

Variation of Section 106 Agreement – Land to Rear of 59 & 61 London Road, Little Clacton

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION NUMBER:	17/00790/FUL
PROPOSAL:	Proposed development for 30no. detached bungalows including associated roads and access.
LOCATION:	Land to Rear of 59 & 61 London Road, Little Clacton

Proposal

To vary the terms of the Section 106 Legal Agreement dated 13th February 2019 to amend the definition of completion as contained within the document to 29 dwellings in lieu of 30 dwellings.

Background

Planning permission was granted at appeal on 14th February 2019, subject to Section 106 Agreement dated 13th February 2019. The Section 106 Agreement secures the submission of an updated viability assessment if the development is not commenced within 24 months from the date of planning permission and if within 4 years from the date of planning permission the development is not completed.

The developer is about to exchange on the purchase of the site but the landowner is retaining one plot (plot 1).

This results in a potential issue that should this dwelling (plot 1) not complete within 4 years then the clause (5) contained in the legal agreement triggers the need for a new viability assessment thereby placing a burden on the developer (assuming their part is completed). They will have lost the control of plot 1 being built out.

The required Deed of Variation represents a minor change to the definition of completion to reduce the meaning to 29 dwellings instead of 30.

Recommendation

As this is a minor change that does not significantly affect the viability matters associated with the development the deed of variation is considered to be acceptable to the Council.

The developer has agreed to cover the Council's legal costs.

It is therefore reasonable for the Council to enter in to the Deed of Variation in the circumstances.

Signed.......... Head of Planning

Dated.....09.12.2019.....