DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H09-0902-20**	**Applicant:**	**Ashwood Homes**
Proposal:	Modification of 106 Agreement (planning approval H09-0288-15) and Deed of Variation (H09-0707-19) to change the definition of 'chargee', update exemptions and amend mortgage exemption clause.		
Location:	Land Off Balmoral Way Holbeach Spalding		
Terminal Date:	7th December 2020		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

18	Affordable Housing

National Guidance

National Planning Policy Framework 2019

Section 2. Achieving sustainable development
Section 5. Delivering a sufficient supply of homes
Section 8. Promoting healthy and safe communities
Section 9. Promoting sustainable transport
Section 12. Achieving well-designed places
Section 14. Meeting the challenge of climate change, flooding and coastal change

Representations:

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

CASE OFFICER ASSESSMENT

Proposal

This is a planning application for modification of Section 106 Agreement (planning approval H09-0288-15) and Deed of Variation (H09-0707-19) to change the definition of 'chargee', update exemptions and amend mortgage exemption clause.

Site Description

The site amounts to 1.75 hectares and is on the north-east of the existing built up estate, including Balmoral Way, through which access would be taken for the new dwellings.

The site is comprised of a large field to the east of the end of Balmoral Way. There are existing conifers on the northern boundary and smaller trees within the site, none of any great amenity value. The properties on the adjoining estate are fairly large detached houses. There is a detached bungalow adjacent to the access on Foxed Low Road.

Access for the new houses would be from the existing road, Balmoral Way. A separate access exists to Foxes Low Road which is an agricultural right of way.

History

H09-0288-15 - Proposed residential development comprising 36 dwellings - Approved

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

H09-0707-19 - Modification of 106 Agreement to reduce the level of affordable housing from 12 to 9 units - planning approval H09-0288-15 - Approved

Consultation Responses

Holbeach Parish Council

No comments.

SHDC Strategic Housing

"Strategic Housing is aware that prospective shared owners seeking to secure mortgage finance and Registered Providers seeking to raise finance to fund the delivery of affordable homes often face challenges if the mortgagee in possession and mortgagee exclusion clauses are not sufficient.

The National Housing Federation has produced template wording to satisfy lenders in this respect. The proposed changes to the agreement concur with this template and therefore Strategic Housing can see the rationale for this request."

Planning Considerations

The proposed modifications is supported by SHDC Strategic Housing and would assist in the delivery of new affordable homes in line with Policy 18 of South East Lincolnshire Local Plan (SELLP) 2019.Therefore, the proposal is considered to be acceptable as summitted.

Conclusion

The proposed modifications for Section 106 Agreement and Deed of Variation are acceptable as they accord with the policies of the SELLP 2019.

It is accordingly recommended to approve this planning application via delegated powers.

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.