DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H02-0084-25**	**Applicant:**	**L M Wanless & A Kersley**
Proposal:	Modification of 106 Agreement relating to paragraph 1.15 of schedule 3 to amend the period from 12 months to 6 months to assist with the sale (Planning approval under H02-0075-19)		
Location:	24 Hardwick Close Crowland		
Terminal Date:	3rd April 2025		

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

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	1
WARD MEMBER	0	0	0	0
NORTH LEVEL INTERNAL DRAINAGE BOARD	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This application seeks to modify an existing Section 106 agreement attached to planning permission H02-0075-19, which granted permission for the erection of up to 22 dwellings.

It is proposed that the definition of "Eligible Purchaser" shall be altered and Paragraph 1.10 of Schedule 3 of the Original Amendment shall be replaced. Paragraph 1.15 shall also be replaced, with references to a 12 month advertisement period being replaced by a 6 month period.

Site Description

The site is within the settlement boundaries of Crowland, as outlined in the South East Lincolnshire Local Plan, 2019. The estate now appears to be completed. 24 Hardwick Close is typical of the area, being a semi-detached, yellow brick dwelling in a modern style.

History

H02-0408-21 - Modified Agreement - Modification of 106 Agreement to amend clauses 1.1 & 1.2 of Schedule 3 to allow up to 80% of the market dwellings to be occupied prior to trigger point. Approved 09/03/22.

H02-0075-19 - S73 - Residential development - erection of up to 22 dwellings - approved under H02-0405-17. Removal of Condition 4 relating to affordable housing. Approved 07/07/20

H02-0448-18 - Reserved Matters - Erection of 22 dwellings - outline approval H02-0405-17. Approved 22/08/18

H02-0405-17 - Outline - Residential development - erection of up to 22 dwellings. Approved 16/08/17

H02-0892-15 - Reg 3 - Demolition of primary school buildings. Approved 26/10/15

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:

Crowland Parish Council

"We are unclear on what this application refers to and its impact on the original section 106 agreement"

North Level Internal Drainage Board

"Please note that North Level District Internal Drainage Board have no comments to make regarding the above
planning application".

Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no letters of representation have been received.

Planning Considerations

Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019 (SELLP), is the development plan for the district, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework, 2024 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Assessment of S106 Modification

The proposed modification has been put forward due to difficulties with the sale of 24 Hardwick Close, with the relevant paragraphs being found to be overly restrictive upon the sale of the property. The replacement of the paragraphs listed above is not considered to prejudice the affordable housing delivery for the wider site, and would enable greater flexibility in the sale of the house. This clause has prevented the sale of the property for over a year, which would in any event result in the requirements of the clause being met even if it were not altered.

Given this, it is considered that the proposal is acceptable, and that even with the variation, the required delivery would still be attainable.

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

It has been demonstrated that Paragraphs 1.10 and 1.15 of the relevant S106 agreement can be appropriately varied, specifically for 24 Hardwick Close, and therefore it is considered appropriate to modify as requested.

Recommendation

It is recommended that the relevant paragraphs of LD/H02-0408-21 be modified to reflect the changes proposed in the Deed of Variation.