

[WP/20/00361/OBL](#)

**Land south of Louviers Road, Weymouth.**

**Modification of planning obligations on Section 106 Agreement dated 20<sup>th</sup> December 2018 (original planning approval WP/17/00832/FUL)**

**Applicant name** – Sage Housing Limited

**Case Officer** – Bob Burden

**Ward Member(s)** – Cllr Tony Ferrari, Cllr Louie O’Leary

The application is brought to committee in accordance with Section 151 of the Officer Scheme of Delegation.

**1.0 Summary of Recommendation:**

1.1 Delegate authority to the nominated officer to modify the S106 agreement dated 20th December 2018, to

- modify mortgagee in possession clauses by changing the definition of charge and paras 10.1 to 10.3 of schedule 3 in line with the Securitisation Working Groups standard mortgage in possession clause,
- and seek deletion of para 12 of Schedule 3 indicating they cannot be bound to reinvest in the same local authority area.

**2.0 Reason for the recommendation:**

2.1 It is considered that the proposed modification to the S106 would have an acceptable impact.

**3.0 Key planning issues**

<b>Issue</b>	<b>Conclusion</b>
Modification of s106 obligations	The proposed modification to the S106 agreement is considered acceptable.

**4.0 Description of Site**

4.1 The S106 agreement dated 20 December 2018 is associated with the application WP/17/00832/FUL for the erection of 114 dwellings, creation of a new access, landscaping, public open space, parking and associated works.

**5.0 Description of Proposal**

5.1 This application seeks to modify the S106 agreement in relation to identified affordable housing issues as explained further below.

## 6.0 Relevant Planning History

Application No.	Proposal	Decision	Decision Date
WP/17/00832/FUL	Erection of 114 dwellings, new access, landscaping, public open space.	Approved	20/12/18

## 7.0 Relevant Constraints

Majority of site subject to Local Plan residential development allocation policy WEY11 Land off Louviers Road.

## 8.0 Consultations

**Housing Enabling Team Leader** – Support.  
(Full comments set out in planning issues section)

**Weymouth Town Council** –Object-Members support the development of 40 affordable houses at this location. However, members object to the part loss of investment s detailed in para 12 of the agreement. Members are concerned that affordable housing or investment would be lost or could be moved to another area of the country.

## 9.0 Representations

9.1 No comments received at the time of report writing.

## 10.0 Relevant Policies

West Dorset, Weymouth and Portland Local Plan

HOUS1 – Affordable Housing

National Planning Policy Framework

4. Decision-making
5. Delivering a sufficient supply of homes

## 11.0 Human rights

Article 6 - Right to a fair trial.

Article 8 - Right to respect for private and family life and home.

The first protocol of Article 1 Protection of property

This Recommendation is based on adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

## **12.0 Public Sector Equalities Duty**

As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have “due regard” to this duty. There are 3 main aims:-

- Removing or minimising disadvantages suffered by people due to their protected characteristics
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the PSED.

## **13.0 Financial benefits**

13.1 In this instance, this application could result in shared ownership receipts being reinvested outside the local area.

## **14.0 Climate Implications**

14.1 The proposed modification to the S106 is not considered to alter the climate implications of the development.

## **15.0 Planning Assessment**

15.1 The legal agreement (s106) includes provisions relating to affordable housing. The applicant Sage Housing are intending to take on the 40 affordable homes from the developer Persimmon Homes Limited.

15.2 Sage Housing are seeking to change the definition of charge and paras 10.1 to 10.3 of Schedule 3 in line with the Securitisation Working Groups standard mortgage in possession clause. They also seek deletion of para 12 of Schedule 3 indicating they cannot be bound to reinvest in the same local authority area; Sage are committed to continuing to purchase and provide affordable housing but cannot be limited to where investments are made as sites must be commercially viable in order for Sage to continue providing affordable housing.

15.3 Housing Enabling Team Leaders Summary of the Request-

The main purpose of the amendment is to bring the clauses in the S106 up to date with the current requirements of the banks and lenders.

15.4 The Registered Provider (RP) will want to borrow money against these homes to fund future developments. In order to do this there must be a route for the lender to be able to acquire and then dispose of the properties to recover their funds. This is an important source of funding for the RPs.

15.5 These clauses provide security to the lenders but no affordable home has been lost due to these provisions that I am aware of. The RP is regulated by the Regulator of Social Housing to ensure they remain viable. When an RP has been in financial difficulties in the past the Regulator has ensured they are acquired or merged with another RP so no affordable homes are lost.

15.6 The other issue mentioned by Sage is in regard to shared ownership stair-casing payments. Some of the affordable homes will be for shared ownership. If an owner of a shared ownership home wants to acquire a larger percentage of the home they can purchase this from RP. The current S106 agreement requires Sage to look to spend these funds in the Weymouth and Portland Area. As Sage are a national organisation they want to be free of these restrictions. We do not object to this but will continue to work with all RPs to ensure funds are spent in our area. This will not affect the allocation of these homes and local people will still have priority.

15.7 Housing Enabling Team Leaders Formal Comments- I have no objections to what is being proposed and we have agreed this in the past. Most Registered Providers would want similar clauses in the s106 agreements. If the clauses in our agreements stopped RPs borrowing money against their new homes they will become reluctant to invest their time and funds in our area.

15.8 The other issue was in regard to shared ownership receipts. These are from when tenants of shared ownership schemes purchase equity in their homes. The Government expects these funds to be recycled into other affordable housing developments. As most RPs cover a wide geographical area they want flexibility in how to spend the funds. The Government has been wanting to make sure these get spent on appropriate developments rather than waiting for projects in certain areas. This does mean that these receipts could be spent in other areas, although we have also benefitted from this approach in the past.

## **16.0 Conclusion**

16.1 In the light of the comments made by the Housing Enabling Team Leader the requests made are considered acceptable. The officer has also explained why these changes are necessary in the light of the Town Councils comments. The agreed modifications would not change the amount of affordable housing

provision required, and given the comments of the Housing Enabling Team Leader and his support for the changes it is considered that they are acceptable.

## **17.0 Recommendation**

17.1 Delegate authority to the nominated officer to modify the S106 agreement dated 20 December 2018, to

- modify mortgagee in possession clauses by changing the definition of charge and paras 10.1 to 10.3 of schedule 3 in line with the Securitisation Working Groups standard mortgage in possession clause,
- and seek deletion of para 12 of Schedule 3 indicating they cannot be bound to reinvest in the same local authority area.