

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H08-0037-26 **Applicant:** Emerald Homes

Proposal: Modification of 106 Agreement relating to affordable contribution is to be changed to be 100% First Homes - Approved under H08-0870-22

Location: Site Adjacent To Silverdene Boston Road Gosberton

Terminal Date: 17th March 2026

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

18 Affordable Housing

National Guidance

National Planning Policy Framework December 2024

Section 106a of the Town & Country Planning Act 1990 (as amended)

Representations:

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

CASE OFFICER ASSESSMENT

Proposal

This application is for a deed of variation made under Section 106a of the Town & Country Planning Act 1990 (as amended).

The applicant seeks to allow for all of the affordable dwellings approved under permission H08-0870-22 to comprise First Homes.

Site Description

The site comprises land to the west of Boston Road, Gosberton. The site is located to the rear of Arosfa which is a residential dwelling that faces towards the road frontage on Boston Road. The site has permission for 20 dwellings under planning permission H08-0870-22.

History

H08-0866-18: (Outline Application) Residential development - for up to 18 dwellings - approved March 2019

H08-0435-19: (Section 73) Residential development for up to 18 dwellings - approved under H08-0866-18 - Modification of Condition 1 to extend the timescale for Reserved Matters submission to 2 years - not determined

H08-0518-19: (Outline Application) Residential development (re-submission of H08-0866-18) - refused July 2019

H08-0218-20: (Reserved Matters) Residential Development of 18 Dwellings - outline approval H08-0866-18 - approved July 2020

H08-1183-21: (Full Application) Proposed residential development comprising 20 dwellings - refused March 2022

H08-0259-22: (Discharge of Conditions) Details of construction management plan & method statement and management & maintenance schedule for landscaping, refuse/recycling collection points & private drives (Conditions 2 and 8 of H08-0218-20) - approved 04 May 2022

H08-0260-22: (Discharge of Conditions) Details of construction management, details of precautions for prevention of mud deposits on public highways, plan illustrating areas of publicly accessible open space and management plan for publicly accessible open space & outdoor play areas (Conditions 6, 7, 13 & 14 of H08-0866-18) - approved 04 May 2022

H08-0257-22: (Section 73) Residential Development of 18 Dwellings - approved under H08-0218-20. Modification of Condition 1 to allow amendments to previously approved plans - approved 13 May 2022

H08-0870-22: (Full Application) Proposed residential development comprising 20 dwellings (Re-submission of H08-1183-21) - approved 04 May 2023

H08-0538-23: (Discharge of Conditions) Details of precautions to prevent mud deposits on public highways, on-site foul water drainage works, existing & proposed site levels, construction management plan and method statement, finished surface levels, estate road phasing & completion plan, surface water drainage scheme, additional boundary treatment for northern boundary, plan illustrating all areas of publicly accessible open space, management & maintenance schedule for landscaping, incidental open space etc, refuse/recycling collection points and design & position of external boxes etc (Conditions 3, 4, 5, 7, 9, 10, 11, 13, 14, 15, 16 & 17 of H08-0870-22) - withdrawn 29 November 2023

H08-0417-24: (Discharge of Conditions) Details of precautions to be taken to prevent mud deposits on public highway etc, scheme for on-site foul water drainage works, existing & proposed site levels & proposed floor levels, construction management plan & method statement, finished surface levels for estate roads & footways, estate road phasing & completion plan, surface water drainage scheme, additional boundary treatment for northern boundary of Plot 1, plan to illustrate all areas of publicly accessible open space, details of management and maintenance schedule for areas of landscaping, incidental open space, refuse/recycling collection points & parking courts/private drives, management & maintenance including refuse/recycling collection points for Plots 12-14 and design & position of all external meter boxes & gas flues & soil vent pipes (Conditions 3, 4, 5, 7, 9, 10, 11, 13, 14, 15, 16 & 17 of H08-0870-22) - refused 12 July 2024

H08-0814-24: (Discharge of Conditions) Details of precautions to be taken to prevent the deposit of mud on public highway etc, scheme for on-site foul water drainage works, proposed site & floor levels, construction management plan & method statement, finished surface levels for estate roads & footways, estate road phasing & completion plan, surface water drainage scheme, additional boundary treatment for northern boundary of Plot 1, publicly accessible open space, management & maintenance schedule for the areas of landscaping, incidental open space, refuse/recycling

collection points & parking courts/private drives & management & maintenance including refuse/recycling collection points for Plots 12-14 (Conditions 3, 4, 5, 7, 9, 10, 11, 13, 14, 15 & 16 of H08-0870-22) - approved 20 November 2024

H08-1015-24: (S106 Modification) Modification of 106 Agreement relating to affordable housing and cash contributions (planning approval H08-0870-22) - refused 22 January 2025

H08-0763-25: (Discharge of Conditions) Details of design & position of all external boxes for gas & electricity supplies and any gas flues, & soil vent pipes (Condition 17 of H08-0870-22) - pending determination

H08-0764-25: (Non Material Amendment) Proposed Residential Development Comprising 20 Dwellings - approved under H08-0870-22. Amendments to include external materials plan, boundary treatment plan, porches amended to Goldfinch, Kingfisher, Heron & Starling house type and personal door amended to Swan house type - approved 03 September 2025

H08-0023-26: (Full Application) Erection of 4 dwellings with associated detached garages and related site works - pending determination - approved 05 August 2026

Consultation Responses

Housing Strategy: The Local Housing Authority can confirm that this proposed amendment has been agreed in principle by both the Authority and the applicant. This agreement follows extensive efforts to secure Registered Provider (RP) involvement to deliver the rented affordable housing units, all of which have unfortunately been unsuccessful. As a result, it has been agreed that the affordable housing provision will instead be delivered entirely as First Homes, with the applicant paying the appropriate commuted sum arising from this change in tenure. Consequently, the development will now provide 5 First Homes in place of the previously agreed affordable housing units. In light of the above, the Local Housing Authority raises no objection to the proposed modification, subject to the completion of an appropriate Deed of Variation to formally secure the agreed changes to the existing Section 106 Agreement and payment of the commuted sum. It is also required that the First Homes are delivered in full accordance with Homes England guidance, including all relevant eligibility criteria.

Cllr H J W Bingham: No response received.

Cllr Cllr M A Geaney: No response received.

Cllr J L King: No response received.

Lincolnshire County Council - Education Planning Manager: No response received.

NHS: No response received.

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 representations have been received from members of the public.

Planning Considerations

Assessment

In this case, the proposed deed of variation seeks to change the 5 affordable housing dwellings approved under permission H08-0870-22 to comprise 100% First Homes. As set out by the Housing Strategy and Enabling Officer, it has been accepted that the applicant has struggled to secure a Registered Provider to deliver the rented affordable housing dwellings within the site. As such, it has been accepted to change the dwellings to First Homes, which still comprise a form of affordable housing. Therefore, it is considered that this amendment accords with the aims of Policy 18 (Affordable Housing) of the South East Lincolnshire Local Plan (2011-2036), which seeks to secure the delivery of affordable homes that meet local needs. Furthermore, the Affordable Housing Contribution has been amended to £58,000 to reflect the changes in tenure.

On balance, the proposed modification maintains the intent and public benefit of the original Section 106 agreement, ensuring continued delivery of affordable housing, with appropriate financial mitigation secured. Therefore, the proposal is considered to represent a fair and reasonable variation that continues to meet the relevant policy objectives and serves a useful planning purpose.

It was also necessary to update the legal agreement to secure an additional payment of £2,744.28 to fund improvements within the South Lincolnshire Rural and Boston Primary Care Networks at Gobserton Medical Centre, Kirton Medical Centre and / or Swineshead Medical Group. This was deemed necessary as part of the determination of application H08-0023-26 which granted approval for 4 dwellings, resulting in an increase in 3 dwellings overall within the wider site as the development was proposed to replace plot 20 that was approved under permission H08-0870-22.

The NHS was consulted as part of the determination of application H08-0023-26 and the NHS requested the aforementioned financial contribution due to the need to increase the capacity of relevant healthcare facilities. As such, the legal agreement has also been updated to reflect the additional payment that is required as part of the delivery of the wider site. Although the payment could have been secured through a new s106 agreement, it was deemed appropriate to instead secure the contribution through the current Deed of Variation application due to the overlap in site boundaries.

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 modification changing the affordable housing within the site to comprise 100% First Homes is acceptable. Furthermore, it has also been deemed necessary to update the legal agreement to secure an additional payment of £2,744.28 to fund improvements to the local healthcare network. This was deemed necessary as part of the determination of application H08-0023-26 and it was deemed appropriate to update the legal agreement to require this additional payment.