



Doncaster Council

Report

Date: 23rd August 2022

To the Chair and Members of the PLANNING COMMITTEE

Proposed Deed of Variation to Section 106 Agreement for a residential development at Briars Lane, Stainforth.

EXECUTIVE SUMMARY

1. This report seeks the approval of the Planning Committee to a variation to the Section 106 Agreement for an approved residential development for the erection of 152 dwellings on 4.2ha of land at Briars Lane Stainforth.
2. Full planning permission was granted on the 17th February 2015 under reference 13/00897/FULM, with the decision being subject to a Section 106 Agreement dated 11th February 2015. During the application process, the applicants had provided a viability assessment which demonstrated that the scheme could not provide the required 26% affordable housing requirement whilst returning an acceptable level of profit.
3. On this basis, the Council and the developer entered into a s106 legal agreement, that sought to ensure that the viability of the scheme could be reassessed on the third anniversary of the s106 agreement (i.e. 11th Feb 2018). Should the scheme then be shown to be viable, the agreement would allow for either the delivery of built affordable units on the site, or a commuted sum in lieu of should no Affordable Housing provider be identified to take ownership of units.
4. Development was commenced on the site prior to that 3 year trigger, however the site was subsequently mothballed. Since then a new developer has taken ownership of the site and wishes to complete the development. The developer wishes to provide a new viability assessment, however the time to do that was in 2018, and as such the obligation within the existing s106 agreement cannot technically be discharged.
5. Given that the original application was agreed by the Planning Committee, any changes to the associated s106 also require Committee approval. It is intended to vary the original s106, to allow for a revised date for submission of a new viability assessment for the site. In this case, it is recommended that such an assessment should be provided within 3 months of the date of the new legal agreement. This

will allow the developer to submit the required information, which they previously were not able to do through no fault of their own (the site was acquired by the developer after the previous trigger to submit a viability assessment had passed), and allow the delivery of a stalled housing site.

EXEMPT REPORT

6. The report does not contain exempt information.

RECOMMENDATIONS

7. For the reasons set out below, it is recommended that Planning Committee authorise the Head of Planning to agree a Deed of Variation to vary the terms of the Section 106 Agreement dated 11th February 2015 in accordance with the terms of this report.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

8. The variation to the Section 106 Agreement will enable the developers to submit an up to date viability assessment, and discharge the obligation contained within the s106. The current wording of the s106 does not allow them to do this, and as such is holding up agreed house sales on the site. The amendment to the s106 will allow for an up to date viability assessment of the scheme to be carried out, and should the scheme be shown to be viable, will ensure that an affordable housing contribution can be provided. It will also allow house sales to commence and the completion of a long stalled site within Doncaster.

BACKGROUND

9. The original Agreement requires that an updated viability assessment is provided 3 years from the date of that Agreement, which fell in February 2018. As such, given the time now elapsed, an amendment is required to allow for a revised submission date.
10. As outlined above, following the grant of planning permission for the site in 2015, the applicants sold the site on to another development company. Following this, the necessary pre-commencement conditions were discharged, and a lawful development of the site was commenced. A number of dwellings on the site were substantially completed and infrastructure completed before the developer ran into financial difficulties. This occurred prior to February 2018, and as such an updated viability assessment had not been provided as required by the terms of the s106 Agreement.
11. The site was then essentially mothballed with a number of dwellings substantially completed, and passed into receivership. In the last 12 months, a new developer, Tricolour Homes, has gained ownership of the site with the obvious intention of completing the development. Tricolour have completed circa 40 dwellings on the site, with sales pending. The sales cannot however be completed, as there is the outstanding obligation on the existing s106 legal agreement requiring an updated viability statement to be provided.
12. Tricolour obviously acquired the interest in the site after the February 2018 trigger date, and so through no fault of their own, did not meet the required trigger for submission of a viability assessment in order to comply with the obligation. It is on

this basis that an amendment to the legal agreement is sought, to regularise the situation to address the current circumstances. In addition, Tricolour's purchasers will not complete sales on the houses already reserved or future plots with an outstanding s106 obligation.

13. As such, it is the interest of both the Local Authority and the developer to amend the s106 to allow this obligation to be addressed. The site has been stalled for a number of years now, and without this amendment further development of the site will not be possible.
14. The original s106 agreement set the affordable housing level, for a fully viable development, at 26% of onsite units or an equivalent financial contribution in lieu of. Whilst the current Local Plan sets affordable housing provision at 23%, it is not the intention of this proposed variation to deviate from the 26% previously agreed by the Planning Committee. The original agreement also allowed for a Gross Development Profit (GDP) of 20% - should the viability assessment show a GDP of less than this, no affordable housing provision would be required. 20% GDP is considered to be an appropriate figure in line with the National Planning Practice Guidance (NPPG) and given the residential sales values in this part of the borough and the costs of developing the site.
15. Following consultation with the Council's Strategic Housing team, it is felt that given the existing affordable housing provision in the locality and low sales values, rather than ask for onsite affordable units, should the site be shown to be viable (GDP above 20%), a commuted sum in lieu of onsite provision would suffice in this instance. The formula for calculating the required affordable housing commuted sum will also be updated to the current methodology, given that the original agreement is now some 7 years old – however as previously stated, for a fully viable scheme the ask will still remain at 26% as previously agreed.
16. The applicants have provided a phasing plan, showing the site to be developed in 3 separate phases. Phase 1 of the site is substantially complete and consists of 40 dwellings. It is these plots where sales are currently pending and stalled due to the outstanding s106 obligation. It is intended that the obligations of the amended s106 would not be binding on any individual occupiers of dwellings in phase 1, to allow for these sales to progress. This is not an unusual situation given the nature of the obligation (submission of a viability assessment and payment of an affordable housing commuted sum if the scheme delivers a profit in excess of 20%), and the amended s106 will be drafted to ensure that should an Affordable Housing sum be required, it will be paid to the Council earlier in the development than the current s106 allows for. It is proposed that any commuted sum would be paid within 3 months of an agreed viability assessment which confirms the development is viable. If the agreed viability assessment indicates the development is not producing a profit in excess of 20%, no commuted sum will be payable (in line with the existing s106 obligation).
17. The advantage of accepting this variation is that the Council have certainty and an agreed mechanism to allow a stalled site to come forward and let agreed sales on the site to proceed. The amendments in essence seek to update the legal agreement to accommodate for the current circumstances. The current site owners, through no fault of their own, will struggle to complete sales in phase 1 as it currently stands and may lose buyers. This is preventing sales from completing, and indeed the future development of the rest of the site. The same level of

commuted sum in lieu of onsite affordable housing is still being asked for if the site is shown to be viable.

18. The National Planning Policy Framework (NPPF) states that 'Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.'
19. Planning obligations should only be sought where they meet all of the following tests;
 - Necessary to make the development acceptable in planning terms;
 - Directly related to the development; and
 - Fairly and reasonably relating in scale and kind to the development.

These are the tests set out as statutory tests in the Community Infrastructure Levy Regulations 2010 and as policy tests in the NPPF.

OPTIONS CONSIDERED

21. To not enter into a Deed of Variation would have a negative effect on the delivery of the development, meaning that the developers will not be able to complete on already agreed house sales, nor to allow the further development of a long stalled allocated housing site.

REASONS FOR RECOMMENDED OPTION

22. The Deed of Variation will not materially alter the requirements of the original s106, however is required to address the current circumstances of the site, where the site owners cannot complete sales in phase 1 without the amendments set out above to the previously agreed obligations. A revised trigger date of 3 months from the date of the Deed of Variation to submit and updated Viability Assessment is considered to be reasonable, and will allow the developer to bring forward the site.
23. This report therefore proposes that a deed of variation seeking the following amendments to the s106 Agreement are approved:
 - a) A financial viability assessment to be submitted within 3 months of the completed deed of variation;
 - b) The requirement for onsite affordable housing provision (should the scheme deliver a profit) be removed and replaced with a requirement for a commuted sum in lieu thereof to be paid within 3 months of an agreed viability assessment;
 - c) The formula for calculating the required affordable housing commuted sum in the s106 Agreement to be updated to the current methodology, which calculates property values at 40% of current average property price for the Borough (using Land Registry valuations) x 26% of the total dwellings on the development to give a

total affordable housing commuted sum figure.

- d) To release individual plot owners in phase 1 only (and not any subsequent phases) from any liability under the s106 agreement as varied.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

	Outcomes	Implications
	<p>Doncaster Working: Our vision is for more people to be able to pursue their ambitions through work that gives them and Doncaster a brighter and prosperous future;</p> <ul style="list-style-type: none"> • Better access to good fulfilling work • Doncaster businesses are supported to flourish • Inward Investment 	<p>Agreeing to the recommendation will allow a stalled development to come forward, providing further investment in the Borough, through the creation of jobs during the construction phase</p>
	<p>Doncaster Living: Our vision is for Doncaster's people to live in a borough that is vibrant and full of opportunity, where people enjoy spending time;</p> <ul style="list-style-type: none"> • The town centres are the beating heart of Doncaster • More people can live in a good quality, affordable home • Healthy and Vibrant Communities through Physical Activity and Sport • Everyone takes responsibility for keeping Doncaster Clean • Building on our cultural, artistic and sporting heritage 	<p>Not to agree with the recommendation will mean that the development of the site may stall and that the potential for new and improved housing stock in the settlement will be reduced. Should the development not come forward this will reduce the potential for new families to move to the area which would boost the local economy, and allow existing families to move to new housing and remain in the local area.</p>
	<p>Doncaster Learning: Our vision is for learning that prepares all children, young people and adults for a life that is fulfilling;</p> <ul style="list-style-type: none"> • Every child has life-changing learning experiences within and beyond school • Many more great teachers work in Doncaster Schools that are good or better • Learning in Doncaster prepares young people for the world of work 	

	<p>Doncaster Caring: Our vision is for a borough that cares together for its most vulnerable residents;</p> <ul style="list-style-type: none"> • Children have the best start in life • Vulnerable families and individuals have support from someone they trust • Older people can live well and independently in their own homes 	
	<p>Connected Council:</p> <ul style="list-style-type: none"> • A modern, efficient and flexible workforce • Modern, accessible customer interactions • Operating within our resources and delivering value for money • A co-ordinated, whole person, whole life focus on the needs and aspirations of residents • Building community resilience and self-reliance by connecting community assets and strengths • Working with our partners and residents to provide effective leadership and governance 	

RISKS AND ASSUMPTIONS

24. There are no real disadvantages to agreeing the proposed deed of variation. To not enter into the agreement would mean that the site owners are not able to continue the development of the site, and it will remain a stalled allocated housing site which does not contribute to addressing the Borough's housing needs.

LEGAL IMPLICATIONS [Officer Initials SC Date 11/08/22]

25. S106A of the Town and Country Planning Act 1990 provides that a planning obligation may be modified by the parties by deed. The proposals result in a deviation from the previous resolution of Planning Committee in relation to the planning obligations sought. In December 2013 Planning Committee resolved to grant planning permission for the development under reference 13/00897/FULM for the provision of 26% onsite affordable housing following a financial viability assessment on the 3rd anniversary of the date of s106 agreement. The amendments proposed to the s106 agreement set out in this report require a further decision of the Planning Committee.

Consultation has taken place with the Strategic Housing team who are in agreement with the proposals. Ward Members have also been consulted. At the time of writing this report, no comments have been received from Ward Members, however should comments be received following completion of the report, these will be reported verbally to the Planning Committee.

FINANCIAL IMPLICATIONS [BC 12/08/22]

26. The Deed of Variation detailed above will not alter the requirements of the original s106 previously agreed by Planning Committee, which set the affordable housing level for a fully viable development at 26% of onsite units or an equivalent in lieu financial contribution. It will, however, allow the new developer to provide an updated viability assessment which will establish whether an affordable housing contribution can be made and address the current circumstances of the site, enabling the sale of completed houses and allowing development to continue.

The formula for calculating the required affordable housing commuted sum will also be updated to the current methodology. This amendment will ensure the Council are in control of the mechanism, and provide a simple, clearly worked out independent method that all parties can agree to.

As well as the potential receipt of a commuted sum to assist with affordable housing in the Borough, there are also the wider implications of facilitating this development by allowing the variation, such as the increase in future Council Tax receipts and New Homes Bonus grant.

HUMAN RESOURCES IMPLICATIONS [Officer Initial DK Date 11/08/22]

27. There are no direct HR implications to the Briars Lane Committee report.

TECHNOLOGY IMPLICATIONS [Officer Initials.....PW... Date.....11/08/22]

28. There are no identified technology implications.

HEALTH IMPLICATIONS [Officer Initials...CT.....Date11/08/22.....]

29. Access to quality, affordable housing helps create a stable environment for children by reducing frequent family moves. Researchers have found that when families do not have enough income left over to cover the rest of their household budget, children experience poorer health outcomes, lower levels of engagement in school, and emotional/mental health problems. Families are also less likely to be able to afford the food they need for a healthy, active life.

Public Health agrees that development of the site and sale of homes needs to progress and supports the recommendation to vary the original s106 to allow for a revised date for submission of a new viability assessment for the site.

EQUALITY IMPLICATIONS [Officer Initials...RS Date.....15.08.2022.....]

30. There are no identified equality implications

CONSULTATION

31. Consultation has taken place with the Strategic Housing team.

BACKGROUND PAPERS

32. Original Section 106 dated 11th February 2015, Committee Report dated 10 December 2013 and Proposed Site Plan showing Phasing

GLOSSARY OF ACRONYMS AND ABBREVIATIONS

REPORT AUTHOR & CONTRIBUTORS

Mark Sewell, Principal Planning Officer, Development Management
01302 734840 mark.sewell@doncaster.gov.uk

Dan Swaine
Director of Regeneration and Environment

DONCASTER METROPOLITAN BOROUGH COUNCIL

PLANNING COMMITTEE - 10th December 2013

Application	
--------------------	--

Application Number:	13/00897/FULM	Application Expiry Date:	30th August 2013
----------------------------	---------------	---------------------------------	------------------

Application Type:	Planning FULL Major
--------------------------	---------------------

Proposal Description:	Erection of 152 dwellings on 4.2 ha of land with associated car parking and landscaping.
------------------------------	------------------------------------------------------------------------------------------

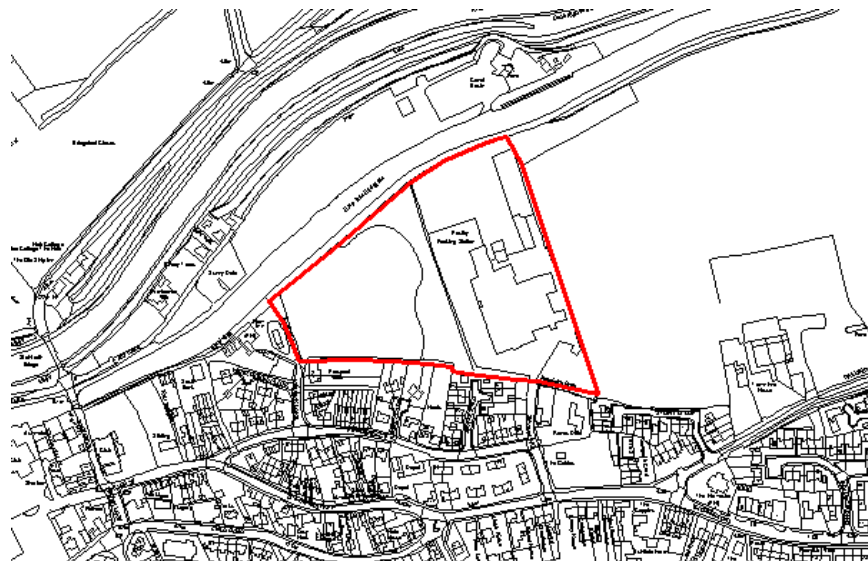
At:	Land At Former Industrial Estate Briars Lane Stainforth Doncaster
------------	-------------------------------------------------------------------

For:	Prospect Estates Ltd
-------------	----------------------

Third Party Reps:	2	Parish:	Stainforth Town Council
		Ward:	Stainforth And Moorends

Author of Report	Mark Sewell
-------------------------	-------------

MAIN RECOMMENDATION:	
-----------------------------	--



1.0 Reason for Report

The application is being presented to the Planning Committee as the proposal represents a departure from current adopted local planning policies. The proposed development is for residential development, although part of the site is currently allocated for employment uses.

2.0 Proposal and Background

2.1 The submission seeks full planning permission for 152 dwellings on approximately 4.2ha of land with associated car parking and landscaping. The site is located to the northern side of Stainforth, just off New Inn Lane and at the end of Briar's Lane. The land itself is split into two parts, the slightly larger portion on the western side is greenfield and overgrown, whilst the section on the eastern side is a cleared brownfield site formerly housing a poultry factory. The site is bound by the Stainforth and Keadby Canal on its northern boundary, agricultural land to the east, with residential properties to the south.

2.2 The application as originally submitted consisted of 170 dwellings, however has been reduced to 152 units following amendments to the scheme. Two access points into the site are proposed, from New Inn Lane in the south-western corner, and from Briar's Lane in the south-eastern corner. A central area of public open space is shown, with a main internal loop road providing access to the dwellings and to secondary cul-de-sacs and lower order roads. Properties along the north western boundary are positioned to be fronting on to the canal side. A wide variety of house types are proposed across the site, including 2, 3, and 4 bedroomed properties, and a mix of detached and semi-detached. A block of apartments is also proposed within the scheme.

2.3 A previous application was submitted on the site for the erection of 172 dwellings, however, this was withdrawn following issues around the flood risk sequential test.

3.0 Relevant Planning History

08/03023/OUTM - Outline application for erection of 172 dwellings with associated car parking, landscaping and waterside park on approximately 4.38ha of land - Land Between Briars Lane, Fleet Lane and the Stainforth and Keadby Canal, Stainforth - Withdrawn

4.0 Representations

4.1 The application has been advertised in accordance with Circular 15/92, by way of site notice, neighbour letters, and a notice in the local press.

4.2 Representations have been received from 2 neighbouring properties. The main points of objection raised relate to the drainage of the site and whether existing systems would be able to cope with this level of development, and also highways and traffic matters

5.0 Relevant Consultations

DMBC Highways – no objections, suggested conditions

DMBC Transport – no objections

DMBC Urban Design – no objections, suggested conditions

Environment Agency - no objections, suggested conditions

DMBC Environment Team – object on the provision of open space within the site

Yorkshire Water – request further details relating to surface water strategy, suggested conditions
DMBC Internal Drainage - no objections, suggested conditions
DMBC Pollution Control - no objections, suggested conditions
Natural England – defer to DMBC Ecology
DMBC Ecology – object to loss of biodiversity

6.0 Relevant Policy and Strategic Context

6.1 National Planning Policy Framework (NPPF):

Principle 6 Delivering a wide choice of high quality homes

Principle 7 Requiring Good Design

Principle 10 Meeting the challenge of climate change, flooding and coastal change

6.2 Doncaster Core Strategy (CS):

Policy CS1 - Quality of Life

Policy CS2 - Growth and Regeneration Strategy

Policy CS4 – Flooding and Drainage

Policy CS9 – Providing Travel Choice

Policy CS12 - Housing Mix and Affordable Housing

Policy CS14 - Design and sustainable construction

Policy CS16 – Valuing our Natural Environment

7.0 Planning Issues and Discussion

Principle of Development

7.1 Within the Core Strategy, Stainforth is identified as a Potential Growth Town under the provisions of Policy CS2 – Growth and Regeneration Strategy. In such locations, significant housing growth can be sustainably accommodated as part of economic developments of regional/national significance. Over the plan period, Potential Growth Towns are expected to deliver approximately 13% of the total housing allocation for the Borough. In terms of Stainforth and Hatfield, the proposed housing figure for the plan period is 1200, which will be tied to the DN7 project, which will deliver a new link road to the motorway and employment uses. The application site does not lie within the DN7 project area, and is not proposed to be counted as part of the Potential Growth Town concept. Instead, this site, and others, will provide an additional supply of housing as per para.32 of Policy CS2 of the Core Strategy, which says,

“Similarly, it is envisaged that at Stainforth/ Hatfield housing growth will be co-ordinated/phased with the delivery of:

- jobs and infrastructure including Hatfield Power Park and power station and M18 link road;
- improvements to existing housing areas and Local Retail Centres;
- refurbishment of the railway station and the creation of a rail/bus/park and ride interchange; and;
- suitable flood risk mitigation.

In both cases there are also opportunities within the existing settlement boundaries including those arising from housing renewal/urban remodelling which may provide improved or additional housing.”

On this basis, the principle of additional housing is acceptable under the terms of Policy CS2.

7.2 The application site is split into two parts, with the western side greenfield and overgrown, whilst the section on the eastern side is a cleared brownfield site formerly housing a poultry factory. This split is also reflected within the current policy allocations within the UDP inset map, with the western part of the site being allocated for housing under PH9 / 27, and the eastern part of the site allocated for employment use under Policy EMP6 of the UDP, reflecting the former use of the site. Given that this policy seeks to ensure that employment uses are retained on these sites, the application therefore represents a departure from the current adopted policies.

7.3 The site is however shown within the forthcoming Sites and Policies DPD as allocated for housing under proposed policy SP16. The western part of the site is referred to as site 56, r/o of Finkle Street, and shown to deliver approximately 66 units. The eastern part of the site is referred to as site 486, Poultry Packing Station and shown to deliver approximately 80 units. The policy does note that this site was formerly allocated by the UDP as an Employment site.

7.4 Given that the western part of the site has both an existing and proposed housing allocation, there is no issue with the principle of development on this part of the site. In terms of the eastern section of the site, there would normally be a requirement to demonstrate that there has been no demand for employment uses coming forward following marketing of the site. In this case, given that the land has been undeveloped for a number of years, and is proposed to be allocated by the Council for housing, it is considered that whilst a departure from the current allocation, the principle of residential development on this part of the site has already been accepted by the Council.

Residential Amenity and Site Layout

7.5 Saved Policy PH11 of the Unitary Development Plan is applicable in this case, dealing generally with developments for housing, and more specifically with residential standards. The policies state that such proposals will be viewed in terms of their density and impact upon the character of their surroundings, their effect upon the amenities of neighbouring properties, as well as looking at issues of highway safety, parking, landscaping and general layout principles.

7.6 Similarly, Policy CS14 (Design and Sustainable Construction) of the Doncaster LDF Core Strategy sets out guiding design principles when dealing with new developments. The policy seeks to ensure that new housing developments will meet relevant Building for Life criteria.

7.7 The Council's Urban Design team have been consulted as part of the application process. Initially, objections were raised to the proposed scheme, on a number of grounds. The site layout originally showed 170 dwellings. The main concerns with the original layout was the legibility of the scheme, that there was no character area and the proposed road layout would be disorientating due to the lack of hierarchy, focal points and significant variations in the built form. This was compounded by a lack of public open space within the site, which would have helped to break up the built form and provide a focal point within the development. More specific points concerning visitor parking provision, garage size, layout and relationship of individual dwellings (in terms of separation distances and garden areas) were also raised.

7.8 Positive elements of the proposal were noted also, including connections to the canal side with properties fronting on to this attractive aspect. The scale of the development was considered to complement the existing (predominantly residential) area being of mainly 2 storey with some 3 storey properties fronting the canal and performing marker building

roles. The layout will integrate well with existing properties along the site's southern boundary in terms of impacts upon privacy and amenity for existing properties.

7.9 Following these initial comments, and those made by the Highways Officer (to be discussed), the proposal has gone through a series of amendments to address the concerns raised. This has resulted in the scheme presented to the Planning Committee. The main change to the layout has been the provision of a centrally located area of open space. This has the effect of opening up the housing layout, providing a focal point within the development, and achieving a scheme which is much more legible and not as dense. The open space will also provide amenity value for future residents. Policy CS14 of the Core Strategy states that;

The components of development, including use mix, layout (movement patterns, townscape, landscape, open space and public realm), density (intensity of development) and form (scale, height, massing; and architectural details of buildings), will be assessed to ensure that the development proposed is robustly designed, works functionally, is attractive.

7.10 As such, the amended scheme now addresses the above concerns. The development provides for a mixture house types which will be attractive to a variety of potential occupiers, has now been laid out so as to be more legible, open and functional, is less dense than previously proposed, and the proposed dwellings are in keeping with the form of the existing neighbouring residential properties. The proposed dwellings meet the normal standards in terms of separation distances, garden areas, parking provision and their designs. The proposed housing is also located an acceptable distance from neighbouring properties to the south of the site, and so is considered to be acceptable in terms of the impact upon living conditions of existing neighbouring occupiers.

7.11 The proposed open space on site, which includes the central area and a smaller pocket in the south east of the site, amounts to approximately 9% of the total site area. For developments in this part of the borough the normal expectation would be 15%, a fact raised by the Council's Environment Team. However, in this case it is considered that the open space is acceptable. The applicants have provided a viability statement with the application, which shows that the scheme is at the edge of being viable with the current layout, and the loss of further units could not be borne. This is coupled with consultation responses from the local Stainforth ward members, who have raised concerns with the provision of more areas of open space in their ward, and the potential for maintenance and anti-social behaviour issues in the future. Given the Core Strategy policies, and the contribution to an acceptable layout and amenity value for future residents the open space makes, a compromise of having less than the normal requirement is acceptable in this case. In addition, the application site fronts on to the canal which provides additional amenity value for future residents.

7.12 The applicants have not provided details as to how the scheme will meet the required energy efficiency requirements of Policy CS14. However, they have indicated that they will be able to achieve this without affecting the viability of the scheme through a fabric first approach. As such a condition to ensure these details are agreed and implemented will be imposed upon the consent.

7.13 On the basis of the above, the proposal is deemed to be acceptable in design terms and in accordance with Policy CS14. The applicants have gone through numerous amendments, resulting in the loss of 18 units, to achieve an acceptable layout, and the scheme is now much improved from the initial submission. The layout is more legible, less dense, takes advantage of its surroundings, provides a mixture of house types and meets the normal residential standards expected.

Highways and Parking

7.14 As part of the application process, the Council's Highways and Transport teams have been consulted and provided responses to the proposal. Again, Policy CS14 of the Core Strategy is applicable in this regard, seeking to ensure that new developments are acceptable in terms of permeability, movement patterns, legibility, and the safety of the highway. Policy CS9 is also applicable, stating that proposals will be supported which make an overall contribution to the improvement of travel choice and the transport network. New developments of this scale should be accompanied by a transport assessment and travel plan.

7.15 The application site is proposed to have two access points, from New Inn Lane in the south west corner of the site and from Briars Lane in the south east. A main estate road loops around the development, serving mews courts and private drives off this. Mixes of on and off street parking together with parking courts are shown.

7.16 As stated previously, the proposal has gone through a number of amendments to reach its current position. Aside from the lack of open space, one of the main issues has been the internal road layout and parking provision. Previous versions of the site layout had inadequate visitor parking provision, footways along the roads, and several areas of the development did not work in terms of turning and servicing areas. The normal technical requirements for residential developments are contained within the South Yorkshire Residential Design, and the applicants were referred to this to achieve the required standards. Following numerous amendments to the layout, the Highways team no longer raise objections to the scheme. The level of parking proposed is acceptable and in line with the requirements of the South Yorkshire Residential Design Guide, as are internal turning areas and visibility, and the scheme can accommodate larger service vehicles such as bin lorries.

7.17 A representation received by a neighbouring property on New Inn Lane questioned the accuracy of the submitted plans in terms of the tie in between the new estate road and New Inn Lane. Following a site visit and the taking of measurements, the applicants were asked to accurately show how this arrangement, as well as the tie in to Briars Lane would work. The plans were amended to show the access points correctly surveyed and able to achieve the requisite width to serve the development.

7.18 The Council's Transport team have also raised no objections to the scheme, confirming that the development would not have a detrimental impact upon the highway network, and would not result in queuing on the busier roads of Finkle Street, Silver Street and Thorne Road to the south of the development site.

7.19 In terms of cycling and walking, the application site is located close to the main amenities within the settlement and is considered to be in a sustainable location. Cycle storage is proposed for the apartments on site, and the footways shown on the layout are of an acceptable width, linking in to the surrounding existing streets.

7.20 A public right of way does cross the site to the west, leading from New Inn Lane to the canal tow path. The applicants have provided a plan to show how this link can be maintained through the site so that this route is not lost.

Drainage

7.21 Policy CS4 of the Core Strategy is concerned with flooding and drainage, and states that developments will be directed towards areas of lowest flood risk within the Growth and Regeneration Strategy, with an emphasis on brownfield sites. Developments within flood risk areas will be supported where they pass the sequential and / or exception tests. Proposals which are in accordance with both allocations and other LDF policies will normally be deemed to have passed the sequential test.

7.22 A flood risk assessment has been provided as part of this application as required by virtue of both the size of the site and its location within a higher risk flood zone 3A. Given that both parts of the site are proposed to be allocated for housing within Sites and Policies document, the land has already been subject to a borough wide sequential test as part of the formation of that document. Although the eastern part of the site currently holds an employment allocation under the saved UDP policies, the Environment Agency have confirmed that they have no objections to the sequential test work undertaken by the Council. On this basis, given the current and proposed allocations of the application site, and the sequential test work already undertaken, the scheme is deemed to have passed the sequential test.

7.23 As part of the application process the Environment Agency have commented on the proposal and the submitted Flood Risk Assessment. Although within a higher risk flood zone, the site does benefit from flood defences on the river. The EA have confirmed also that there is not considered to be a significant risk of flooding from the adjacent Stainforth and Keadby Canal.

7.24 The Environment Agency initially objected to the scheme on the basis that the Flood Risk Assessment had insufficient details of finished floor levels for the properties to Ordnance Datum. Following the receipt of these comments the applicants revised the Flood Risk Assessment to show floor levels at an acceptable level to mitigate against a possible flooding event. The Environment Agency now raise no objections to the scheme on flood risk grounds subject to the imposition of conditions to ensure that the development is carried out in accordance with the measures outlined within the submitted FRA.

7.25 Yorkshire Water has also been consulted as part of the application, and has recommended that conditions be imposed on any permission so that full details of the drainage systems are submitted and agreed. Yorkshire Water stated that it did not find the FRA acceptable as it indicated that surface water will be discharged to the public sewer when some consideration should be given to a watercourse adjacent to the site. Following these comments the applicants updated the FRA to show more details of the surface water strategy outlining the principles to be followed. This establishes the Stainforth Drain as the preferred option, with the sewer as an alternative if this is not viable. The IDB has confirmed a discharge rate to the drain, and so capacity can be built into the scheme if required to meet this rate. Yorkshire Water's final comments will be reported at the Planning Committee.

7.26 The Council's Drainage officer raises no objection to the scheme subject to the imposition of conditions.

Trees and Ecology

7.27 Policy CS16 of the Core Strategy is concerned with the Natural Environment and sets out requirements in respect of the impact of developments upon ecology and trees and

hedgerows. Proposals will be supported which enhance ecological networks, as well as retaining and protecting appropriate trees and hedgerows, incorporating new tree, woodland and hedgerow planting.

7.28 The applicants have commissioned and provided ecology surveys as part of the planning application, which confirms that there are no protected species on the site which would be affected by the proposed development. The Council's ecologist has raised no objections to the surveys provided, however has recommended that a Precautionary Method Statement for Reptiles is conditioned as time constraints curtailed the reptile surveys which were undertaken.

7.29 The ecologist has however objected to the loss of biodiversity on the site, with no mitigation or compensation included within the proposals. The Council is discussing with the applicant the best way to achieve this, either through further on site mitigation or through Biodiversity Offsetting. The outcomes of this will be reported to the Planning Committee.

7.30 There are no significant trees within the application site however, the site is bound by hedgerows to its northern and eastern boundaries. The applicants initially showed the removal of the hedgerows on the eastern boundary however, this is now retained. The hedgerows themselves are actually outside of the application boundary, although the development in parts does show building up to these boundaries. On this basis, a condition will be imposed to ensure that any loss of hedgerows on the boundaries will be replaced by planting of native species rich hedgerows.

S106 Contributions

7.31 In accordance with Policy CS12 of the Core Strategy, developments of more than 15 dwellings will normally include affordable houses on site, except where a developer can justify an alternative scheme in the interests of viability. For schemes of 10 family units or more, a contribution towards open space is also required, on a site of the size of the application site this would be an onsite provision. In the case of Stainforth, this would equate to 15% of the site area.

7.32 The issue of open space has previously been discussed in the report. The scheme originally contained a minimal open space area in the south eastern corner of the site, which was deemed to be insufficient to serve the needs of the development. An argument of viability was put forward by the applicant, and local ward members also stated that they considered further open space in the ward may bring issues of anti-social behaviour and maintenance problems in the future. However, in the interests of good design and providing an acceptable layout the applicants amended the scheme, in the process losing 18 units, to provide a centrally located area of open space. Although the total area of onsite open space is around 9% rather than 15%, this is deemed to be an acceptable compromise given local ward members views on this issue.

7.33 The loss of units has had an impact upon the viability of the scheme, such that currently no affordable housing can be provided. The applicants have provided a viability statement, outlining the associated costs of developing the site which includes remediation, raising levels to meet flood risk requirements, drainage proposals, house build costs etc. This is set against the proposed revenues the scheme will bring from the value of the housing. On this basis, it is recommended that the Council enter into a s106 Agreement with the developers which will ensure that a review of the scheme takes place after a set time period where the viability of the development can be looked at again. Should the scheme become more profitable at that point, the developers will make a contribution

towards affordable housing. Given that part of the site has been allocated for housing since 1998 without being developed, and this allocation is proposed to be rolled forward in the Sites and Policies document, it is felt that the granting of permission here on this basis will enable development to come forward within a settlement which has seen little investment over recent years, whilst also helping to meet the housing targets contained within the Core Strategy. The review mechanism will allow the question of viability to be re-addressed in the future, with the possibility of affordable housing being delivered.

Other Issues

7.34 The Council's Pollution Control team have been consulted, and raised no objections subject to the imposition of standard conditions.

8.0 Summary and Conclusion

8.1 On the basis of the above, the application is recommended for approval subject to the signing of a s106 legal agreement. The site is partly allocated for housing under the current UDP policies, and the whole of it is proposed to be allocated under the Sites and Policies DPD. As such, the principle of housing is accepted in this location. The scheme has gone through a number of amendments and is now acceptable in terms of design and highways layout. The Environment Agency has raised no objections with regards to flood risk, and although Yorkshire Water has requested further information it has no objections in principle to the proposed drainage arrangements. The outstanding issue of ecology will be addressed at the Committee meeting. As such, the proposal is accordingly recommended for approval.

RECOMMENDATION

MEMBERS RESOLVE TO GRANT PLANNING PERMISSION FOR THE PROPOSED DEVELOPMENT, SUBJECT TO THE CONDITIONS BELOW AND FOLLOWING THE COMPLETION OF AN AGREEMENT UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 IN RELATION TO THE FOLLOWING MATTERS:

A) THE PROVISION OF 26 PER CENT AFFORDABLE HOUSES ON SITE, FOLLOWING AN INITIAL 3 YEAR REVIEW PERIOD FROM THE DATE OF THE AGREEMENT TO ASSESS THE FINANCIAL VIABILITY OF THE DEVELOPMENT

THE HEAD OF DEVELOPMENT MANAGEMENT BE AUTHORISED TO ISSUE THE PLANNING PERMISSION UPON COMPLETION OF THE AGREEMENT.

01. STAT1

The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.

REASON

Condition required to be imposed by Section 91(as amended) of the Town and Country Planning Act 1990.

02. U36722 Before the development commences, samples of the proposed external materials, including, hard and soft landscaping, boundary treatments and bin stores shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved materials.
REASON
In order that the Council may be satisfied as to the details of the proposal.
03. U36723 Prior to the commencement of development, full details of the layout, landscaping and any equipment to be laid out on the approved Public Open Space, together with a scheme for the long term management and maintenance of said Public Open Space, shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
REASON
To provide an appropriate area of public open space for the community
04. HIGH1 Before the development is brought into use, that part of the site to be used by vehicles shall be surfaced, drained and where necessary marked out in a manner to be approved in writing by the local planning authority.
REASON
To ensure adequate provision for the disposal of surface water and ensure that the use of the land will not give rise to mud hazards at entrance/exit points in the interests of public safety.
05. HIGH3 Before the development hereby permitted is brought into use, the parking as shown on the approved plans shall be provided. The parking area shall not be used otherwise than for the parking of private motor vehicles belonging to the occupants of and visitors to the development hereby approved.
REASON
To ensure that adequate parking provision is retained on site.
06. U36724 The development permitted by this planning permission shall be carried out in accordance with the approved flood risk assessment (FRA) compiled by Eastwood & Partners, Revision C, dated November 2013, and the following mitigation measures detailed within the FRA:
1. Finished ground floor levels shall be set no lower than 4.65 metres above Ordnance Datum (mAOD) for 2 storey properties and 5.10mAOD for single storey properties (ie bungalows and ground floor apartments). In addition to the above, finished ground floors levels should also be set a minimum of 300mm above adjacent road levels at the site. Road levels shall not be set lower than the existing ground levels. Existing ground levels are shown in mAOD in the FRA appendix, drawing number 3915.
2. Provision for flood flow routes through the site.
3. Production of a flood evacuation plan for the properties, including detail on access and egress and the use of the Environment Agency's flood warning service.
REASON

1. To reduce the risk of flooding to the proposed development and future occupants.
2. To ensure safe access and egress from and to the site.

07. U36725 The development hereby permitted shall not be commenced until such time as a scheme detailing surface water drainage arrangements has been submitted to, and approved in writing by, the local planning authority.
The scheme shall limit surface water flows from the site to a maximum of 5 litres/ second/hectare if to the sewer or 1.4 litres/second/hectare if to the IDB drain. The scheme shall also be designed to store the calculated flows for a 1 in 100 year return period, with an allowance of 30% for climate change, without causing flooding to property or adjacent land.
The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.
REASON:
To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
08. U36726 The site shall be developed with separate systems of drainage for foul and surface water on and off site.
REASON
In the interest of satisfactory and sustainable drainage
09. U36727 No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall for surface water have been completed in accordance with details to be submitted to and approved by the local planning authority before development commences.
REASON
To ensure that the site is properly drained and in order to prevent overloading of the local public sewerage network, surface water is not discharged to the foul/combined sewerage system
10. U36728 No development shall take place until details of the proposed means of disposal and treatment of foul and surface water drainage, including details of any balancing works and off-site works, have been submitted to and approved by the local planning authority.
REASON
To ensure that the development can be properly drained and that waste water can be adequately treated to the required standard)
11. U36729 Unless otherwise approved in writing by the local planning authority, no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.
REASON
To ensure that no foul or surface water discharges take place until proper provision has been made for their disposal
12. U36730 Surface water from vehicle parking and hardstanding areas shall be passed through an interceptor of adequate capacity prior to discharge. Roof drainage should not be passed through any interceptor.

REASON

In the interest of satisfactory drainage

13. VQ17

No development shall take place on the site until details of a landscaping/planting scheme have been agreed in writing with the Local Planning Authority. This scheme shall indicate all existing trees and hedgerows on the site, showing their respective size, species and condition. It shall distinguish between those which are to be retained, those proposed for removal and those requiring surgery. The scheme should also indicate, where appropriate, full details of new or replacement planting. All planting material included in the scheme shall comply with Local Planning Authority's 'Landscape Specifications in Relation to Development Sites'. Planting shall take place in the first suitable planting season, following the commencement of the development. Any tree or shrub planted in accordance with the scheme and becoming damaged, diseased, dying or removed within five years of planting shall be replaced in accordance with the above document.

REASON

To ensure that replacement trees are of a suitable type and standard in the interests of amenity.

14. CON1

No development approved by this permission shall be commenced prior to a contaminated land assessment and associated remedial strategy, together with a timetable of works, being accepted and approved by the Local Planning Authority (LPA), unless otherwise approved in writing with the LPA.

a) The Phase I desktop study, site walkover and initial assessment must be submitted to the LPA for approval. Potential risks to human health, property (existing or proposed) including buildings, livestock, pets, crops, woodland, service lines and pipes, adjoining ground, groundwater, surface water, ecological systems, archaeological sites and ancient monuments must be considered. The Phase 1 shall include a full site history, details of a site walkover and initial risk assessment. The Phase 1 shall propose further Phase 2 site investigation and risk assessment works, if appropriate, based on the relevant information discovered during the initial Phase 1 assessment.

b) The Phase 2 site investigation and risk assessment, if appropriate, must be approved by the LPA prior to investigations commencing on site. The Phase 2 investigation shall include relevant soil, soil gas, surface and groundwater sampling and shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a quality assured sampling and analysis methodology and current best practice. All the investigative works and sampling on site, together with the results of analysis, and risk assessment to any receptors shall be submitted to the LPA for approval.

c) If as a consequence of the Phase 2 Site investigation a Phase 3 remediation report is required, then this shall be approved by the LPA prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment

including any controlled waters, the site must not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation.

d) The approved Phase 3 remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. The LPA must be given two weeks written notification of commencement of the remediation scheme works. If during the works, contamination is encountered which has not previously been identified, then all associated works shall cease until the additional contamination is fully assessed and an appropriate remediation scheme approved by the LPA.

e) Upon completion of the Phase 3 works, a Phase 4 verification report shall be submitted to and approved by the LPA. The verification report shall include details of the remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the verification report together with the necessary documentation detailing what waste materials have been removed from the site. The site shall not be brought into use until such time as all verification data has been approved by the LPA.

REASON

To secure the satisfactory development of the site in terms of human health and the wider environment and pursuant to guidance set out in the National Planning Policy Framework.

15. CON2

Should any unexpected significant contamination be encountered during development, all associated works shall cease and the Local Planning Authority (LPA) be notified in writing immediately. A Phase 3 remediation and Phase 4 verification report shall be submitted to the LPA for approval. The associated works shall not recommence until the reports have been approved by the LPA.

REASON

To secure the satisfactory development of the site in terms of human health and the wider environment and pursuant to guidance set out in the National Planning Policy Framework.

16. CON3

Any soil or soil forming materials brought to site for use in garden areas, soft landscaping, filling and level raising shall be tested for contamination and suitability for use on site. Proposals for contamination testing including testing schedules, sampling frequencies and allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information shall be submitted to and be approved in writing by the LPA prior to any soil or soil forming materials being brought onto site. The approved contamination testing shall then be carried out and verification evidence submitted to and approved in writing by the LPA prior to any soil and soil forming material being brought on to site.

REASON

To secure the satisfactory development of the site in terms of human health and the wider environment and pursuant to guidance set out in the National Planning Policy Framework.

17. U36731 No development shall take place in implementation of this permission until the applicant has submitted to and received approval thereto in writing from the local planning authority a statement explaining how CO2 emissions from the development will be reduced by providing at least 10% of the development's energy through on-site renewable energy equipment or improvements to the fabric efficiency of the building. The carbon savings, which result from this, will be above and beyond what is required to comply with Part L Building Regulations. Unless otherwise agreed in writing by the local planning authority, the development shall then proceed in accordance with the approved report. Before any dwelling is occupied or sold, the local planning authority shall be satisfied that the measures have been installed. This will enable the planning condition to be fully discharged.

REASON

In the interests of sustainability and to minimize the impact of the development on the effects of climate change.

18. U36732 Before the development commences, the applicant shall submit for approval a Code for Sustainable Homes pre-assessment, demonstrating how code level 3 will be met. Unless otherwise agreed, the development must take place in accordance with the pre-assessment. Prior to the occupation of any building, a post construction review should be carried out by a licensed assessor and submitted for approval. This will enable the planning condition to be fully discharged.

Advice should be sought from a licensed code assessor at an early stage to ensure that the required performance rating can be achieved. A list of licensed assessors can be found at www.breeam.org.

REASON

In the interests of sustainability and to minimise the impact of the development on the effects of climate change.

01. U07361 Works carried out on the public highway by a developer or anyone else other than the Highway Authority shall be under the provisions of Section 278 of the Highways Act 1980. The agreement must be in place before any works are commenced. There is a fee involved for the preparation of the agreement and for on-site inspection. The applicant should make contact with Malc Lucas – Tel 01302 735110 as soon as possible to arrange the setting up of the agreement.

02. U07362 Doncaster Borough Council Permit Scheme (12th June 2012) - (Under section 34(2) of the Traffic Management Act 2004, the Secretary of State has approved the creation of the Doncaster Borough Council

Permit Scheme for all works that take place or impact on streets specified as Traffic Sensitive or have a reinstatement category of 0, 1 or 2. Agreement under the Doncaster Borough Council Permit Scheme's provisions must be granted before works can take place. There is a fee involved for the coordination, noticing and agreement of the works. The applicant should make contact with Paul Evans – Email: p.evans@doncaster.gov.uk or Tel 01302 735162 as soon as possible to arrange the setting up of the permit agreement.

03. U07363 Access arrangements including shared private parking courts should conform to Approved Document B Volume 1 Part B5 Sect. 11.2-11.5 inc. It should be noted that any shared parking courts should be designed to withstand a minimum carrying capacity of 26 Tonnes without deflection in accordance with Building Regulations Volume 1 document B5.
04. U07364 The developer shall ensure that no vehicle leaving the development hereby permitted enter the public highway unless its wheels and chassis are clean. The deposition of material on the public highway is an offence under the Road Traffic act. In the event that material is deposited on the public highway, the operator should note that only licenced operators are permitted to carry out cleaning of the public highway. At present, DMBC can remove such deposits, and the operator responsible can be charged for this.

Reasons(s) for Granting Planning Permission:

STATEMENT OF COMPLIANCE WITH ARTICLE 31 OF THE TOWN AND COUNTRY DEVELOPMENT MANAGEMENT PROCEDURE ORDER 2012

In dealing with the application, the Local Planning Authority has worked with the applicant to find solutions to the following issues that arose whilst dealing with the planning application:

Amendments to the layout to comply with highways and design requirements, amendments to the Flood Risk Assessment to comply with Environment Agency comments.

The above objections, considerations and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence.



Aerial Photo



Proposed site layout



Typical elevations

[illegible]