



Meeting:	Development Control Committee
Date:	26 July 2006
Subject:	Variation of section 106 Agreement, Clementine Church Hill Hospital, 9 Sudbury Hill, Harrow
Responsible Officers:	Director of Legal Services
Contact Officer:	Charlotte Lee
Portfolio Holder:	Planning, Development and Housing
Status:	Part 1
Key Decision:	No

### **Section 1 : Summary**

This report seeks an extension of time to complete a variation (the Deed of Variation) to a section 106 Agreement dated 15<sup>th</sup> December 2000 (the Principal Agreement) relating to land at Clementine Church Hill Hospital, 9 Sudbury Hill, Harrow (the Site). The 7<sup>th</sup> June 2006 Development Control Committee granted an extension of time to complete the Deed of Variation within a further six weeks. This time has now expired without the Deed of Variation being finalised.

### **Decision Required**

Extension of time for completion of the Deed of Variation by one week from 26 July 2006 to 2 August 2006.

### **Reason for Report**

The time set down by the Development Control Committee for the extension of time to complete the Deed of Variation has expired.

### **Benefits**

Completion of the Deed of Variation will give the Council some measure of control over development on the Site.

## Cost of Proposals

None. The developer will pay the Council's legal fees.

## Risks

None

## Implications if recommendations rejected

The Deed of Variation will not be completed and the developer will not have the benefit of a valuable medical facility.

## **Section 2 : Report**

### 2.1. Brief History

On 9<sup>th</sup> November 2004, the Development Control Committee (DCC) granted planning permission for retention of a temporary endoscopy unit on the Site for two years, subject to a variation of the Principal Agreement within one year of the date of the DCC resolution.

The Principal Agreement, amongst other things, defined a development envelope around the Site. The endoscopy unit is located outside of the defined development envelope.

The period for completion of the Deed of expired and the agreement is yet to be completed. The developer, in an e-mail to the Council's legal officers, explained the reasons for the delay in completing the Deed of Variation within the one year time scale. The email stated that the developer intended to submit a full application to re-house the endoscopy unit within the one year period. The aim was to address previous concerns of the DCC regarding parking and the impact on the Metropolitan Open Land. However, the developer could not submit the full application to the Council within the time scale.

Furthermore, the solicitor responsible for working on the Deed of Variation on behalf of the developer went on maternity leave.

The developer is currently in pre- application talks with the Council's planning advisory team on a permanent solution to the hospital's requirement for an endoscopy unit, IVF clinic and enhanced pathology department. The developer has submitted plans detailing proposed changes and now awaits a response from the planning advisory team. It is anticipated that a full planning application for planning permission will be submitted to the Council soon.

In the meantime, the developer is anxious to make use of the temporary endoscopy unit and would like to complete the Deed of Variation whilst talks are progressing on the full planning application.

The Council's planning department have confirmed that the planning position has not materially changed since the DCC resolution of 9<sup>th</sup> November 2004 approving the grant of planning permission for retention of the temporary endoscopy unit.

Accordingly, the DCC was requested to exercise its discretion to extend the time for completion of the Deed of Variation by six months from 7<sup>th</sup> June 2006. The DCC granted the extension but for six weeks from 7<sup>th</sup> June 2006.

The Deed of Variation was drafted and negotiated by the developer's solicitors and the Council's legal officer and was due to be sealed within the extended timeframe. A final matter, however, arose whereby Legal Services required evidence that a charge on the land had been discharged. As an assurance, the Council required an undertaking that the charge be removed. Only the chargee's solicitors (not a party to this matter) could give this undertaking and was received outside the extended timeframe granted by DCC authority for completion. Accordingly, Legal Services were unable to seal the Deed of Variation.

## 2.2 Options Considered

None

## 2.3 Consultation

None

## 2.4 Financial Implications

This report seeks an extension of time for completion of the Deed of Variation to a section 106 Agreement dated 15<sup>th</sup> December 2000. There are no financial implications within this report.

## 2.5 Legal Implications

As contained in the body of the report

## 2.6 Equalities Impact

None

### **Section 3 : Supporting Information/Background Documents**

- Development Control Committee Report and Resolution dated 9th November 2004
- Email from NAI Fuller Peiser
- Development Control Committee Report and Resolution dated 7<sup>th</sup> June 2006.