

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H01-0647-24 **Applicant:** Accent Housing Limited

Proposal: Modification of 106 Agreement relating to Affordable Housing (planning approval H01-1204-22)

Location: Land At Old Station Yard Mill Drove South Cowbit

Terminal Date: 24th September 2024

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
06	Developer Contributions
10	Meeting Assessed Housing Requirements
18	Affordable Housing

National Guidance

National Planning Policy Framework December 2024

Section 4 - Decision-making
Section 5 - Delivering a sufficient supply of homes
Section 12 - Achieving well-designed places

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	1	0	0	0
WARD MEMBER	0	0	0	0

CASE OFFICER ASSESSMENT

Proposal

The application is to vary the S106 agreement to permit Accent Housing to levy annual rent increases.

The current S106 agreement does not allow this registered provider of the affordable housing to levy annual rent increases, and the applicant has requested some minor wording changes to the

S106 agreement that runs with the land.

This is the only matter that is to be changed in the S106 agreement.

Site Description

The application site lies to the west of Mill Drove South, within the defined settlement boundary of Cowbit. The site consists of part of a former rail yard on the western side of Mill Drove South.

The land runs to approximately 0.54 hectares and is considered to be a brownfield site.

History

Application Site:

H01-0871-18 - Outline - Former Station Yard & Croft House Nursery, Mill Drove South, Cowbit. Residential development - up to 45 dwellings, including re-alignment of Mill Drove to Stonegate Road junction - Approved with S106 15.03.19

H01-1204-22 - Full - Residential Development comprising 21 dwellings - Approved 12.01.2024

H01-0380-24 - Condition Compliance - Details of contamination of land or pollution of controlled waters (Condition 16(ii) of H01-1204-22) - Approved 15.07.2024

H01-0567-24 - Condition Compliance - Details of management plan (Condition 15 of H01-1204-22) - Approved 19.08.2024

H01-0628-24 - Condition Compliance - Details of external materials (Condition 3 of H01-1204-22) - Approved 27.08.2024

H01-0605-24 - Non- Material Amendment - Residential Development comprising 21 dwellings - Approved under H01-1204-22. Amendment to change window colour from white to grey - Withdrawn

H01-0647-24 - Non- Material Amendment - Modification of 106 Agreement relating to Affordable Housing (planning approval H01-1204-22) - To be determined

H01-0109-25 - Condition Compliance - Details of external materials (Condition 3 of H01-1204-22) - Approved 08.05.2025

H01-0057-25 - Condition Compliance - Details of Verification Report relating to contamination (Condition 17 of H01-1204-22) - To be determined

Adjacent Sites:

H01-1170-22 - Outline - Land South of former Engine Shed, Mill Drove South, Cowbit. Residential Development (Max three dwellings) - Approved 16.03.2023. This relates to the southern aspect of the initial outline permission.

H01-0823-19 - Outline - Land off Stonegate, Cowbit. Residential development for five dwellings - Approved 21.01.2020. This site lies to the southwest of the application site.

H01-0820-22 - Reserved Matters - Land off Stonegate, Cowbit. Erection of 5 Dwellings (outline approval H01-0823-19) - Approved 04.11.2022. This site lies to the southwest of the application site and is the Reserved Matters relating to H01-0823-19 above.

H01-0234-23 - Full - Erection of three detached dwellings - previously approved under H01-0452-21. Amendments to house types, drainage details and boundary treatments - Approved 23.05.2023.

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

Cowbit Parish Council

The Parish Council objects to the developer's request, as this was agreed prior to the application being approved in the first instance.

Planning Considerations

The only issue to consider as part of this application is to consider the change in the wording of the current Section 106 agreement that relates to the ability of the registered provider to charge rent increases.

Accent Housing Limited are the registered provider for several schemes in the district and their legal advice highlighted that the currently worded S106 agreements prevent them from levying increased rents on a yearly basis.

They requested the legal agreements to be altered to enable rent increases.

The comments from Cowbit Parish Council are noted. This change does not affect any aspect of the material planning considerations. This change does not affect the provisions in the original legal agreement, or the existing consents running with the land.

Legal have consented to the changes and produced a new Deed of variation which has been signed.

It is considered that the changes are acceptable from a planning perspective and the deed of variation can be issued to run with the land in question.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:

A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act

B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).

C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the

recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Conclusion

That the amendments to the Section 106 agreement are acceptable and planning permission can be approved.