

PLANNING COMMITTEE - 22nd April 2026

RECOMMENDATION: Refused

APPLICATION No: DM/0258/26/MDOR

APPLICATION TYPE: Modify S106 Agreement

APPLICATION SITE: Land Off Torbay Drive, Waltham, North East Lincolnshire,

PROPOSAL: Request to modify a planning obligation under Section 106 attached to planning permission DM/0864/24/FUL (original permission DM/0285/22/FUL) to modify affordable housing provision to 8 social rented housing in the form of Alms Houses and 4 First Homes

APPLICANT:

Mr Paul Snape
Snape Homes Ltd
Thornlea
Ashby Cum Fenby
Lincolnshire
DN37 0QW

DEPOSITED: 3rd March 2026

AGENT:

Mr Richie Tutill
RT Architects Ltd
45 Aspen Drive
Barnoldby Le Beck
DN37 0ZA

ACCEPTED: 3rd March 2026

TARGET DATE: 28th April 2026

PUBLICITY EXPIRY: 1st May 2026

AGREED EXTENSION OF TIME DATE:

CONSULTATION EXPIRY: 1st May 2026

CASE OFFICER: Lauren Birkwood

PROPOSAL

This report is in relation to a request to modify the Section 106 Agreement attached to planning permission DM/0864/24/FUL (original permission DM/0285/22/FUL) so as to modify the affordable housing provision for the residential development at land off Torbay Drive, Grimsby for 64 dwellings. The request is made by the applicant of the development. It relates to a change from:

- 3 First Homes; and
- 9 Affordable Dwellings, comprising a mix of Social Rented, Affordable Rented, and Intermediate Affordable Housing.

To

- 4 First Homes; and
- 8 social rented housing in the form of Alms Houses managed by a Charity.

This request has been brought to planning committee as it has been called in by Councillor Shepherd for the consideration and acceptability to modify the Section 106 Agreement under Section 106A(3), 106B and 106C of the Town and Country Planning Act 1990.

It should be noted that should the Council agree to the request then the applicant would then need to submit a formal application to vary the S106. This application will be subject to consultation and formal determination.

SITE

This 4.55 hectare site is to the south west of Scartho and within the Parish of Waltham. The northern boundary to the site comprises of boundary treatments serving those existing properties at Emfield Road. To the east beyond the Public Right of Way are the residential streets of Torbay Drive and Boundary Road from where access is achieved. Those dwellings which are typically found to the north and east are bungalows or dormer bungalows. South and west are open fields in agricultural use. There is an existing landscape strip towards the south of the site. Construction on the site has commenced and properties now occupied.

RELEVANT PLANNING HISTORY

DM/0551/17/OUT - Outline application to erect 59 dwellings and garaging with access, scale, appearance and layout to be considered (Amended layout, relocation of open space and Plot 7 and amended road widths - Amended Plans of October 2017). Withdrawn.

DM/0033/18/OUT - Outline application for the erection of 51 dwellings and garaging with access, scale, appearance and layout to be considered. Refused.

DM/0777/21/FUL - Change of use to create new agricultural access with associated works. Withdrawn.

DM/0285/22/FUL - Erect 64 dwellings with associated access and landscaping (Amended/Additional Information - Plans and Ecology Spreadsheet (May), Planning Statement (June), Landscaping and Landscaping Management (June), Developers Statement (July), Tracking and Internal Road Layout (July), Landscape Character Assessment (August), Design and Access Statement; including play area information and land classification (September) and New Certificate (September)). Appeal allowed with conditions - 15th November 2023.

DM/0292/24/CND - Details in discharge of Condition 3 (Construction Management & Traffic Plan), Condition 4 (Roads & Footways), Condition 5 (Materials), Condition 6 (Air Quality), Condition 7 (Finished Levels), Condition 8 (Great Crested Newt Survey), Condition 9 (Ecological Enhancement), Condition 10 (Surface Water Drainage), Condition 11 (Management of Open Space), Condition 14 (Phasing and Implementation of Landscaping) and Condition 17 (Residential Travel Plan) pursuant to APP/B2002/W/22/3311282 (our ref DM/0285/22/FUL) - Conditions Complied With - 19th July 2024.

DM/0864/24/FUL - Variation of Condition 2 (Approved Plans) following DM/0285/22/FUL to revise layout for plots including dwellings, garages, roads and landscaping and revise house types for plots 3, 6, 7, 10, 11, 13-17, 20-27, 42-45 and 57-63 - Approved with Conditions - 28th February 2025.

DM/0068/26/FUL - Variation of Condition 1 (Approved Plans) as granted on DM/0864/24/FUL to revise house types for Plots 13, 14, 46-50 and 53-56, removal of garages from Plots 11, 12 and 51, erection of garage to Plot 52 and revise layout for Plot 62 - Pending Consideration.

RELEVANT PLANNING POLICIES AND BACKGROUND PAPERS

National Planning Policy Framework (2025)

NPPF2 - Achieving sustainable development

North East Lincolnshire Local Plan 2013-2032 (adopted 2018)

PO18 - Affordable housing

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making. The development plan for the area is comprised of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018).

REPRESENTATIONS RECEIVED

Consultation has been undertaken with the Council's Legal Officer and Housing Officer.

APPRAISAL

Policy 18 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018) indicates that within high housing market zones, a greenfield site (for greater than ten units) should

provide 20% of the total units as affordable housing.

DM/0285/22/FUL approved the erection of 64 dwellings with associated access and landscaping. Following this, the application was varied and conditions discharged under DM/0292/24/CND and DM/0864/24/FUL. A Section 106 agreement was signed as part of the decision-making of DM/0285/22/FUL securing the provision of 10% affordable housing in accordance with Local and National Planning Policy.

Nevertheless, the applicant has put forward the case to modify the affordable housing types, consisting of 8 social rented housing in the form of Alms Houses managed by a Charity and 4 First Homes. It has been confirmed by the applicant that the Alms Houses would be a row of 6 semi-detached accessible bungalows towards the rear of the development and two further semi-detached accessible bungalows.

In support of their request the applicant notes that Almshouses are the oldest form of community housing, offering affordable housing for those in need since the medieval period. They are often the only form of genuinely affordable housing available in small towns and particularly in rural areas, enabling communities to remain cohesive and vibrant. Moreover Almshouses hold charitable status and are managed and run by local volunteer trustees. They are exempt from the 'Right to Buy' and, because of their small scale and ethos of creating communities of good neighbours, they are proven to add significantly to the well being of residents leading to reduced demands on local resource. In this case the charity would be The Grimsby Sailors & Fishing Charity (the Charity) which was established in 2005 which provides housing for the poor and needy who are resident in or connected with Grimsby or Cleethorpes with priority given to officers, sailors and fishermen who have sailed from the Port of Grimsby, people who have worked in the fishing industry in Grimsby, and/or their dependents. They have people on a waiting list and they operate houses throughout the area.

This amendment was first requested and refused on the 9th January 2026. The applicant has therefore submitted a second request to be considered. The request is considered below:

Alms Houses

It is noted that the current agreed Section 106 Agreement states that the properties should be sold to a Registered Provider of Affordable Housing. 'Registered Provider' is defined as a provider registered under the Housing and Regeneration Act 2008 or other body which may be proposed by the Owner or approved by the Council. However, this does not place any obligation on the Council to accept an alternative body proposed by the Owner. It has been identified in the supporting documentation provided by the requester that the Alms Houses would be managed by a Charity. On this basis, if the proposed Alms Houses are not monitored by the Housing Regulator, it would not be possible to ensure that they are maintained to the properties as built, maintained, managed, and leased in accordance with the requirements of Housing Regulator standards. This would not deliver the required affordable housing.

It should also be noted that at a national level a petition to Government asking that Alms Housing organisations be allowed to acquire Section 106 Affordable Housing was submitted. The Government in 2024/2025 consulted on this and considered whether Alms Housing organisations should be added to the definition of Affordable Housing and/or community-led housing in the National Planning Policy Framework. The Government decided against adding Alms Houses to the definition of affordable housing or community led housing as it considered that the Alms Houses model differed fundamentally from community-led housing and would not be overseen by an independent regulator. This is a an important consideration as the Government has made the decision that such provision is not acceptable as 'affordable housing' under planning. In the same way as the Government, the Council has concerns about ensuring the standards and maintenance of the homes as well as safeguards in respect of financial viability and ensuring the homes remain affordable in perpetuity. It is considered that these concerns are reasonable, and the form of provision requested does not fulfil the requirements of Policy 18 of the North East Lincolnshire Local Plan 2013-2032 (Adopted 2018). This consideration has been agreed with the Council's Legal and Housing Officer.

Accessible Bungalows

This matter has been discussed with Council's Housing Officer and Legal Officer. Schemes to deliver Section 106 Wheelchair Accessible housing do not justify exception to established Planning Policy requirement and moreover, on previous occasions, these have not been fit for purposes. Furthermore, the Council does not have a set specific standard to judge such a provision including against agreed space and build standards.

CONCLUSION

For the reasons stated it is considered that the Council is not in a position to support a request to vary the Section 106 Agreement as the modifications are contrary to both Local and National Planning Policy. It is therefore recommended that the request be denied

RECOMMENDATION

Refused