

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H02-0408-21 **Applicant:** Churchfield Developments Ltd.

Proposal: 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.

Location: Land At The Former South View Primary School Albion Street Crowland

Terminal Date: 11th June 2021

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

18 Affordable Housing

National Guidance

National Planning Policy Framework 2021

Section 5 - Delivering a sufficient supply of homes

Representations:

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

CASE OFFICER ASSESSMENT

Proposal

The s106 agreement tied to application ref. H02-0075-19 sets out the following:

- Not more than 40% of the market dwellings shall be occupied until the construction of all affordable dwellings has been commenced
- Not more than 60% of the market dwellings shall be occupied until the construction of the rented housing has been certified practically complete and has been transferred to the affordable housing provider and the discounted market sales dwellings are ready for occupation.

Due to some unresolved legal issues with the development, the developer proposed to amend both of these triggers so that no more than 80% of the market is occupied before the affordable is complete.

Site Description

The development itself is now almost complete. There are bungalows to the west on the opposite side of Albion Street as well as some detached dwellings on the same side as the site. Terraced properties run all along the eastern side of Reform Street. There is a mix of bungalows and two storey dwellings on Broadway. The site borders the Crowland Conservation Area on two sides at the northern part of the site along Reform Street.

History

H02-0268-21 - Full - Proposed Pump Station Enclosure & Access (retrospective) (approved July 2021)

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 July 2020)

H02-1020-19 - Reserved Matters - Erection of 3 dwellings and associated works (Plots 8, 9 and 10) Outline approval H02-0405-17 (approved December 2019)

H02-0448-18 - Reserved Matters - Erection of 22 dwellings (approved 22nd August 2018).

H02-1182-18 - Details of surface water drainage scheme and scheme to deal with contamination (Conditions 8 and 9 of H02-0405-17) (approved July 2019)

H02-0405-17 - Outline - Erection of up to 22 dwellings (approved 16th August 2017)

Consultation Responses

SHDC Strategic Housing - This scheme benefits from a s106 agreement dated 30 June 2020 relating to application H02-0075-19. The agreement obligates the developer to provide 5 affordable homes, 3 of which for rent and 2 for discount market sale. The affordable homes should be practically complete with the rented transferred to an Affordable Housing Provider and the discount market sale ready for occupation when no more than 60% of the market homes are occupied. In this application the developer has applied to amend the triggers so that no more than 80% of the market is occupied before the affordable is complete. Strategic Housing is aware that there are some unresolved factors which has created an element of uncertainty to the developer. Delaying the triggers slightly may assist the developer in continuing to deliver the market homes whilst continuing with the obligation to provide the affordable homes, albeit at a later stage in the development.

Planning Considerations

Due to some unresolved legal issues with the development, the developer proposed to amend the triggers set out in Clauses 1.1 and 1.2 of the s106 agreement tied to application ref. H02-0075-19 so that 80% of the market dwellings can be occupied before the affordable dwellings are complete.

In light of the above and Strategic Housing's comments, the proposal is considered acceptable.

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

The proposed modifications to Clauses 1.1 and 1.2 of the s106 agreement tied to application ref. H02-0075-19 are acceptable.

The recommendation is therefore for a delegated approval.