

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H14-1170-19 **Applicant:** Keston Fields Ltd

Proposal: Modification of s106 Agreement to allow changes to the timing and delivery of affordable housing (H14-0355-17)

Location: Keston Nursery Mill Green Road Pinchbeck

Terminal Date: 27th January 2020

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

18 Affordable Housing

National Guidance

National Planning Policy Framework 2019

Section 5 - Delivering a sufficient supply of homes

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 is an application to modify the s106 agreement tied to outline planning permission (H14-0355-17) in order to change the triggers within the affordable housing schedule. This is in order to support the ability to obtain finance for the scheme.

Site Description

The site is greenfield in nature and is currently in use as a horticultural nursery. To the west the site is bordered by Mill Green Road, with open fields beyond, as well as the rear of a number of properties in the southern portion of the site. To the east is the railway line and properties beyond

on Mayfield Close and Penway Drive. To the north is a single property on the opposite site of Mill Green Road, the level crossing linking the site to Pinchbeck and a property currently linked to the nursery.

Relevant History

H14-0194-19 - Modification of Section 106 Agreement to reduce the percentage of affordable housing from 33.3% to 25% - planning approval H14-0355-17 (approved April 2019)

H14-1162-18 - Erection of 100 dwellings and associated works - Outline approval H14-0355-17 (approved March 2019)

H14-0355-17 - Proposed residential development (re-submission of H14-0942-16) (approved February 2018)

Consultation Responses

SHDC Strategic Housing - This application is proposing to amend the triggers within the affordable housing schedule so that no more than 53% of the market dwellings are occupied before the affordable housing is commenced and no more than 69% of the market are occupied before the affordable housing is complete and transferred to an affordable housing provider. Given that the rationale for this request is to support the ability to obtain finance, and therefore the delivery of the site, then there are no objections to this request from Strategic Housing.

Planning Considerations

Given that the proposed modification is supported by SHDC Strategic Housing colleagues and would assist in the delivery of the scheme it is considered to be acceptable.

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 amendments to the s106 agreement are considered reasonable and acceptable for the reasoning set out above.