DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H04-0678-25**	**Applicant:**	**Cross Keys Homes Limited**
Proposal:	Modification of 106 Agreement relating to Affordable Housing to bring in line with market standards & allow charging to occur on a MV-STT basis (planning approval H04-0244-16)		
Location:	Land Off Malting Lane Donington Spalding		
Terminal Date:	9th September 2025		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

10 Meeting Assessed Housing Requirements

National Guidance

National Planning Policy Framework December 2024

Section 106A of the Town and Country Planning Act 1990 (as amended)

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

This application is for a deed of variations made under Section 106a of the Town & Country Planning Act 1990, relating to the definition of the Chargee in Clause 1; the chargee's duties in paragraph 1.8 of Schedule 3; and amendments to correct cross references to the correct clauses.

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

Site Description

The site is located at the southern side of Donington and is part of a wider area of agricultural land sited between a commercial site and residential properties, including a recently constructed affordable housing development to the south. The site is accessed from Malting Lane (set to the west) and located south of William Close which is a private road and north of the estate fronting Arnhem Way, to the front of Malting lane are a row of bungalows that site north of the access.

History

H04-0617-25 - Details of water consumption (Condition 2 of H04-1029-20) - Approved 22.07.2025

H04-0295-25 - Details of proposed boundary treatments and noise & vibration report (Conditions 14 and 19 of H04-0244-16) - Approved 24.06.2025

H04-0291-25 - Details of proposed boundary treatments, landscape management and maintenance plan (Conditions 3 and 7 of H04-1029-20) - Approved 24.06.2025

H04-0295-25 - Details of proposed boundary treatments and noise & vibration report (Conditions 14 and 19 of H04-0244-16) - 24.06.2025

H04-1031-24 - Details of full closure report (Condition 8(ii) of H04-0244-16) - Approved 08.01.2025

H04-0582-24 - Details of design & positions of all external boxes for gas & electricity supplies & any gas flues & soil vent pipes (Condition 4 of H04-1029-20) - Approved 30.08.2024

H04-0555-24 - Details of full closure report (Condition 8(ii) of H04-0244-16). Refused 14.08.24.

H04-0517-24 - Land off Malting Lane - details of water supplies to the Fire Service (Condition 17 of H04-0244-16). Approved 01.08.2024.

H04-0549-24 - Details of schedule of external materials, kerbs and surfacing of roads and design & location of secure cycle storage (Conditions 4, 5 & 13 of H04-0244-16). Approved 30.07.2024.

H04-0575-24 - Details of design & position of all external boxes for gas & electricity supplies and of any gas flues & soil vent pipes - Condition 11 (phase 2 only) of H04-0244-16. Approved 02.08.2024.

H04-0582-24 - Details of design & positions of all external boxes for gas & electricity supplies & any gas flues & soil vent pipes (Condition 4 of H04-1029-20). Approved 30.08.2024

H04-0548-24 - Details of scheme for the provision of swift nest bricks (Condition 8 of H04-1029-20)- Approved 30.07.2024

H04-0488-24 - Details of construction and traffic management scheme & precautions to prevent the deposit of mud on public highways (Conditions 12 & 15 of H04-0244-16). Approved 22 July 2024.

H04-0359-24 - Details of surface water drainage scheme, existing & proposed site levels & proposed floor levels and means of foul water disposal (Conditions 9, 16 & 18 of H04-0244-16). Approved 28 May 2024.

H04-0038-24 - Details of estate road & associated footways (Condition 7 of H04-0244-16). Approved 13 March 2024.

H04-0728-22 - Details of remediation method statement, surface water drainage scheme, construction and traffic management scheme, noise and vibration report, deposit of mud precautions, existing and proposed site levels/floor levels and foul water disposal (Conditions 8 (Part i), 9, 12, 14, 15, 16 and 18 of H04-0244- 16). Approved 27 October 2023.

H04-1117-22 - Details of external materials, roads and/or footways, external gas and electricity boxes, cycle storage and proposed boundary treatment (Conditions 4, 5, 11, 13 and 19 of H04-0244-16). Approved 27 October 2023.

H04-1139-22 - Details of boundary treatments, gas and electricity external boxes, landscape management and maintenance and swift nest bricks. (Conditions 2, 4, 7 and 8 of H04-0268-20). Approved 27 October 2023.

H04-1071-22 - Non material Amendment - Erection of 32 Dwellings - outline approval H04-0244-16 - approved under H04-1029-20. Amendments to house types A, B and E. - Approved 28.11.2022

H04-1029-20 - Reserved Matters - Erection of 32 Dwellings - outline approval H04-0244-16. Approved 2nd November 2021.

H04-0268-20. Reserved Matters. Erection of 40 Dwellings - outline approval H04-0244-16. Approved 2 November 2021.

H04-0244-16 - Outline planning application for a residential development of approximately 73 dwellings (Class C3), all matters are reserved, except for access. Approved 30th November 2017.

H04-0015-05 - Re-development of industrial Site for Residential. Refused 12 January 2005.

Consultation Responses

Initial Responses Received (Consultation period between 16th July 2025 - 06 August 2025)

Housing Strategy

Thank you for consulting the Local Housing Authority on this application to modify the S106 relating to the affordable housing provision.

The modifications to the S106 relate to the definition of the Chargee in Clause 1; the chargee's duties in paragraph 1.8 of Schedule 3; and amendments to correct cross references to the correct clauses.

If the council's legal advisor is comfortable with the suggested changes the Local Housing Authority has no objection.

Public Representation

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

In this case, then the proposed deed of variation seeks to the definition of the Chargee in Clause 1; the chargee's duties in paragraph 1.8 of Schedule 3; and amendments to correct cross references to the correct clauses.

The Local Planning Authority's Planning lawyer has consented to the changes and produced a new Deed of variations which has been signed and concluded.

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 variations to the Section 106 agreement are acceptable.