DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H09-0800-24**	**Applicant:**	**Ashwood Homes (Formally Ashley King Developments Ltd.)**
Proposal:	Modification of 106 Agreement to amend tenure of Plots 37, 38 and 47-53 - planning approval H09-0613-21		
Location:	Land To East Of Chaffinch Way Holbeach Spalding		
Terminal Date:	24th January 2025		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

18 Affordable Housing

National Guidance

National Planning Policy Framework December 2024

5 Delivering a Sufficient Supply of Homes

Representations:

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

CASE OFFICER ASSESSMENT

Proposal

This application relates to the modification of the Section 106 legal agreement to allow a change of tenure of the affordable housing elements to be 9 x First Homes only which occupy plots 37, 38, and plots 47-53.

Viability information was submitted with the original application (Reference H09-0613-21) that the Council independently tested which indicated that there was viability pressure on the site which justified 9 affordable housing units (11.1%), the tenure of which was as follows:

Affordable Rent:
2 x 1 bed

3 x 2 bed
1 x 3 bed
Shared Ownership:
2 x 2 bed
1 x 3 bed

The original planning application was recommended for approval subject to the applicant entering into a Section 106 agreement to secure the delivery of the 9 affordable dwellings in the mix specified in the report, an education contribution of £404,337 and an NHS contribution of £54,460.

The original Section 106 agreement was signed on the 28 February 2022 and planning permission was granted on the 1st March 2022.

This proposal seeks to change the tenure of the 9 affordable units from affordable rent and shared ownership to First Homes.

All other aspects of the original Section 106 agreement and conditions associated with H09-0613-21 remain the same.

Site Description

The site is within the settlement boundary of Holbeach and sits within a housing allocation (ref: Hob004).
The application site is at the north eastern side of Holbeach, south of the A17 and to the north of Chaffinch Way/Balmoral Way by the same developer. Battlefields Lane South adjoins the very north western corner of the site.

History

H09-0626-24 - Details of Verification Report for Plot 81 (Condition 4 of H09-0613-21). Approved 24 September 2024.

H09-0985-22 - Details of Verification Report for plots 1-3, 67-70 and 74-80 (part condition 4 of H09-0613-21). Approved 12 February 2024.

H09-0422-22 - Condition Compliance - Details of written method statement detailing the remediation strategy for land contamination and/or pollution of controlled waters, construction management plan & method statement, estate road phasing & completion plan, surface water drainage scheme, existing & proposed site levels, survey work to ascertain whether water voles are present in drain to eastern boundary, landscaping, boundary treatments and management & maintenance schedule for areas of landscaping, incidental open space, refuse/recycling collection points & parking courts/private drives (Conditions 3, 5, 7, 8, 9, 11, 12, 13 & 14 of H09-0613-21). Approved 26 September 2022.

H09-0613-21 - Residential development of 81 dwellings, associated garaging, roads and sewers. Approved 1st March 2022.

H09-0434-21 - Full - Erection of 9 dwellings and associated garages. Withdrawn - June 2021.

H09-0706-19 - S73 - Proposed residential development comprising 36 dwellings - approved under H09-0288-15. Modification of Condition 2 to allow amendments to previously approved plans. Approved November 2019.

H09-0288-15 - Full - Proposed residential development comprising 36 dwellings. Approved February 2018.

Consultation Responses

SHDC Housing Strategy
Confirms that an acceptable agreement has been reached in relation to the transfer of tenure to First Homes.

Holbeach Parish Council
Oppose, 106 agreement to stay in place as per original agreement.

Planning Considerations

The only matter under consideration of this application relates to the modification of the original S106 legal agreement, dated 28 February 2022 to change the tenure of the 9 affordable houses required as a result of planning permission granted planning permission under reference H09-0613-21. The number of affordables remains unchanged.

The reason for the proposed change is that no registered provider was found for the 9 affordables as per the original Section 106 agreement.

It is noted that the December 2024 National Planning Policy Framework still allows First homes to be a viable type of affordable housing due to the definition of affordable housing in Annex 2 of the Glossary:

"d) Other affordable routes to home ownership: is housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes shared ownership, relevant equity loans, other low cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for alternative affordable housing provision, or refunded to Government or the relevant authority specified in the funding agreement."

The change to First Homes is therefore acceptable from a national policy perspective and per Policy 18 of the South East Lincolnshire Local Plan, 2019.

A Deed of Variation was required to facilitate the change which was signed on the 2nd January 2025.

The amended Deed of Variation deletes paragraphs 4.2.1 to 4.2.11, and Clause 9/9 of the original agreement.

The definition of the Affordable Housing Scheme is now defined as "the scheme for securing the Affordable Housing and detailing the design, tenure, mix, size and location of the Affordable Housing to be provided as part of the development and consisting of 9 First Homes comprising 2 x one-bedroom houses, 5 x two bedroom houses, and 2 x three bedroom houses (being plots 37, 38, 47-53 inclusive) as shown on the Affordable Housing Plan, unless such other alternative mix, percentage(s), and/or plot(s) is agreed with the Council acting reasonably (and such consent not to be unreasonably withheld or delayed).

Paragraph 1 of Schedule 3 in the Original Agreement is deleted in its entirety and replaced with modified wording relating to not occupying more than 80% of the dwellings unless the Affordable Payment has been paid in full to the Council, calculated from the date 6 months after the approval of the Section 106A Modification application.

Agreement to the appropriate payment was reached between Housing Strategy and the applicant.

A new clause was added relating to Mortgagee's consent.

No other changes to the conditions of H09-0613-21 or the original Section 106 agreement associated with the host consent are required. All conditions associated with H09-0613-21 and the original S106 agreement dated 28 February 2022.
remain extant.

Consideration of Objection

It is noted that Holbeach Parish Council object to the proposed change. Their objection stated that the original Section 106 agreement should stay the same.

Whilst this is acknowledged, the proposed change does not mean that no affordable housing would be provided, only that the type of affordable housing would change.

First Homes are still a viable affordable housing type, and the number of affordables was agreed,

subject to viability, in the original consent.

Housing Strategy accept that in some circumstances, registered providers will not take on certain affordable housing schemes, particularly if the number of units are limited, as in this case. They have accepted the change of tenure.

It is not considered reasonable to refuse planning permission given that an alternative tenure is proposed.

It is considered reasonable to accept the tenure change.

Conclusion

The change to affordable housing from the original agreement to First Homes is considered acceptable and is policy compliant. It would not be reasonable to refuse.

The modified agreement has been processed and the amended Deed of Variation was signed on the 2nd January 2025 which now contains the amended provisions to allow the 9 affordable homes to be provided as First Homes.

SHDC Housing consider the change acceptable and raise no objections.

As a result the application is acceptable, and given the S106 agreement has been signed, the decision notice can now be issued.

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.

Recommendation

Approve and issue planning permission under delegated authority.