DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H09-0059-21**	**Applicant:**	**Loosegate Developments Ltd.**
Proposal:	Variation of 106 legal agreement to change the triggers for the payment of the development contributions. Relating to planning approvals H09-0326-17, H09-0872-18, H09-1178-19.		
Location:	Wignals Gate Holbeach Spalding		
Terminal Date:	15th October 2021		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02	Development Management
03	Design of New Development
04	Approach to Flood Risk
05	Meeting Physical Infrastructure and Service Needs
06	Developer Contributions
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
12	Reserve Sites
18	Affordable Housing
28	The Natural Environment
31	Climate Change and Renewable and Low Carbon Energy
32	Community, Health and Well-being
APPENDIX 6	Parking Standards
APPENDIX 8	Developer Contributions for Education Facilities
APPENDIX 9	Developer Contributions for Health Care Facilities

National Guidance

National Planning Policy Framework 2021

NPPF 2021.

Representations:

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

OTHER STATUTORY BODIES	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

Variation of 106 legal agreement to change the triggers for the payment of the development contributions. Relating to planning approvals H09-0326-17, H09-0872-18, H09-1178-19.

Site Description

As host applications.

History

H09-0326-17. OUTLINE. Residential development. APPROVED with S106 to ensure affordable housing and other
contributions. 21-08-18.

H09-0872-18. H09-0872-18. Erection of 77 dwellings and associated works - outline approval H09-0326-17. APPROVED 04-12-18.

H09-1178-19. MODIFIED S106 AGREEMENT. Modification of 106 Agreement appended to permission referenced H09-0326-17 to ensure delivery of units is in line with the contract programme of works and to allow safe occupation upon transfer of units to SHDC. APPROVED Deed of Variation. 25-02-20.

Consultation Responses

SHDC Cllr F Biggadike

No Observations.

"I decline from commenting as I consider this to require legal and financial considerations beyond my expertise."

LCC Education

The County Council are in agreement to moving the contribution to 75% to provide the developer with additional flexibility in light of the impacts of Covid and the subsequent impact on house sales; this appears to offer a point that we are both content with, without exposing the County Council to the level of risk attached to payments at the latest stages of development.

NHS

No response received.

Planning Considerations

The issue to consider is whether the variation of S106 legal agreement to change the triggers for the payment of the development contributions would prejudice the provision of the services to be provided in a timely fashion, that would be of detriment to the District and/or contrary to the provisions of the NPPF and the Local plan (SRLLP).

This application does not seek to reduce contributions, but to move the triggers to facilitate the

ability of the developer to continue with the development, and to this end certain viability papers have been submitted.

It is considered that given the reduced sales expectations being experienced and the level of uncertainty introduced by the Covid 19 pandemic, it would be acceptable on this development scheme and for the reasons set out in the application, to accept the changes to the S106 suggested.

A Deed of Variation is prepared accordingly.

Conclusion

Approve.

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.