

Application Number

V/2016/0003

Site Address

Rock House
Rock House Lane
Torquay
TQ1 4SX

Case Officer

Mrs Ruth Robinson

Ward

St Marychurch

Description

Variation of Section 106. Additional clause.

Executive Summary/Key Outcomes

This application is to vary an existing S106 agreement secured pursuant to P/2012/0566 in relation to 'enabling development' within the grounds of Rock House, Rock Lane, Maidencombe to fund essential repairs to the roof.

A variation is sought to remove the restriction on the sale of parts of the building known as 'Rock House' imposed by a s.106 agreement entered into in November 2014.

An objection from the Maidencombe Residents Association raises concerns that the variation could inhibit the roof repair works being completed.

This is not the case and all that will be permitted is that outstanding payments, which have been verified as necessary and costed by the supervising surveyor, can be met from the sale of this part of the building rather than the as yet unsold walled garden plot.

All that changes as a result of this variation is the timing of payments. The mechanism for ensuring the roof repair works are completed, which is through the deposit of funds into a jointly managed bank account, remains the same.

Recommendation

That the variation sought be agreed.

Statutory Determination Period

The decision is due to be made before the 8th December.

Site Details

Comprises an existing listed building set within extensive grounds within the defined Countryside Zone.

Detailed Proposals

This application is to vary an existing S106 agreement secured pursuant to P/2012/0566 in relation to 'enabling development' within the grounds of Rock House, Rock Lane, Maidencombe.

The variation seeks to permit disposal of up to two flats within the listed building to fund ongoing repairs to the roof.

Summary Of Consultation Responses

None.

Summary Of Representations

An objection has been received from the Maidencombe Residents Association which is concerned that the proceeds of the sale might not be used for necessary repairs to Rock House and that subdivision of the property might jeopardise completion of the roof repairs.

Relevant Planning History

P/2012/0566/PA: Construction of new dwelling in kitchen garden to South of Rock House and conversion and extension of existing stable block into dwelling house to North of Rock House, approved subject to a S106 agreement 21.11.14.

P/2012/0567/LB Construction of new dwelling in kitchen garden to South of Rock House and conversion and extension of existing stable block into dwelling house to North of Rock House including schedule of work for repairs to roof, approved 21.11.14.

P/2015/1110/PA: New dwelling within the grounds of Rock House, the stable and garage approved subject to a S106 agreement 19.02.16.

P/2015/1111/LB New dwelling within the grounds of Rock House, the stable and garage, approved 19.02.16

P/2016/0216 Certificate of lawfulness existing for use of part of Rock House as 3 residential units, certificate granted 09.06.16

Key Issues/Material Considerations

The key issue is whether the variation to the S106 will have any impact on delivery of the necessary repairs.

An LPA has power to vary the terms of a s.106 agreement if it continues to serve a useful purpose, but would serve that purpose equally well if it had effect subject to the modifications requested by the applicant.

This application is to vary an existing S106 agreement secured pursuant to P/2012/0566 in relation to 'enabling development' within the grounds of Rock

House, Rock Lane, Maidencombe.

The development of two well-designed, discrete dwellings within the grounds of Rock House, a listed building, was approved in order to generate finances to enable urgent repairs to be carried out to the roof.

This comprised refurbishment and extension of an existing garage/stable building to form a separate new dwelling and the inclusion of a small dwelling within the existing and dilapidated walled garden.

A joint bank account was set up for the proceeds of the sale of these plots to ensure that the funds realised were spent on the roof repairs. Once the roof repairs are completed and signed off by the supervising surveyor the s.106 removes the restriction on sale of parts of Rock House and allows any sums remaining in the joint bank account to be repaid to the landowner without restriction on its use.

The works to the roof are largely complete and to date have been funded by the sale of the garage/stable plot. The walled garden plot is being marketed but has not sold.

The specialist consultant supervising the works has confirmed that £75,000 is required to complete the works to the roof.

The owner of the property needs to meet this outstanding payment and is proposing to do this from the sale of two of the flats within the building that have recently been confirmed as lawful via a CLEUD.

the owner is prevented from by the terms of the S106 from selling Rock House or any part of it until the works to the roof are complete.

This application seeks to vary the terms of the S106 to allow the sale of two of the flats, and for £75,000 derived from the sales to be deposited in the joint account to allow final payment for the roof repairs.

It is considered that this variation is acceptable. All that will be permitted is that £75,000 from the proceeds of the sale of a lawful flat within the listed building will be deposited in the joint bank account instead of the proceeds from the sale walled garden to enable final payment of the roof repairs to be made.

Conclusions

The variation to the terms of the S106 is acceptable.

Recommendation

That the Head of Legal Services be instructed to complete a revised S106 to permit the disposal of the identified flats subject to £75,000 of the proceeds from

the sale being deposited in the joint bank account set up to ensure that the agreed schedule of roof repairs to Rock House are completed in full.

Relevant Policies

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