

Site Address: Dolphin Quay, Queen Street, Emsworth

Proposal: Variation of S106 Agreement dated 10th December 2018 entered into in connection with Planning Application APP/16/00921 in relation to delay of payment of second affordable housing payment until end of March 2021 due to COVID 19 lockdown.

Application No:	APP/20/00695	Expiry Date:	22/10/2020
Applicant:	Jeremy Samuels		
Agent:		Case Officer:	David Eaves
Ward:	Emsworth		

1 Site Description

This section of Queen Street is characterised by a mixture of both residential and commercial buildings including the Lillywhites garage, commercial offices in the Old Flour Mill and retail units towards the High Street. The buildings range in height from two-storey up to four-storey. The majority of the buildings have heritage value with several of them being statutorily listed. There is a more recent development in the form of Chequers Quay which was completed in the 1990's, which lies to the east of the Lord Raglan.

2 Planning History

APP/16/00921 - Demolition of the single storey shop, two-storey office building and associated outbuildings. Erection of 4No. houses (3x 3No. bedrooms and 1x 2No. bedrooms) fronting onto Queen Street and associated parking and erection of 2No. detached dwellings (4No. bedrooms) fronting onto to the Mill Pond with associated parking and access from Queen Street. (13.12.18). Request to discharge condition No.s 3,4,6,10 and 13. (31.01.19). Request to discharge condition No. 7 (25.02.19).

Request to discharge condition No. 5 (20.3.19). Request to discharge condition nos 15 and 17 (12.7.19). Request to discharge condition nos 6, 7 and 17 (27.2.2020)., PERM,13/12/2018

APP/19/00826 - Application to modify S106 agreement (dated 10.12.2018) to remove the affordable housing contribution., REF,19/12/2019

APP/19/00865 - Application of non-material change to Planning Permission APP/16/00921 relating to locally reducing seawall adjacent to seating area to allow for a 2.4m wide flood gate to serve a potential future slipway and 2no. trees within raised planting bed to be omitted as they are not able to be relocated without clashing with the culvert to the left of the site., PERM,23/12/2019

APP/20/00878 - Variation of Condition 2 of Planning Permission APP/16/00921 to vary approved Drawing 27958-PD108F (Street Scene and Section) and supersede with drawing 27958-PD118 (Proposed Site Section / Wider Street Scene) relating to change in sea wall material finish from Brick to Timber Cladding., PERM,19/11/2020

3 Proposal

Variation of S106 Agreement dated 10th December 2018 entered into in connection with Planning Application APP/16/00921 in relation to delay of payment of second affordable housing payment until end of March 2021 due to COVID 19 lockdown.

4 Policy Considerations

National Planning Policy Framework
Havant Borough Council Borough Design Guide SPD December 2011
Havant Borough Council Parking SPD July 2016

Havant Borough Local Plan (Core Strategy) March 2011
CS9 (Housing)

Havant Borough Local Plan (Allocations) July 2014

Submission Version Havant Local Plan

Emsworth Neighbourhood Plan Post Examination Version 2020
ENP_L1 (General Housing Policy)

Listed Building Grade: Not applicable.
Conservation Area: Emsworth

5 Statutory and Non Statutory Consultations

Community Infrastructure, Planning Policy & Urban Design

This request falls within the remit of The Community Infrastructure Levy (Coronavirus) (Amendment) (England) Regulations 2020 which came into force on 22 July 2020.

The Community Infrastructure Team are satisfied that this request for a Deed of Variation meets the requirements of the Regulations as the company involved has an annual turnover not exceeding £45,000,000.

Councillor Julie Thain-Smith

No comments received

Councillor Lulu Bowerman

No comments received

Councillor R Kennett

No comments received

Housing Needs Manager, Havant Borough Council

I have no objection to this variation under the current COVID-19 situation

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 0

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: 1

Comment	Officer Comment
All through lock down work continued on this site. Emsworth did not enjoy the silence that it should have done instead it listened to drilling and hammering. At times no social distancing was observed on site and I have photographic evidence of this if you would like to see it. One of the £2.5million properties has already sold and I see no reason at all why the developer should not pay what is due and on time. Indeed, he has already tried to wriggle out of this payment once already. Please do not insult the people of Emsworth by allowing him to delay the only good thing coming out of this miserable development.	Comments noted. The development has planning permission and construction issues are not relevant to the consideration of this application. Alleged Covid regulation breaches are not a matter that can be considered in relation to this proposal. See part 7

7 Planning Considerations

7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

- (i) Principle of deferred instalment of Affordable Housing Contribution
- (ii) Impact upon affordable housing provision

(i) Principle of deferred instalment of Affordable Housing Contribution

The proposal is to defer the second contribution of the affordable housing contribution. The S106 Agreement associated with planning permission APP/16/00921 contained the following requirements in relation to this matter:

"The Affordable Housing Contribution"

The sum of THREE HUNDRED AND TEN THOUSAND FIVE HUNDRED AND SEVENTY FIVE POUNDS AND SEVENTY FIVE PENCE (£310,575.75) Index Linked payable by the Owner to the Council and to be spent on the provision of off-site Affordable Housing

2.3 To pay or cause to be paid to the Council the Affordable Housing Contribution in the following proportions: -

2.2.1 as to 25% thereof upon commencement of the construction of foundations (after piling) in respect of the Development;

2.2.2 as to 25% upon the date falling six months after the payment made pursuant to sub-clause 2.2.1 above; and

2.2.3 as to the balance of 50% upon the Occupation of 50% of the Dwellings

The first payment was received in February 2020.

The second payment was due in August 2020, however, this was at a time when Coronavirus limitations were in place. The matter of deferment of the second payment has been considered by the Community Infrastructure Officer and Housing Officer as set out above.

The Government has recognised the impact of Coronavirus on developments and the principle of deferral of payments has been accepted. The deferral requested is considered acceptable in the context of the existing issues raised by Coronavirus and a Deed of Variation was completed on the 3rd March 2021 to bring the deferral of the second instalment into effect. The variation reads:

4.2 Paragraph 2.3 of the First Schedule to the Original Agreement shall be deleted and replaced with a new paragraph 2.3 as set out below:

2.3 To pay or cause to be paid to the Council the Affordable Housing Contribution in the following proportions:

2.3.1 as to 25% thereof upon commencement of the construction of the foundations (after piling) in respect of the Development;

2.3.2 as to 25% on or before the 31 March 2021;

2.3.3 as to the balance of 50% upon the Occupation of 50% of the Dwellings.

4.3 Save as expressly provided in this deed it is hereby agreed and declared between the parties that this deed is supplemental to and not in substitution for the Original Agreement and that the terms of the Original Agreement will continue in full force and effect, subject only to the provisions of this deed.

It should be noted that at the time of completing this explanatory report the second instalment has been paid; moreover there is no change to the final payment date.

(ii) Impact upon affordable housing provision

It is noted that there will be no change to the quantum of Affordable Housing contribution provision and that contributions are index linked. The Council's Housing Officer has raised no objections in relation to the request for deferred second instalment payment.

8 Conclusion

In conclusion, the proposed change to the timing of the second instalment towards the Affordable Housing Contribution is considered acceptable and the required Deed of Variation has been completed.

9 RECOMMENDATION:

That the Head of Planning be authorised to agree for application APP/20/00695 that:

(A) Deed of Variation acceptable and completed. No further action required