

Application to Modify a Planning Obligation Agreed under S106 of the Town and Country Planning Act

Name and address of applicant.

Curlew Alternatives Property LP
4th Floor
Royal Bank Place
Glategny Esplanade
St. Peter Port
Guernsey
GY1 2HJ

Address of the land to which the application relates.

The Harlequin Centre
Paul Street
Exeter
Devon
EX4 3TT

As shown in site location plan, attached.

The nature of the applicant's interest in the land

Landowner

Identification of the planning obligation concerned.

Planning Obligation between Exeter City Council, Devon County Council and Curlew Alternatives Property LP – dated 24 January 2022.

Applicant's reasons for applying to modify the obligation.

Application Ref 21/1104/FUL was approved January 2022 and provides for 383 Co-living bedspace on the site of the current Harlequins Shopping Centre.

This application was approved subject to a sc106 agreement, which regulated the provision of 20% on site affordable housing, to be directed towards key workers. Since the determination of the application, construction costs have increased significantly, alongside falling property values and higher interest rates. The impact of these changes is that the scheme is now not viable in its original form with the provision of onsite affordable housing.

Therefore, it is requested that the provision of onsite affordable housing be replaced by a financial contribution to the council, in lieu of this provision, in order to enable this important city centre redevelopment to be delivered.

Under S106A(1)(a) of the Planning Acts the Council as local planning authority can agree to modify the s106 agreement in the manner suggested above, subject to the completion of a S106A deed to vary the 2022 S106 Agreement. The applicant would meet the Council's reasonable legal costs for dealing with the deed.

The mechanism for the financial contribution is proposed to be split across four possible payments. The first is to be paid on implementation of the permission, and the second on commencement of development following demolition. Both will be fixed. The third element will be following completion of the scheme and the fourth 12 months later. Both latter payments will reflect the financial performance of the development (up to a ceiling which reflects the value of the current on-site affordable provision). In this way the council is guaranteed of a payment up front in lieu of the onsite affordable housing, to reflect the current viability of the scheme, however, if the viability improves, then the affordable housing payment will also increase to reflect this uplift.

In making the change to the sc106 agreement, it is anticipated that the scheme will become viable and therefore this will support the delivery of this important city centre site.

Such other information necessary to the Council to determine the application.

An independent financial viability appraisal (IFVA) of the approved scheme has been produced by Burrows-Hutchinson Ltd as a joint commission by both Curlew Alternatives Property Ltd and the Council.

This has been the subject of careful consideration and negotiation to arrive at a position where it is clear that the scheme, in its approved form, is not viable and that, through the removal of the affordable housing provision from the buildings themselves (and substitution with a financial contribution) this should make the development deliverable at the outset.

The appraisal process has also considered the situation should the financial outcome improve, and it is proposed that this potential benefit will be shared with the Council through the delivery mechanism.

The IFVA has been produced independently and the Council has access to the detailed reports and the advice of the independent advisor which supports the appraisal.

Summary

It is requested that the Sc106 in regard of application 21/1104/FUL, dated 24 January 2022, be modified.

The requirement for 20% on site affordable housing (as set out in Schedule 1 Part 2 of the agreement) will be replaced by a financial contribution payable to the council.

This payment to include:

- an initial payment to be made in two equal instalments – the first on implementation of the planning consent (no later than 24 January 2025) and the second on commencement of development as defined in the S106 (excluding demolition).
- an overage payment following completion of development equating to 50% of any profit achieved above a minimum target return of £10.1m or 13% of GDV (whichever is higher), to be determined by an independent expert (appointed by agreement or by the RICS in default) following a full review and analysis of all development costs incurred (to include the cost of the valuation exercise itself). The overage element will be paid in two equal instalments – the first on completion of the valuation process and the second 12 months later.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Chris Dadds'.

Chris Dadds
Director

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Enc:

Map identifying the land to which the obligation relates