

20/17622

Books of Council and Session

Extract Registered 21 Aug 2020

S75 PLANNING AGREEMENT

MIDLOTHIAN COUNCIL
NIGEL CAMERON HOGG

Deed extract



Registers
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20/17622

AT EDINBURGH the Twenty First day of August Two thousand and twenty the Deed hereinafter reproduced was presented for registration in the Books of the Lords of Council and Session for preservation and is registered in the said Books as follows:-

NOTICE OF A DECISION ON AN APPLICATION UNDER SECTION 75A OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Midlothian Council, the local authority for Midlothian in terms of the Local Government etc. (Scotland) Act 1994 and having its principal office at Midlothian House, Buccleuch Street Dalkeith, EH22 1DN ("the Council") gives notice of its decision on an application under section 75A of the Town and Country Planning (Scotland) Act 1997 ("the 1997 Act") reference number 20/00274/LA ("the Modification Application") by Mr Nigel Cameron Hogg residing at 2B Merchiston Crescent, Edinburgh, EH10 5AN ("the Applicant") for the modification of the planning obligation entered into under section 75 of the 1997 Act between the Council and the Applicant, dated 14 and 15 October 2018 and recorded in the Division of the General Register of Sasines applicable to the County of Midlothian on 18th October 2018 in connection with planning permission reference 18/00148/DPP ("the Planning Obligation") and in respect of those subjects known as ALL and Whole that area of ground at the former Howgate Restaurant, Penicuik, Midlothian being the subjects more particularly described in and disposed by Disposition by James Logan Findlay and Eric John Darling as Trustees and Partners of The Burnside Bistro & Restaurant in favour of Nigel Cameron Hogg recorded in the said Division of the General Register of Sasines on 28 July 1988 and which said title contains a description by reference to the subjects described and disposed in the Disposition by Robert William Marwick and Another in favour of Michael Thomas Robson Marwick recorded in the said Division of the General Register of Sasines on 24 January 1974, under exception of the subjects described in and disposed by the Disposition by Michael Thomas Robson Marwick in favour of Miss Marianna Antonia Nutini recorded in the said Division of the General Register of Sasines on 2 June 1988; ("the Land")

WHEREAS:-

- (1) The Planning Obligation is enforceable against the Applicant, and therefore the Applicant is entitled to apply for its modification;
- (2) the Applicant has made a valid application in terms of section 75A of the 1997 Act and regulation 3 of the Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010 ("the 2010 Regulations") for modification of the Planning Obligation;
- (3) the Applicant has sought the modification of the Planning Obligation;
- (4) the Council has given notice to the Interested Parties in accordance with the 2010 Regulations;
- (5) the Council has decided to grant the Application for the reasons set out in Part 1 of the Schedule annexed and executed as relative to this notice; and

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- (6) the Applicant's rights of appeal against this decision are set out in Part 2 of the Schedule annexed and executed as relative to this notice.

NOW THEREFORE:-

1. The Council has decided that the Planning Obligation shall be modified as stated in Part 3 of the Schedule annexed and executed as relative hereto.
2. The Council agrees to the registration of this notice for preservation and in the Land Register of Scotland.

IN WITNESS WHEREOF these presents consisting of this and the preceding page together with the Schedule in three parts annexed and executed as relative hereto are executed as follows:-

Subscribed for and on behalf of the said

THE MIDLOTHIAN COUNCIL

At: Fairfield House, 8 Lothian Road,
Dalkeith on 17 July 2020

By

Duncan

Robertson.....

A proper officer

(Sign Name)..... 

Before this witness

Signed..... 

Name..... MATTHEW ATKINSON

Registers of Scotland

Matthew Atkins.....

Address: Fairfield House, 8 Lothian Road,
Dalkeith

This is the Schedule referred to in the foregoing notice of a decision on an application under section 75A of the Town and Country Planning (Scotland) Act 1997 regarding the modification of the Planning Obligation

SCHEDULE

PART 1

The Council's reasons for granting the Application are as follows:-

The Council and the applicant entered into a planning obligation in 2018 in relation to a planning permission for seven dwellings. The agreement provided for the payment of all contributions prior to the completion of the first dwelling. In respect of a development of this scale (less than ten dwellings) the first two units are discounted. The applicants have applied to modify the obligation so that the first payment is due on the completion of the third dwelling and that would relate to the contribution arising from that unit and thereafter the contribution arising from each subsequent unit would be payable as that unit is completed. This approach is considered to be acceptable because the value of the contributions remains the same but the relevant amount become payable as the dwelling which is giving rise to the infrastructure requirement is completed and available for occupation.

PART 2

If the applicant is aggrieved by the decision of the planning authority to refuse to modify or discharge a planning obligation, the applicant may appeal to Scottish ministers under section 75B of the Town and Country Planning (Scotland) Act 1997

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within three months from (and including) the date of this notice. The notice of appeal should be addressed to the Directorate for Planning and Environmental Appeals, 4 The courtyard, Callander Business Park, Callander Road, Falkirk FK1 1 XR.

PART 3


Modification of Planning Obligation

The following modifications are hereby made to the Planning Obligation:

Delete the existing Clause 5.1 and in its place substitute the following

- 5.1 On completion of the third residential unit the landowner shall pay one fifth of the infrastructure contribution of EIGHTY SEVEN THOUSAND NINE HUNDRED AND TWENTY POUNDS (£87,920) sterling indexed in cleared funds into the Bank Account and one fifth thereafter of the infrastructure contribution on completion of each of the fourth, fifth, sixth and seventh residential units

Signed on behalf of Midlothian Council

By.....

EXTRACTED by me having commission to that effect from the
Keeper of the Registers of Scotland.

ZM

AD