



Skipton Building Society
Principal Office,
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North Yorkshire BD23 1DN

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35/IL/SECDEA/JP/JP

Mr T A & Mrs A Meathrel
Arden Guest House
4 Queens Lane
Arundel
W Sussex
BN18 9JN

17 January 2014

Dear Mr & Mrs Meathrel

Account No 701270803

I write further to your request for the Society's consent to a Section 106 Agreement in respect of your above mortgaged property.

I confirm that our Solicitors have completed their initial assessment, and I duly attach a copy of their report highlighting comments in yellow for the Council to address and make any required amendments. Please be advised that any further approval of the document is likely to incur further costs.

You will note from the recommendation section of the report that a valuer's opinion is "extremely important". I have obtained some quotes for this, the cheapest of which is [REDACTED] plus VAT. Please confirm if you are happy to proceed on this basis and note the fees will be debited to the mortgage account.

May I remind you that, should our consent be given, it would be for the deed only and not for the proposed building works.

Upon completion of the valuation and the amended deed, this will need to be referred back to our solicitors for final approval.

I trust the above outlines our requirements and I look forward to hearing from you.

Yours sincerely

[REDACTED]

James Pickles
Commercial Servicing Department

To help maintain service and quality, some telephone calls may be recorded and monitored.



REPORT ON SECTION 106 AGREEMENT ON A RESIDENTIAL PROPERTY

Borrower : Terence Alan Meathrel and Ann Meathrel ("the Owner" under the Section 106 Agreement)

Council : Arun District Council

Date : 9 January 2014

Mortgage account number : 701270803

Our reference : SO1145-0273

Property : Land at Arden Guest House, 4 Queens Lane, Arundel, BN18 9JN

Section 106 Agreement : An agreement relating to planning obligations made under Section 106 of the Town and Country Planning Act 1990 made between The Borrower (1) Skipton Building Society (2) and the Council (3)

Scope of report

1. We have been instructed by Skipton Building Society ("Lender") in connection with the approval of Section 106 Agreement at the Property. We are only able to act for SBS and not for any other party involved in this matter.
2. In this case the Section 106 Agreement has not already been completed.
3. This is not intended to be a detailed report on all the terms of the agreement but simply a summary of its principal terms that are likely to be relevant to the Lender in its capacity as fixed chargee of the Property and in particular the effect of the lease on the Lender's ability to enforce the fixed charge and re sell the Property if required.
4. We are suitably qualified to give you a legal view of the terms of the lease and how these could impact on your ability to enforce the security of the Property. We are not able to provide advice on :
 - 4.1. how the proposed development and the Section 106 Agreement obligations may affect interest in or value of the Property.
 - 4.2. the covenant strength of the Borrower.
5. We have not :
 - 5.1. carried out a site inspection.
 - 5.2. investigated the title to the Property (and so cannot confirm that the Borrower is still registered in the name above stated).
 - 5.3. reviewed the planning application or any referred documentation to which the Section 106 Agreement relates.
 - 5.4. checked that building regulations, listed buildings consent and/or conservation area consent or any other consent required has been sought.

- 5.5. checked that the Borrower has informed its buildings and contents insurer of the proposed redevelopment.
 - 5.6. checked that the Borrower has actually complied with any requirements of the insurer of the Property.
 - 5.7. checked that the freeholder's consent (if leasehold) or any other third party consent required (e.g. covenantor consent) has been granted.
 - 5.8. assessed any effect the proposed development has on the valuation of the Property.
 - 5.9. assessed any impact on the loan to value ratio that the proposed development will have.
 - 5.10. investigated whether the levels of contributions sought are standard for the locality and the type of development.
6. We have only checked and had access to the following documents:
- 6.1. Draft Section 106 Agreement as referred to above.

	Issue	AWBC Response	Comments
1.	Date of Section 106 Agreement	Undated	
2.	Owner	Terence Alan Meathrel and Ann Meathrel	The Borrower
3.	Council	Arun District Council	
4.	Proposed Development	See comments	The erection of a new building with 4 no. 2 bedroom flats.
5.	Title : Borrower's title	Not checked.	
6.	Leasehold : If Property is leasehold has any landlord's consent been applied for?	Not checked.	
7.	Property	Land at Arden Guest House, 4 Queens Lane, Arundel, BN18 9JN	
8.	Contributions due under Section 106 Agreement	See comments	£45,624.00 for affordable housing.
9.	Indexation	See comments	All the contributions are expressed to be subject to increase by reference to the Building Cost Information Service National All-in Tender Price Index as at the time that those contributions become payable.
10.	Council's Costs	See comments	Owner to meet Council's legal costs in producing the Section 106 Agreement and these are payable on completion of the Agreement. The costs are £450 for the agreement and £150 for monitoring.
11.	When are the Contributions payable?	See comments	The contributions are payable on the "Commencement of the Development".
12.	Definition of Commencement of Development	See comments	The definition used by the Council is not compliant with the Law Society model Section 106 Agreement which most councils have now adopted. Clause 6.1.2 should be amended by the deletion of the words "and in the event of any uncertainty or disagreement concerning this date the determination of ADC shall be final" and their replacement with: "save that (for the purposes of this Deed and for no other purpose) operations consisting of site clearance, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements shall not constitute commencement of the development" The reason that these need to be included is so that the contributions are not payable until the planning permission is actually implemented rather than simply preparatory works taking place. This is essential. Notice is to be given to the Council on or prior to Commencement of Development.
13.	Successors in title	See comments	The document does not refer to Successors in Title. In practice as the document is to be registered as a land charge we would suggest that it would run with the ownership of the land anyway. We have suggested an

			amendment to clause 4.2 to add the words "save that no liability shall accrue to the Mortgagee personally."
14.	Liability once Parted with Ownership	See comments	This is not covered. The Agreement should provide that parties are only liable for any breach of the agreement if they had an interest (save in the case of a mortgagee) in the Property at the date of the breach and also include a clause to state that all parties have no liability under the agreement going forward once they have parted with their interest in the Property.
15.	Council's Obligations as to how the money is spent	See comments	There are no requirements on the council as to the spending of the money so it will be difficult to prove the money has been used as it should. The purpose for which it is to be spent should be clearly identified. There is no obligation on the Council to provide evidence that the sums have been expended. Money should be refunded in whole or part if it is not used by the Council within 3 years of receipt but there is no such wording in this agreement which again is non-standard.
16.	Registration of Land Charge	See comments	The Agreement will be registered as a local land charge against the property. The Agreement should confirm that the entry will be removed on application if the Planning Permission is quashed, once the Owner's obligations are fulfilled and on application if the Agreement never comes into force because the Development is never commenced. This needs to be remedied.
17.	Other Defects	See comments	1) There is no plan attached to the agreement. We need to see a copy of this. 2) The following terms are not defined: a. Planning Permission b. Planning Policy c. Affordable Housing Policy; and d. Affordable Housing 3) Clause 6.2 is not standard and should allow for the figure to decrease as well as increase as the index in question is quite prone to fluctuation. 4) There should be a new clause 7.9 as contained in the model section 106 agreement referred to above in the following terms: "This Deed shall not be enforceable against owner-occupiers or tenants of dwellings or individual units constructed pursuant to the Planning Permission nor against those deriving title from them."
18.	Action Points	See comments	1) The Borrower should raise the points mentioned above and highlighted in yellow and ensure that the amendments proposed are

			incorporated before the Agreement is completed. We have attached for ease of reference a marked up copy of the Deed. 2) We need to see a colour copy of the Plan as this is not attached. 3) It should be made clear to the borrower that any consent provided is merely a consent to the deed and not to the planning application itself.
19.	Recommendation	See comments	SBS is made a party to the Agreement largely so as to give consent to the Borrower entering into their obligations. The key risk to SBS is that they take possession of the Property after Commencement of Development but before the Contributions are paid. In those circumstances SBS could be liable to make those contributions. The advice of your valuer is extremely important here. Carrying out the proposed Development will have an impact on the value of the Property. It is important that your valuer establish that the proposed scheme will not have a detrimental effect on the value. Provided that the valuer provides you with satisfactory confirmation on the points mentioned and that the action points identified at point 18 are attended to I confirm that in such circumstances the Agreement would be acceptable for execution on the part of SBS but if these points cannot be resolved then it should be rejected. The Borrower should of course be reminded that any works to the Property must be in full compliance with the Agreement and any requirements in Planning Permissions or Building Regulation Approvals and that copies of any completion certificates, guarantees etc. should be provided to SBS if and once the works are completed.