

Recommendation Report for Removal of a Planning Obligation

REF NO: LU/283/12/PO

LOCATION: 8 Madehurst Court
Gloucester Road
Littlehampton

PROPOSAL: Application to Modify a Planning Obligation dated 1st August 1986 relating to age restriction under Planning Application LU/283/85

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. 8 Madehurst Court to be occupied by a person, or persons over the age of 50.

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. 2 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). Flat 16 has subsequently had the obligation discharged.

In summary therefore 10 flats have no restriction whatsoever; 6 are restricted to persons of state pensionable age; and 2 are restricted to persons 50 years or over.

SITE AREA

N/A

RESIDENTIAL DEVELOPMENT DEN

N/A

TOPOGRAPHY

Predominantly flat.

TREES

None

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/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 02-07-2009
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 13-04-2010
LU/283/85	Demolition of existing police station and erection of 6 No 2 bed flats and 12 No 1 bed flat with ancillary parking	Approve Conditionally 01-08-1986

REPRESENTATIONS

Representations received:

Littlehampton Town Council

Objection. The original purpose of this condition remains i.e. controlling parking numbers. It would also impact negatively on neighbours who have bought their properties with this condition in place. Changing the age restriction would lead to increased disturbance.

7 standard letters and one petition (with 7 signatures) of objection. Don't want age restriction taken off. Properties are bought cheap with the restriction and can be sold for a big profit without the restriction

Comments on Representations received:

Comments on Town Council comments: The obligation was originally imposed on planning grounds because of the restricted parking not for any other purpose. The flats currently have a mix of occupancy age some 65+, some 50+ and others unrestricted. Reduction in occupation age limit of the flats to 50 and above would not adversely impact on other occupiers. The site is sustainably located adjacent to the railway station where parking provision is not an issue.

Comments on other objections: The market price of properties is not a material planning consideration.

CONSULTATIONS

Planning Solicitor
WSCC Strategic Planning

Consultations responses received:

County Highways

No objection. The proposal is not envisaged to cause a negative impact to the highway. With regards to limited parking on site, the building is situated in a sustainable location, which would encourage residents to use other forms of public transport rather than a private car.

Planning Solicitor

The Planning Obligation S52 Agreement was made pre November 1992 and S84 LPA 1925. Therefore the following alternatives apply:-

1. Grant the application via a deed per EPL Vol 2 para 106.70 which would be the orthodox way of proceeding.
2. Grant via S106A and rely on estoppel to effectively ensure we do not enforce it in future which would be practical and effective.
3. Refuse and see if they appeal and under which procedure. Strictly an appeal should be under S84 LPA 1925 to Lands Tribunal so we can defend any appeal to PINS.

Determination:

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 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. Residents concerns relating to 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.

Comments on Consultation responses:

Noted

POLICY CONTEXT

Designation applicable to site:
Within Built-Up Area Boundary
Planning Obligation

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:	GEN7 GEN12 DEV22	The Form of New Development Parking in New Development Relaxation of Restrictions (Occupation by the Elderly)
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PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework
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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.

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 variation 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 reduction in age occupation to 50 would adversely affect the residential amenity of existing residents to a material extent.

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

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.

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. 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 2 are

restricted to 50 and above.

CONCLUSIONS:

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

Since the agreement was signed, car parking standards have been adjusted downwards. County Highways have raised no objections to the modification of this Planning Obligation. The site is sustainably located near to a railway station and bus routes which reduces the need for travel by car.

It is considered that the change of tenure will not result in any significant loss of residential amenity, car parking is provided for up to 16 cars and 5 of the flats will remain age restricted to pensionable age and above. The modification of the Planning Obligation in this case will be in accordance with Policy DEV22 of the Arun District Local Plan. It is therefore recommended that this be approved.

RECOMMENDATION

APPROVE