DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-0646-24**	**Applicant:**	**Accent Housing Limited**
Proposal:	Modification of 106 Agreement relating to Affordable Housing (planning approval H16-0668-16)		
Location:	Land At Millfield Nursery Spalding Common Spalding		
Terminal Date:	28th March 2025		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

10 Meeting Assessed Housing Requirements

National Guidance

National Planning Policy Framework December 2024

Not applicable.

Representations:

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

CASE OFFICER ASSESSMENT

Proposal

The application is to vary the S106 agreement to permit Accent Housing to levy annual rent increases.
The current S106 agreement does not allow this registered provider of the affordable housing to levy annual rent increases and the applicant has requested some minor wording changes to the S106 agreement that runs with the land.

This is the only matter that is to be changed in the S106 agreement.

Site Description

As host consent.

History

H16-0668-16 - Residential Development - Subject to a Section 106 agreement which set the

development up to 135 dwellings. Approved 13.3.2018.

H16-0984-19 - Residential Development comprising 40 dwellings - 100% affordable housing - outline approved H16-0668-16. Approved 13 February 2020.

H16-1070-20 - Reserved Matters - Erection of 95 dwellings - outline approval H16-0668-16. Approved 3 September 2021.

H16-0543-21 - Condition Compliance - Details of written scheme of archaeological investigation (Condition 20 of H16-0668-16). Approved 2 June 2021.

H16-0021-21 - Section 73 modification - Residential Development comprising 40 dwellings - approved under H16-0984-19. Modification of Condition 1 to allow amendments to previously approved plans. Approved 16 July 2021.

H16-0225-21. CONDITION COMPLIANCE. Details of contamination report, boundary & landscaping, public open space, landscape management & maintenance plan, refuse & recycling storage, external boxes, flues etc, cycle storage, construction management, road construction specification, road levels, surface water & foul water schemes and existing & proposed site levels (Conditions 4, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17 and 19 of H16-0668-16). Approved 2 September 21.

H16-0107-21 - Section 73 modification - Residential Development - approved under H16-0668-16. Modification of Conditions 2 & 18 relating to Flood Risk (new Flood Risk Assessment submitted). Approved 4 October 2021.This is subject to a Section 106 Agreement dated 22 September 2021.

H16-0673-21 - Modification of 106 Agreement restricting the occupancy of the bungalow to agricultural habitation (planning approval H16-0069-93). This is subject to the same Section 106 Agreement dated 22 September 2021 associated with H16-0107-21.

H16-0551-22 - Section 73 Modification - Residential Development - approved under H16-0107-21. Modification of Condition 1 to allow amendments to previously approved plans. (Variation in house-type design/elevational treatment, based on the same overall footprints(areas)/general site layout, with exception of the previously approved plots 8-11, 23 and 75/76). Approved 24 August 2022.

Consultation Responses

Councillor Ashby

There is insufficient information for the reason to forgo the S106. The detail provided is confusing and poorly worded. More detail and explanation is needed in my view.

Planning Considerations

The only issue to consider as part of this application is to consider the change in the wording of the current Section 106 agreement that relates to the ability of the registered provider to charge rent increases.

Accent Housing Limited are the registered provider for several schemes in the district and their legal advice highlighted that the currently worded S106 agreement prevents them from levying increased rents on a yearly basis.

They requested the legal agreement to be altered to enable rent increases.

This does not affect any aspect of the material planning considerations. Whilst Councillor Ashby's comments are noted, this change does not affect the provisions in the original legal agreement, nor any other conditions relating to the outline, the reserved matters, condition compliance decisions or the section 73 applications, all remain in force.

Legal have consented to the changes and produced a new Deed of variation which has been signed.

It is considered that the changes are acceptable from a planning perspective and the deed of variation can be issued to run with the land in question.

Conclusion

That the amendments to the Section 106 agreement are acceptable and planning permission can be approved.

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.