

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H02-0054-22 **Applicant:** Longhurst Group

Proposal: Modification of 106 Agreement to allow for changes relating to shared ownership - Planning Approval H02-0079-20

Location: Land Off Crease Drove Crowland

Terminal Date: 30th June 2022

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

06 Developer Contributions
18 Affordable Housing

National Guidance

National Planning Policy Framework 2021

Representations:

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

CASE OFFICER ASSESSMENT

Proposal

Modification of 106 Agreement to allow for changes relating to shared ownership. The applicant has submitted the application as the existing Unilateral Undertaking doesn't allow for shared ownership initial tranche sales in line with Homes England guidance. It currently states occupiers will initially own a percentage share ranging between 25% and 50%. Initial shares should be up to 75% in line with Homes England guidance for funding (and as has been allowed for in the S106 that applied to the other 14 plots on the site)

Site Description

As original application, now constructed.

History

H02-0452-20 Modification of S106 agreement wishes to amend the rented tenure from Social Rent to Affordable Rent and to amend the Mortgagee Exemption Clause (approved August 2020)

H02-0078-20 - Full application for the erection of 14 dwellings & associated works (approved August 2020)

H02-0079-20 - Reserved matters application for the erection of 41 dwellings & associated works - outline approval H02-0723-16 (allowed on appeal) (approved June 2020)

H02-0383-20 - Details relating to archaeology (Conditions 15 & 16 of H02-0723-16) (approved May 2020)

H02-0723-16 - Outline application for residential development (allowed on appeal September 2017)

H02-0216-17 - Outline application for residential development - re-submission of H02-0723-16 (withdrawn September 2017)

Consultation Responses

Crowland Parish Council - The Parish Council are happy to leave this to the expertise of the Officers.

SHDC Strategic Housing - I am aware that the details relating to the shared ownership leases in the original s106 agreement/unilateral agreement may present an issue to the Affordable Housing Provider and potentially prospective purchasers when attempting to acquire the shared ownership dwellings. Therefore, I can understand why these changes have been requested and have no objections to this request.

Planning Considerations

Given that the proposed modification is supported by SHDC Strategic Housing colleagues and would assist in the delivery of new affordable homes in line with Policy 18 of the Local Plan it is considered to be acceptable.

Conclusion

The proposed amendments to the s106 agreement are considered reasonable and acceptable for the reasoning set out above.

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.