

## DECISION DELEGATED TO HEAD OF PLANNING

**Application No:** H20-1061-21      **Applicant:** Mr P Heanes

**Proposal:** Discharge of 106 Agreement relating to affordable housing - planning approval H20-0344-08

**Location:** 38 & 40 Baulkins Drove Sutton St James Spalding

**Terminal Date:** 30th November 2021

### Planning Policies

**South East Lincolnshire Local Plan - Adopted: March 2019**

18      Affordable Housing

### National Guidance

**National Planning Policy Framework 2021**

Section 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        |
| SHDC INTERNAL  | 0      | 0       | 0       | 1        |

### CASE OFFICER ASSESSMENT

#### PROPOSAL

This application seeks to discharge the Section 106 agreement which requires these two properties to be rented at a discounted market rent. This would allow them to be sold as open market dwellings.

#### SITE DESCRIPTION

A pair of semi-detached houses on the western side of Baulkins Drove. There are 7 pairs of semi-detached houses built in two phases. The dwellings have recently become vacant.

## RELEVANT HISTORY

H20-0344-08 - Erection of 6 affordable dwellings - Approved 28/01/09. At that time the site was outside the settlement boundary for Sutton St James defined in the South Holland Local Plan, 2006. Permission was granted as an exception site, as such it was subject to a S106 agreement with 4 of the houses for discounted sale and the other 2 (the subject of the current application) discounted rental properties. This was seen as a continuation of a previous affordable housing scheme (4 pairs of semi-detached houses) approved in November 2005 (H20-1221-05).

## REPRESENTATIONS

### Sutton St James Parish Council

"Strongly object to the lifting of the agreement. With not enough affordable houses in the area for local people (none available within 3 miles of the village at the time of comment), lifting this clause on this property, or any existing property in the area, would only make this harder for local families to take their first step on the property ladder. It would go against the local plan for the village and not benefit prospective first time buyers in the vicinity. Removing the clause for either rental or purchasing customers will only make it more expensive for the prospective buyers and not make it more affordable."

### SHDC Strategic Housing

"These two properties were secured as an affordable product in January 2009, at a time when the Council sought on-site affordable delivery of 1/3 for schemes of 3 or more new homes. From the information provided by the landlord both properties are currently vacant and the landlord wishes to sell on the open market free of the affordable restrictions. There is demand for affordable housing for rent in that location and the district as a whole. Excluding these two properties there are a number of other three bedroom houses for rent in the village. The Allocations and Housing Options Team have no objections to converting the properties from affordable to market dwellings. The Council no longer seeks to secure rented properties through private landlords due to the ongoing monitoring responsibilities in relation to allocations, rental values and property conditions. Converting this from an affordable to a market product will remove those responsibilities and provide the Council with some money in lieu to be able to contribute towards alternative, more appropriate forms of affordable housing delivery."

## PLANNING CONSIDERATIONS

There are relatively few (19) discounted market rent properties in the district whereby the Council receives nomination rights and the rent is required to be set at less than market value. All were secured through Section 106 agreements between 2008 and 2012.

In this case both properties have recently been vacated by long-standing tenants and the landlord no longer wishes to continue with the obligation to provide them as discounted market rental properties. Hence the application to discharge the obligation so as to allow the conversion to open market sale with the Council securing 20% of the value in lieu of the on-site affordable provision. It would also remove all monitoring responsibilities from the Council.

This approach has previously been accepted in respect of other similar properties in the district.

The dwellings are also now situated within the settlement boundary for Sutton St James as defined in the SELLP.

### Planning Balance

Given that this type of product relates to relatively few properties from a number of years ago, it is considered that the loss of these properties would not materially impact upon the supply of affordable dwellings. The Council would receive a financial contribution towards alternative forms of affordable housing and free itself from the liability of ongoing monitoring responsibilities. The balance is therefore considered to be in favour of the proposal.

## Conclusion

There is no objection from the Allocations and Housing Options Team and indeed the landlord has

followed the advice provided by officers on the approach to take. As such it is considered the discharge of the Section 106 agreement is acceptable in this case.

## **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**

That the application be approved under delegated powers.