

Heads of Terms for Section 106 Agreement

Date of Instruction: 17 October 2025

Case Officer: Tanya Coggon

Planning Application reference: PA/2023/1034

Application Validation date: 9 October 2023

Description of land: 51-55 Waterside Road (Former Osgerby Haulage and Warehousing)
Waterside Road, Barton upon Humber, DN18 5BH

Description of development: Outline planning permission for a change of use of existing vacant brownfield commercial land to residential housing land and erect up to 34 dwellings and associated roads, driveways, gardens, landscaping and boundary treatments with all matters reserved for subsequent consideration.

The below Heads of Terms are based on the conclusions of the independent viability report, undertaken by Avison Young and dated August 2024.

The conclusions state that the scheme is viable to provide £221,000 of financial contributions.

Name of applicant:	Mr & Mrs J Chapman
Solicitor details:	

Education Part 1

Education contribution:	A contribution of £140,952 towards primary and/or secondary school provision at the relevant catchment schools.
School(s):	Primary and/or Secondary schools within the catchment area.
Trigger Point:	50% on occupation of the 10 th dwelling 50% on occupation of the 20 th dwelling
How long the council has to spend the contribution:	10 years

Informal Open Space

Onsite contribution	<p>A minimum of 10SqM per dwelling of informal open space should be provided onsite.</p> <p>The informal open space should be maintained in perpetuity by a private management company. The management company should be set up prior to the sale of the 1st dwelling.</p> <p>The open space shall be delivered onsite and transferred to the private management company prior to the sale of the penultimate dwelling on the site.</p>
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Area of Play

Offsite contribution	An offsite contribution of £33,668 towards improvements at Dam Road Playground, Baysgarth Park or Waters Edge Playground/Humber Bridge Park.
Trigger Point:	On occupation of the 5 th dwelling.
How long the council has to spend the contribution:	10 years

Recreation

Recreation contribution	A total contribution of £37,266 is required towards: <ul style="list-style-type: none"> • improvements to the natural grass pitches and all-weather provisions that serve Sub area 7 • outdoor changing room facilities that serve Sub area 7 • swimming facilities at Baysgarth Leisure Centre, • towards sports hall and fitness improvements at Baysgarth Leisure Centre • for improvements to indoor bowling facilities
Trigger Point:	Prior to the occupation of the 20 th dwelling
How long the council has to spend the contribution:	10 years

Strategic Access Management and Mitigation Strategy (SAMMs)

SAMMs contribution	<p>£121 per dwelling for 34 dwellings, giving a total of £4,114.</p> <p>To be spent on mitigating the impacts of recreational disturbance along the Humber, providing one or a combination of the following:</p> <ul style="list-style-type: none"> • Part time facilitation officer. • The development and procurement of appropriate signage, interpretation boards, and access improvement projects (planting, fencing, footpath improvement/diversion) to respond to monitoring outputs. 5 interpretation boards to be provided at each survey location (Alkborough Flats, Whitton Foreshore, Chowder Ness Viewpoint, Waters Edge and East Halton Skitter). • Bird habitat monitoring surveys and subsequent analysis. • Signage (route direction/"no fouling"/"dogs on lead," etc.). • Route management (fencing, screening, planting, drainage, widening, etc.); • Dog waste bins.
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	<ul style="list-style-type: none"> • Habitat protection and improvement (natural screening, litter picking, etc.). • Footfall counters to record visitor numbers at key sensitive locations.
Trigger Point:	On the occupation of the 1 st dwelling
How long the council has to spend the contribution:	10 years

Community Facilities

Community Facilities contribution	A contribution of £5,000 towards infrastructure improvements to encourage community events at the Assembly Rooms.
Trigger Point:	On the occupation of the 5 th dwelling
How long the council has to spend the contribution:	10 years

Clawback

North Lincolnshire Council wish to add a clawback mechanism into the Section 106 Agreement, as recommended by Avison Young, to allow a further open book appraisal which shall be carried out at an agreed trigger point throughout the development. If the clawback triggers are exceeded, a financial contribution in lieu of affordable housing, the remainder of the education contribution and/or health contribution may become payable to the Council.

PROPOSED DATE WHICH WILL TRIGGER A NEW VIABILITY APPRAISAL TO BE SUBMITTED TO NORTH LINCOLNSHIRE COUNCIL:

- On the occupation of 25 Dwellings - Viability Review required to be submitted as a result of the Viability Appraisal Trigger occurring

CONTRIBUTIONS THAT COULD BE CLAWED-BACK FOLLOWING THE REVIEW ON THE OCCUPATION OF THE 25TH DWELLING:

Viability Review Mechanism

Viability Appraisal	<p>The applicant submitted a viability appraisal to the Council as part of the Planning Application which demonstrates that the Development was not Viable if it was required to provide the level of Affordable Housing required by the Core Strategy or if required to provide other planning obligations or contributions (other than those relating to Area of Play, the Recreation Contribution, the SAMMs contribution, the Community Facilities contribution and an element of the Education contribution).</p> <p>The Council appointed Avison Young to review the viability appraisal submitted with the Planning Application and concluded that the Development was not Viable with Affordable Housing or with payment of some Contributions but resolved that a review mechanism was required to ensure</p>
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	<p>that provision towards the Affordable Housing Contribution and the Contributions would be provided in the event that the Development became Viable in the future. FOR THE AVOIDANCE OF DOUBT, the provision of Affordable Housing would be made by way of the Affordable Housing Contribution in lieu of any onsite provision</p> <p>The Avison Young independent viability appraisal will be appended to the S106 agreement.</p>
<p>Review Mechanism</p>	<p>North Lincolnshire Council wish to add a review mechanism into the Section 106 Agreement, to allow a further open book appraisal which shall be carried out upon the occupation of the 25th dwelling.</p> <p>Any Viability Appraisal Review required to be undertaken will take the form of the Viability Appraisal appended to the S106 Agreement (or any other form of Viability Appraisal Review that may be agreed in writing between the Developer and/or Owner and the Council) and shall be paid for by the Developer and/or the Owner.</p> <p>Any Viability Appraisal Review(s) shall be facilitated by the Developer and/or Owner acting reasonably and in good faith by fully disclosing and justifying all capital costs and revenue items for the Development within the Viability Appraisal Review and making all itemised capital costs and revenue items available on request to the Council for the purpose of compliance checking by an independent assessor of the Council's choosing. All Viability Appraisal Review(s) shall be undertaken and reviewed in accordance with the Planning Practice Guidance (PPG) on Viability.</p> <p>Where the Viability Appraisal Review demonstrates to the reasonable satisfaction of the Council that the Development is not Viable there shall be no Overage payable pursuant to the Development.</p> <p>Where the Viability Appraisal Review demonstrates to the reasonable satisfaction of the Council that the Development has become Viable the Overage shall be payable by the Developer and/or Owner to the Council PROVIDED ALWAYS the maximum amount payable as Overage as a result of the Viability Appraisal Review pursuant to Review Mechanism and shall not exceed the total value of the Capped Contributions.</p> <p>The Overage payment shall be paid to the council by the Developer/Owner within 28days of written request by the Council.</p>

Contributions:	Health: £29,377.02
	Education Part 2: £219,516
	Offsite contribution Affordable Housing: £475,173.12
	Total: £724,066.14

Calculations for the above:

Affordable Housing

Average house price in North Lincs (July 2025) = £174,696

40% offsite contribution for x1 affordable unit = £69,878.40

34 market dwellings x 20% (affordable policy compliant) = 6.8 affordable units

£69,878.40 x 6.8 = £475,173.12

Health

Original request was for £864.03 per market dwelling

£864.03 x 34 = £29,377.02

Education Part 2

Original request was for £10,602 per market dwelling

£10,602 x 34 = £360,468

£360,468 - £140,952 (Part 1 which is agreed) = £219,516 remaining