

**Application Number:** DM/2022/01398

**Proposal:** To modify or discharge a section 106 planning obligation ref. DC/2009/00910

**Address:** Land At previous Osborn International Site, Lower Church Street,  
Chepstow, NP16 5HJ

**Applicant:** Mr. P Mills

**Plans:** Site Layout LT 2209 04 AS 02 - Rev. A, Location Plan Red Line boundary - Rio A8.15, Site Plan Site Location Plan

**RECOMMENDATION: Approve**

Case Officer: Kate Young  
Date Valid: 26.09.2022

**This application is presented to Planning Committee because the previous application to which the section 106 agreement relates was approved by Committee**

**1.0 APPLICATION DETAILS**

1.1 Site Description

The application site covers 2.4 hectares at The Back in Chepstow. It previously contained a range of industrial and commercial buildings. The site is located within the Chepstow Development Boundary and is entirely within the Conservation Area. The River Wye runs to the east. To the south is the A48 Road Bridge and the Brunel Rail Bridge. There are residential properties to the west and north of the site. In September 2011 full planning permission under application DC/2009/00910, was granted for the demolition of the existing buildings and the erection of 169 dwellings, B1 office space, A3 Café, the provision of public open space, parking and associated infrastructure works. That application was subject to a Section 106 Legal Agreement.

The main heads of terms for the s106 agreement were as follows:

The construction work shall be carried out in accordance with the River Wye SAC Mitigation and Avoidance Measures Statement

The Owners shall agree with the council a scheme to deliver economic infrastructure development on the adjacent Fairfield Mabey site equating to £200,000 of investment payment in lieu

That 20% of the dwellings should be affordable and that these should be delivered prior to the occupation of 80% of the market housing

The owners shall within 4 years of the date of commencement, construct a road for adoption by the council to the boundary of the land, with the land ownership of Network Rail being 6 metres wide.

Development on the site has commenced. In October 2022 DM/2022/01089 a non-material amendment (NMA), was granted in relation to some plot substitutions on the site, resulting in some of the affordable housing being moved but did not alter the number of affordable units being proposed.

This NMA application sought amendment to substitute some plots in the central part of the development site. These changes reduced the overall number of units proposed on the site from 169 to 161. It is proposed to build houses rather than apartment blocks, due to the high-cost and lower demand for apartments.

1.2 Proposal Description

This current application seeks to modify or discharge a section 106 planning obligation.

As a result of the NMA the location of the affordable housing units has changed The Affordable Housing Plan annexed to the S106 needs to be altered to reflect this change. The overall number of affordable housing units to be delivered, and the exact mix remains unchanged as the revised plan that is submitted shows.

The road extending up to the boundary of the Network Rail site has now been delivered and so that clause can be removed from the agreement.

The clause requiring a financial contribution to deliver economic infrastructure development on the adjacent Fairfield Mabey site is to be removed from the agreement. The reason for this is discussed below.

## 2.0 RELEVANT PLANNING HISTORY (if any)

Reference Number	Description	Decision	Decision Date
DM/2020/00456	Variation of condition no. 1 of planning consent DC/2015/01306	Approved	01.07.2020
DM/2022/01089	Non material amendments (plot substitutions) in relation to planning consent DC/2009/00910	Approved	07.10.2022
DM/2022/01398	To modify or discharge a section 106 planning obligation ref. DC/2009/00910.	Pending Determination	
DC/2011/00330	Outreach broadband cabinets within public highway	Acceptable	19.05.2011
DC/2015/01502	Removal of conditions 30, 31 and 32 (Code for Sustainable Homes - now superseded) relating to planning permission DC/2009/00910	Approved	14.12.2015
DC/2016/01051	Discharge of condition no.9 of planning permission DC/2009/00910.	Approved	12.09.2016
DC/2009/01072	Demolition of Osborn International Factory and Furniture Smart showroom	Approved	12.09.2011

DC/2009/00910	Demolition of existing industrial buildings, furniture showroom and gas depot and the erection of 169 dwellings, B1 office space, an A3 cafe/restaurant, provision of public open space, parking and associated engineering works and infrastructure	Approved	12.09.2011
DC/2015/01306	Non-material amendment to planning consent DC/2009/00910:- The inclusion of a new condition defining the approved plans as listed on the informatives section of the planning permission notice.	Approved	10.02.2016

### **3.0 LOCAL DEVELOPMENT PLAN POLICIES**

#### **Strategic Policies**

S1 LDP The Spatial Distribution of New Housing Provision  
S2 LDP Housing Provision  
S4 LDP Affordable Housing Provision

#### **Development Management Policies**

H1 LDP Residential Development in Main Towns, Severnside Settlements and Rural Secondary Settlements

### **4.0 NATIONAL PLANNING POLICY**

#### **Future Wales - the national plan 2040**

Future Wales is the national development framework, setting the direction for development in Wales to 2040. It is a development plan with a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities. Future Wales - the national plan 2040 is the national development framework and it is the highest tier plan, setting the direction for development in Wales to 2040. It is a framework which will be built on by Strategic Development Plans at a regional level and Local Development Plans. Planning decisions at every level of the planning system in Wales must be taken in accordance with the development plan as a whole.

#### **Planning Policy Wales (PPW) Edition 12**

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales, as required by the Planning (Wales) Act 2015, the Well-being of Future Generations (Wales) Act 2015 and other key legislation and resultant duties such as the Socio-economic Duty.

A well-functioning planning system is fundamental for sustainable development and achieving sustainable places. PPW promotes action at all levels of the planning process which is conducive to maximising its contribution to the well-being of Wales and its communities.

### **5.0 EVALUATION**

The plan appended to the S106 agreement, showing the location of the affordable housing units needed to be altered to reflect the recently approved non-material amendment. The overall

number of affordable housing units to be delivered, and the exact mix remains unchanged as shown by the revised plan.

Planning and Enforcement officers have recently visited the site and can confirm that the roadway to the boundary of the site has been completed to adoptable standards - therefore there is no need for this provision to remain in the varied S106 agreement.

The financial contribution to deliver economic infrastructure development on the adjacent Fairfield Mabey site was intended to be used on the allocated commercial land on the northern part of the Mabey site. In November 2017 Outline Planning Permission DC/2014/01290 was granted for the creation of a new neighbourhood on the former shipyard at Mabey Bridge in Chepstow. In June 2019 the Reserved Matters under application DM/2019/00001 were granted. Both the outline planning permission and the reserved matters approval made provision for an area of employment land on the northern part of the site. This extended to 1.37 acres and was to be the location of an office and workshop-based scheme. Following an extensive and lengthy marketing exercise by the applicants at Mabey Bridge, it was established that there was no demand for commercial activity on the site. This was vigorously tested. As a result, a reserved matters planning permission under ref DM/2024/00422 was submitted for 46 affordable residential units to be built in place of the commercial units. That application was approved by Planning Committee in March 2025. Construction of the three blocks is well underway. The handover for the social rent block is currently targeted for July/August. The intermediate and older persons blocks are expected to be completed before the end of the calendar year.

There is nowhere else on the Mabey site that is allocated for commercial activity on which the delivery of economic infrastructure could be provided. Given that the financial contribution could not be spent in accordance with the wording in the s106 agreement or in accordance with adopted policy, the clause should be removed from the agreement.

## **7.0 RECOMMENDATION: APPROVE**

The Section 106 agreement should be varied.

The Affordable Housing Plan annexed to the S106 agreement needs to be substituted.

The clause requiring the road to extend up to the boundary of the Network Rail site can be removed from the agreement as that has been completed.

The clause requiring a financial contribution to deliver economic infrastructure development on the adjacent Fairfield Mabey site can be removed from the agreement as that element can no longer be implemented.

