
F/YR18/0496/PLOBBA

**Applicant: M Baker
Axiom Housing**

**Agent : Mr Robert Jays
Lindum Group Ltd**

Westhaven Nursery, Peterborough Road, Whittlesey, Cambridgeshire

Modification of Planning Obligation attached to planning permission F/YR14/0183/O (entered into on 18/02/2015) relating to affordable housing, tenure mix and schedule and financial contributions relating to Pre-School Education, Secondary Education, Fenland Rail Contribution, Libraries and Lifelong Learning, County Waste and public open space

Reason for Committee: The original outline planning permission (which included a Planning Obligation) was determined by the Planning Committee as was the reserved matters submission relating to this scheme.

1 EXECUTIVE SUMMARY

This application seeks to modify the existing Section 106 dated 18/02/2015 attached to outline planning permission F/YR14/0183/O to reflect the agreed tenure mix and schedule as agreed under the Reserved Matters Application.

A viability assessment of the scheme has been considered by the Council's S106 Officers. This assessment demonstrates that the scheme which Axiom seek to deliver on the site; which proposes a significantly higher level of affordable housing than that required to achieve policy compliance, is unviable even when making contributions solely in respect of the market homes to be delivered.

The County Council have indicated that they consider the scheme is unviable solely on the basis of the level of affordable housing provision, and that a higher level of funding from other agencies would potentially enable a fully policy compliant scheme come forward which from their perspective should see contributions in respect of all units.

These comments are noted however mindful of the FDC Developer Contributions SPD (adopted February 2015) it is recommended that the principle of a Deed of variation is accepted in so far as it relates to:

- i) Varying the tenure outlined in the S106, and
- ii) Revising the S106 contributions payable to relate solely to the market units on a pro-rata basis.

2 SITE DESCRIPTION

- 2.1 The site currently forms a vacant area of land which was formerly used as a nursery site. The site is on Peterborough Road to the western side of Whittlesey. The site adjoins the main settlement core and sits adjacent to some residential

development along the frontage of Peterborough Road, a car garage. The Kings Dyke Nature Reserve adjoins the rear boundary of the site (to the north). The front boundary with Peterborough Road is largely screened by existing dwellings although there are two areas of land which are open and may facilitate access.

- 2.2 The site has been previously accepted as a brownfield site and is situated within a flood zone 1 location.

3 PROPOSAL

- 3.1 This application seeks to modify the existing Section 106 dated 18 February 2015 attached to outline planning permission F/YR14/0183/O
- 3.2 Full plans and associated documents for this application can be found at:

4 SITE PLANNING HISTORY

| | | |
|------------------|--|-----------------------|
| F/YR18/0557/F | Erection of 18 x 2-storey dwellings (Phase 2) comprising of 5 x 2-bed and 13 x 3-bed | Pending |
| F/YR18/0128/RM | Reserved Matters application relating to detailed matters of appearance, landscaping, layout and scale pursuant to outline permission F/YR14/0183/O - Erection of 68 x 2-storey dwellings comprising of 4 x 1-bed; 20 x 2-bed; 42 x 3-bed; 2 x 4-bed with Public Open Spaces and Play Area | Granted 16.08.2018 |
| F/YR17/3124/COND | Details reserved by conditions 6, 9, 13, 15, 16, 17, 18, 19 and 20 of F/YR14/0183/O | Withdrawn |
| F/YR14/0183/O | Erection of 68no dwellings (max) | Granted 19/02/2015 |

5 CONSULTATIONS

- 5.1 **Town Council:** We cannot object to this application but are very disappointed at the loss of community benefit.
- 5.2 **Housing Strategy (FDC):** *Axiom Housing have submitted a reserved matters application on the above Outline planning application (F/YR18/0183/O). The application proposals include for a much larger percentage of affordable housing (85% affordable housing), with the aim of delivering much needed affordable housing in the area.*

There is significant demand for new affordable housing in Fenland and the provision of 58 affordable homes will go some way to addressing this. There are currently 2600 applicants on the Fenland Housing Register and a large number of residents registered with the Help to Buy Agents seeking affordable housing in Fenland. Coupled with the significant demand for affordable housing there has been a very limited supply of new affordable homes completing with only 22

completions during 2017/18 and only 39 projected to complete during 2018/19. It is imperative that FDC maximises opportunities for RP's to deliver more affordable homes and access grant funding.

With evidence from the DAT, I support the proposal for the removal of the financial contribution which would apply to those affordable homes which are being provided in excess of the S106 affordable dwellings. This application is proposing to over provide affordable housing in the area when applied to the requirements of the Local Plan and Policy LP5.

5.3 **Section 106 Services (FDC):** Commercially sensitive information removed

Further to the viability appraisal that has been submitted for Former Westhaven Nursery, Peterborough Road, Whittlesey please see my summary of the details submitted.

- The appraisal demonstrated that there are viability issues preventing the delivery of policy compliant S106 Contributions. The submission includes the delivery of £36,020 S106 contributions.
- The anticipated revenue for the Open Market dwellings was established utilising comparable new build evidence with additional information sought from the Agent to justify the values.
- The appraisal includes an Affordable Housing Grant to deliver the 58 Affordable Dwellings.
- The adopted Bank interest is an acceptable assumption.
- Design & Professional Fees of 10% have been adopted; up to 10% is considered within an acceptable range.
- The build costs specified are in accordance with figures published on BCIS TPI webpages for the types of properties proposed re-based for Fenland.
- Evidence was provided supporting the Abnormal Costs and External works which were benchmarked against similar schemes within Fenland. In addition a contingency of 2% was included which is within an acceptable range for this type of scheme.
- The submission includes 20% profit of the Gross Development Value of the Open Market Dwellings. 20% profit is considered the minimum amount that a developer would usually require for a site of this nature.
- The submission has been reviewed by Cambridgeshire County Council who have advised that they accept the proposed scheme cannot support the required level of S106 contributions. CCC have advised that although they accept the reduced levels of S106 contributions are relatively modest advice from Senior Management is required before agreeing to the proposed reductions, to date I have not been advised if this has been granted.

5.4 **CCC Growth and Development:** The modification of the S106 is being sought to remove the financial contribution on the basis of viability. The site has outline planning permission for 68 dwellings which is subject to 25% affordable housing and a range of relatively modest financial contributions when compared other development costs and the impact of affordable housing on viability.

The reserved matters seeks approval of details, including a tenure mix comprising 85% affordable housing which clearly has a significant negative impact on scheme viability. Based on the submitted development mix the financial contribution towards County Council infrastructure totals £90,000. The applicant recognises this and states that the delivery of a viable scheme will be dependent on additional grant from Homes England and/or the Combined Authority.

[...] The viability position on this scheme is largely self-inflicted and could be avoided or at least minimised if the consented rate of 25% was adopted. It will be necessary for the HE/CA to provide circa £3,600,000 of grant in order for the current viability appraisal to show a surplus and it is evident that without this level of additional income the scheme will be unviable regardless of the modest S106 contributions. The issue therefore is not whether the S106 contributions will prevent the development coming forward, rather to what extent they determine the level of grant funding.

The NPPF states that development should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. In this case it is the impact of the 85% affordable housing, not the financial contributions that are threatening viability. To agree to the removal of the contributions would in effect be subsidising other grant making public authorities and therefore on the basis of the evidence provided, and notwithstanding the specific comments made on the viability assessment above, there is no compelling reason for the County Council to agree to the modification of the Section 106. As the contributions are necessary to make the development acceptable they should be retained.

Following receipt of further information; comment as follows (16.08.2018):

I am satisfied that this information adequately supports the conclusions arrived at in the viability assessment, i.e. that the development cannot support the agreed level of s106 contributions.

I am conscious the development remains heavily dependent on social housing grant or equivalent to be viable regardless of S106 contributions. The applicant is seeking a modification to the S106 to remove contributions on the affordable housing element (58 dwellings). This is a concern to me as it means the County Council is being asked to subsidise another public authority's grant to this development. My view is that the rate of grant should reflect the funding deficit taking into account the full development costs, including S106.

Whilst the sums are relatively modest in relation to the amount of grant require I need to take a further steer from senior management before I can agree to the proposed reduction in S106. I will feedback further.

5.5 **Local Residents/Interested Parties:** No consultations undertaken as scheme relates to the legal agreement

6 STATUTORY DUTY

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The Development Plan for the purposes of this application comprises the adopted Fenland Local Plan (2014).

7 POLICY FRAMEWORK

- 7.1 **National Planning Policy Framework (NPPF)**
Paragraphs 54 – 57: Planning Conditions and Obligations.
- 7.2 **National Planning Practice Guidance (NPPG)**
Viability and decision taking
Planning obligations
- 7.3 **Fenland Local Plan 2014**
LP13 - Supporting and Mitigating the Impact of a Growing District
- 7.4 **Developer Contributions SPD (adopted February 2015)**

8 BACKGROUND

- 8.1 Axiom Housing are seeking to remove the financial contributions included in the existing Section 106 agreement from the 58 affordable housing units included in the Reserved Matters application. This includes all 5 financial contributions (Pre-School Education, Secondary Education Contribution, Fenland Rail Contribution, Libraries and Lifelong Learning Contribution, County Waste Contribution) included in the second schedule of the agreement and the public open space contribution included in the fourth schedule.
- 8.2 Axiom Housing would also like the modified S106 to reflect the agreed tenure mix and schedule as highlighted on the Proposed Site Plan included in the Reserved Matters Application and included in the supporting information for this application.
- 8.3 Axiom Housing have submitted a Reserved Matters application on the above Outline planning application (F/YR18/0183/O) [which has subsequently been approved by Committee at its August Meeting]. The application proposals include for a much larger percentage of affordable housing (85% affordable housing), with the aim of delivering much needed affordable housing in the area. A proposal supported by the local authority's housing team. Financially, this over provision of affordable housing cannot be delivered alongside the existing financial contributions included in the S106 agreement.
- 8.4 A Viability assessment (Using the HCA DAT format) has been completed by Axiom housing, and is included in this application. The viability assessment demonstrates the above. Below is accompanying text from Axiom Housing regarding the Viability Assessment and its result.

“The HCA DAT has been completed as best we can given the proposed 68 unit scheme is predominately (85%) affordable housing to be developed by a non-profit making housing association. The inputs accurately reflect the development in terms of tenure, on costs, timings and the build contract budget identified by our contractor, Lindum Group. As an RP, Axiom assess viability taking into account

initial sales receipts, rental income, grant and scheme borrowing capacity over an extended cash flow period; usually 30-40 years. The significant deficit shown as an output will be met by a combination of loans and grant income for the 41 additional affordable units over and above existing s106 requirement for 17 affordable homes. The final grant income (and therefore residual borrowing requirement) has yet to be confirmed but is likely to be either Homes England AHP funding or Combined Authority Grant subject to the bidding and approvals process.

We believe that as a multi-tenure scheme this development will deliver much needed affordable housing for Fenland DC well above planning policy compliant levels to meet a wide range of local housing needs. With the scheme's reliance on grant and self-funding for viability, s106 contributions for the 58 affordable units are neither affordable nor appropriate" – Mel Baker, Axiom Housing.

9 ASSESSMENT

9.1 The original S106 Planning Agreement secured the following:

| Item | Amount | FDC/CCC |
|---|---|-----------------|
| <u>Education Contributions</u> <ul style="list-style-type: none"> • Pre-school education, and • Secondary Education Contribution <i>(calculated as per IMP2)</i> | £71,400 , and <u>Maximum Contribution Primary and Secondary as per IMP2:</u> <ul style="list-style-type: none"> • 2-bed dwellings = £500 • 3-bed dwellings = £2,000 • 4-bed or more dwellings = £3,000 - amount quoted per unit | CCC |
| Fenland Rail Contributions | £48,571.71 | FDC |
| Libraries and Lifelong Learning Contribution | £6,874 | CCC |
| County Council Waste Contribution | £373.32 | CCC |
| Public Open Space Contribution | Calculated in accordance with the schedule included within | FDC |
| Monitoring costs | £2500 | - |
| Provision of Public Open Space | 20 square metres per dwelling to be provided on site including an equipped play area with 5-8 pieces of play equipment | Scheme specific |
| Affordable Housing at 25% | | |

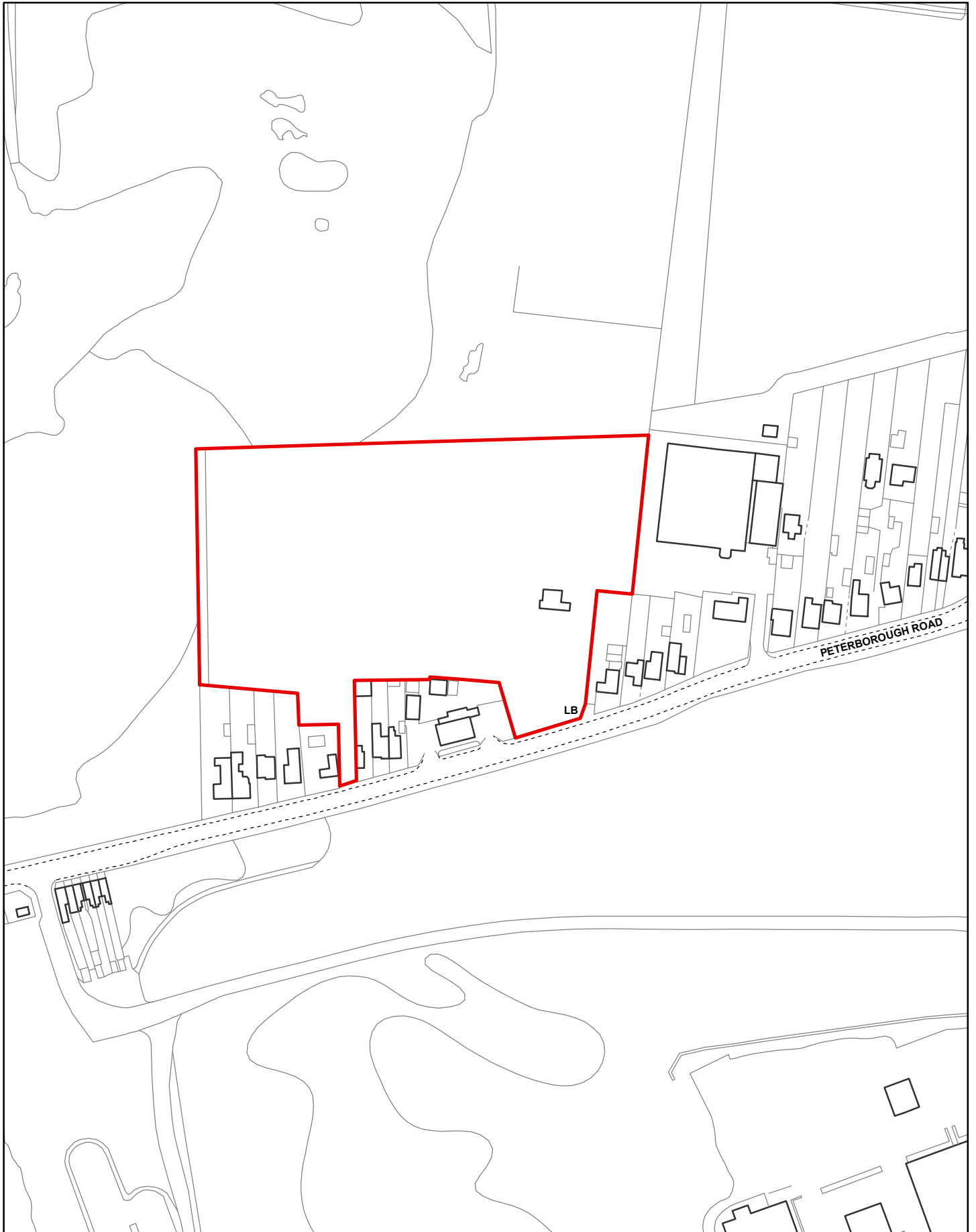
9.2 It is intended that the revised S106 will pro-rata the above contributions making them payable solely on the basis of the 10 market dwellings to be delivered, i.e. the remaining 15% of the development once the 85% has been discounted

9.3 The S106 Officers and Cambridgeshire County Council's Growth and Economy team have reviewed the viability assessments and have agreed the detail contained therein. However CCC have indicated strong concern that the scheme is unviable solely due to the choices made by the intended developer.

The LPA have sympathy with this argument however should the scheme have come forward, post April 2015, on the basis of 85% affordable from the outset the LPA would only have sought contributions in line with the *Developer Contributions SPD (adopted February 2015)*; this document identifies that *'most planning permissions will include one or more conditions on the decision notice. However, not all permissions will be required to be accompanied by a S106 planning obligation.*

Of the examples given in this regard the SPD includes 'affordable housing (other than the provision of the affordable homes themselves)'

- 9.4 As such only 10 of the units identified in the current scheme proposals would attract contributions, and this is proposed by the applicant within the DAT as submitted. In addition, on balance, it is considered that the provision of an increased level of affordable housing on the site, given the housing issues in the District (as outlined by the Strategic Housing Officer), should carry significant weight in that to refuse planning permission on the basis of reduced S106 contributions would not be reasonable or sustainable.
- 10 CONCLUSIONS:** The application has been given due consideration and accordingly it is recommended to accept the principle of a Deed of Variation in respect of the above, i.e. amended to reflect agreed tenure and adjusted to require pro-rata contributions which reflect the number of market units provided, i.e. 10 dwellings.
- 11 RECOMMENDATION:** GRANT subject to the completion of a Deed of Variation. It is recommended that a Deed of Variation be accepted as per Section 11 above



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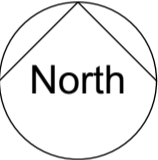
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Scale = 1:2,500





- A Revised to client comments 31.07.2017
- B Mix changed to client comments 01.11.2017
- C POS Trees Removed 03.11.2017
- D Site layout revised as per client comments 16.11.2017
- E Mix changed to client comments and POS increased 06.12.2017
- F Mix changed to client comments and layout amendments 20.12.2017
- G Plot 37 amended 08.01.2018
- H Type layout amended to project meeting 08.01.18 09.01.2018
- J Fence lines and schedule amended, plots swapped as per client discussions and sheet renamed 12.01.2018
- K Parking revised for plots 58 & 68, 3 spaces for 4 beds shown, visitor space for 12.01.2018
- L Note re future development added, bin collection points added 25.01.2018
- M Layout amended as per highway engineer's comments 26.02.2018
- N Tenure mix amended as per client's comments 14.03.2018
- P Tenure mix shown as per comments and boundary amended as per revised land registry 14.03.2018
- Q Shared access drives amended as per updated tracking information 26.03.2018
- R Gates added to northern boundary & extra bin storage added 20.04.2018
- S Site entrance wall detail moved clear of vehicle visibility 23.04.2018
- T 8.5m biodiversity buffer zone added to western site boundary. Layout amended accordingly and private drives that adjoin public open space reduced in size 04.07.2018



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Project: A development at Peterborough Road

Client: Longhurst Group

Sheet title: Site Layout - Phase 1

Ref: 41083/ 001T

Scale: 1:500 @ A2

Date: 25.07.2017

Drawn: YS Checked: RAW

| ACCOMMODATION SCHEDULE | | | | | | | |
|---------------------------------------|------|--------------|-----|-------------|---------|-----------------|---------------|
| 41083 - Peterborough Road, Whittlesey | | | | | | | |
| HOUSE TYPE | Beds | NUMBER | SQM | SQM Total | SQFT | SQFT total | % |
| A | 2b4p | 20 | 64 | 1280 | 688.90 | 13777.92 | 29.4% |
| B | 3b5p | 4 | 83 | 332 | 893.41 | 3573.65 | 5.9% |
| C | 3b5p | 28 | 80 | 2240 | 861.12 | 24111.36 | 41.2% |
| C1 | 3b5p | 10 | 80 | 800 | 861.12 | 8611.20 | 14.7% |
| D | 4b6p | 2 | 110 | 220 | 1184.04 | 2368.08 | 2.9% |
| E | 1b2p | 4 | 48 | 192 | 516.67 | 2066.69 | 5.9% |
| Total | | 68 | | 5064 | | 54508.90 | 100.0% |
| Total Site Area: | | 2,644 | | | | Hectares | |
| Total Site Area: | | 6,533 | | | | Acres | |
| Site Density: | | 25.72 | | | | DPH | |

- Tenure
- Affordable Rent
 - Rent to Buy
 - Shared Ownership
 - Private Sale

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