

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H22-0424-20 **Applicant:** Seagate Homes (UK) Ltd

Proposal: Modification of 106 Agreement to remove affordable housing provision - planning approval H22-0202-16

Location: Land Off Dean Close/Small Drove Weston Spalding

Terminal Date: 27th July 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

CASE OFFICER ASSESSMENT

Proposal

This is an application to modify the s106 agreement tied to outline planning permission (H22-0202-16) in order to remove the affordable housing requirement in its entirety.

Site Description

Former agricultural land which forms part of a wider agricultural field that lies to the east of properties on Dean Close/Small Drove and to the north of properties on Delgate Avenue. To the north is the A151 and to the east is open agricultural land.

History

H22-0620-19 - Residential development of 60 one, two, three and four bed houses and bungalows - approved under H22-0202-16. Amendments to show removal of GRP chimneys (approved July 2019)

H22-0306-19 - Proposed Pumping Station (approved May 2019)

H22-0070-19 - Details of external materials, design and position of external boxes, gas flues and soil vent pipes, boundary treatment and Management Plan for Public Open Space (Conditions 4, 5, 7 and 8 of H22-0202-16) (approved April 2019)

H22-0305-19 - Amendments to include re-positioning of Plots 37 and 38, garage to Plot 38 and parking to Plot 39 (approved April 2019)

H22-1071-18 - Details of Conditions 3, 6, 9, 12, 13, 14, 15 and 17 of H22-0202-16 (approved December 2018)

H22-0202-16 - Residential development of sixty 1, 2, 3 and 4 bedroom houses and bungalows (approved August 2017)

Consultation Responses

SHDC Strategic Housing (detailed comments summarised) -

- The applicant has cited a lack of interest from any Registered Providers in acquiring the affordable homes as the reason for seeking removal of the affordable housing requirement
- Given the development has not yet started there is a considerable time period until the trigger points relating to affordable housing in the s106 agreement are met and thus the application seems premature
- The Council's enabling service can work with the developer to provide a solution, with the removal of the on-site contribution as a last resort
- Three alternatives are proposed: 1) Strategic Housing to seek to identify a provider partner; 2) If no partner can be identified, modify the tenure mix in the s106 agreement; 3) Seek a commuted sum in lieu of on-site affordable housing in the event that neither of the aforementioned alternatives are successful.

Planning Considerations

Since Strategic Housing's initial consultation response was received, there has been further correspondence between the Council's Housing Strategy and Enabling Officer and the developer. A Registered Provider has now made an offer for the affordable units on the site.

On this basis, and also in light of the premature nature of this application, it is not considered necessary for the affordable housing requirement to be removed.

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 removal of the affordable housing requirement from the s106 agreement is not considered to be appropriate for the reasoning set out above.

The recommendation is therefore for a delegated refusal.