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.

However, Officers note that following the adoption of the current Arun Local Plan 2011-2031 this policy no longer applies. The current Local Plan states that:

'Arun has one of the highest older populations (people aged 60+) when compared to other local authority areas within the County. Comparatively speaking, Arun also has a low proportion of people aged under 45 living within the District.'

Therefore, planning should seek to achieve further accommodation (housing) for the older population

The Current Arun Local Plan states that:

'Having regard to the age profile of the District, the Council recognises the need to support the provision of continuing care facilities for the elderly which may take the form of any of the following:

Own homes (designed to meet the needs of the elderly)
Sheltered housing
Day care facilities
Nursing homes, and
Specialised care units'

Officers note that a number of age restricted residential properties (flats) have had their age restriction removed through granted planning permission e.g. application ref: LU/378/17/PO - 14 Madehurst Court. Having regard to this and that the County Highways no longer back these age restrictions, Officers consider that age restrictions of this type are no longer appropriate or necessary and as such a Policy for

the relaxation of restrictions relating to occupation by the elderly is not required.

Therefore, while the provision of accommodation for the older/elderly population is important, it is considered that as the aforementioned age restriction policy is not considered appropriate. Therefore, the removal of such a condition could be deemed appropriate following the appropriate assessment regarding parking and highway safety, amenity space, noise etc.

In this case, it is considered that the overall character of the development will be maintained. The development is a block of 18 flats which has no amenity space and 2 areas of car parking (16 spaces in total). The internal space standards (Current Local Plan does not have a condition regarding external space standards) will not be impacted by a change in the age of the occupier of the flat. The change of occupancy is not considered to result in any significant loss of residential amenity to the remaining residents of the flats particularly as 10+ flats have no age restriction and a further 3 (approximately) are restricted to 50 and above.

Since the agreement was signed, car parking standards have been adjusted downwards. County Highways have raised no objections to the similar modifications to the Planning Obligations on other units, as aforementioned. The site is sustainably located near to a railway station and bus routes which reduces the need for travel by car. Additionally there are parks and other open spaces such as the beach that can be enjoyed within Littlehampton, in lieu of any external amenity space e.g. a garden area.

Additionally, given that at least 6 of the 9 properties with restrictions have been granted permission for the restriction to be removed, Officers consider that it would be unreasonable to refuse permission for the removal of the restriction, following the above assessment.

It is considered that the removal of this Planning Obligation is in accordance with policy.

CONCLUSIONS:

It is considered that the change of tenure will not result in any significant loss of residential amenity and car parking is provided for up to 16 cars. The removal of the Planning Obligation in this case will be in accordance with Policy. It is therefore recommended that this be approved.

HUMAN RIGHTS ACT

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