Hearing Statement – Matter 1

Doncaster Local Plan

On behalf of Firsure Ltd

August 2020
I. Introduction

1.1. This is a Hearing Statement prepared by Spawforths on behalf of Firsure Ltd in respect of:

- Matter 1: Legal and Procedural Requirements and other General Matters

1.2. Firsure Ltd has significant land interests in the area and has made representations to earlier stages of the Local Plan process.

1.3. The Inspector’s Issues and Questions are included for ease of reference. The following responses should be read in conjunction with Firsure Ltd comments upon the submission version of the Doncaster Local Plan, dated September 2019.

1.4. Firsure Ltd has also expressed a desire to attend and participate in Matter 1 of the Examination in Public.
2. Matter 1 – Legal and Procedural Requirements and other General Matters

Q1.1. Is there any substantive evidence to demonstrate that, during the preparation of the Plan, the Council failed to undertake effective and on-going joint working with relevant bodies on strategic matters that affect other local planning authority areas?

2.1. Firsure Ltd has no specific comment in relation to this issue.

Q1.2. Is there any substantive evidence to demonstrate that the public consultation carried out during the plan-making process failed to comply with the Council’s Statement of Community Involvement or legal requirements?

2.2. Firsure Ltd has no specific comment in relation to this issue.

Q1.3. Was the Plan shaped by early, proportionate and effective engagement with communities, local organisations, businesses, infrastructure providers and operators, and statutory consultees?

2.3. Firsure Ltd have concerns relating to the weight attributed to community consultation responses without sufficient regard to the nature of comments and whether they form material planning considerations. Stage 7 of the Site Selection Methodology [SDEB46], indicates that this concluding stage includes feedback from the consultation responses to the 2018 consultation. It is not clear what weight or role this has had in the site selection process. For example, there are a number of sites with significant notable objections, in both context and number, are allocated, whilst sites with only a small number of objections are rejected.
There are a number of sites where consultation responses are not referred to. It is therefore not possible to determine the weight attributed to consultation responses.

2.4. It is noteworthy that the Inspector’s Letter in respect of the Doncaster LDF Sites and Policies Development Plan Document [OTH ** Final Letter Stage 1 v2, June 2014] paragraph 51 expressed similar concerns in relation to the Site Selection Methodology at the time.

**Q1.4. Is there any substantive evidence to demonstrate that the sustainability appraisal failed to meet the relevant legal requirements?**

2.5. Firsure Ltd has no specific comment in relation to this issue.

**Q1.5. Did the sustainability appraisal consider and compare reasonable alternatives as the Plan evolved, including for the broad spatial distribution of housing, economic and other development? Was the Plan informed by the findings of the sustainability appraisal?**

2.6. The site selection methodology sets out a 7 stage process for site selection [SDEB 46]. Stage 4 relates to the Sustainability Appraisal. A summary of each sites performance against each objective is stated within [SDEB46]. There is no conclusion for each site’s performance against the Sustainability Appraisal. There is no conclusion drawn for each settlement within the site selection methodology or Sustainability Appraisal. All sites assessed in Stage 4 are taken to the next stage of the site selection methodology. It is not clear to the reader how the findings of the Sustainability Appraisal has influenced the Plan with reference to the selection of sites or what weight is attributed to the performance within the Sustainability Appraisal as opposed to later stages of the site selection process. Firsure Ltd has noted a number of occasions where rejected sites perform as well or better than site’s that are proposed to be allocated and sites that are proposed as ‘Reserve Sites’. 
2.7. The following list is not exclusive but includes sites which perform better within the Sustainability Appraisal than sites that are proposed to be allocated:

- Site 234 Broad Axe, MUA. This performs better than MUA sites 350, 241, 164/430 and 33.
- Site 494, Green Lane, MUA. This performs better than site 836.
- Site 244/331, Coulman Road, Thorne. This performs better than site 81/343 and 396.
- Site 160, Thorne. This site performs better than site 001.
- Site 1019, Tickhill. This site performs better than site 1028.

2.8. Taking into account the above, Firsure Ltd is concerned that the Sustainability Appraisal and Sustainability Appraisal Addendum do not therefore seem to have consistently informed the Plan.

2.9. It is crucial that the Sustainability Appraisal is undertaken in a consistent and objective way, and that its conclusions feed not only into the site selection process in general but also support the Councils conclusions pertaining to the Sequential Test and implications for passing the Exception Test, with particular regard to NPPF paragraph 160 part a [NPPG ID 7 – 022].

2.10. Firsure Ltd maintain that the Sustainability Appraisal has not consistently and objectively informed the Plan. This is not consistent with national policy, and considered unsound.

Q1.6. Does the HRA comply with relevant legal requirements, and is there any substantive evidence to indicate that its conclusions are incorrect?

2.11. Firsure Ltd has no specific comment in relation to this issue.
Q1.7. Is there any substantive evidence to indicate that the Plan would have significant effects on equalities and in particular on groups with protected characteristics that have not been identified in the Council’s assessment?

2.12. Firsure Ltd has no specific comment in relation to this issue.

Q1.8. Is the Plan consistent with national planning policy that expects strategic policies to look ahead over a minimum 15 year period from adoption, or is it otherwise justified?

2.13. The 2019 Framework states in paragraph 22 that “strategic policies should look ahead over a minimum 15 year period from adoption, to anticipate and respond to long-term requirements and opportunities such as those arising from major improvements in infrastructure”. The Plan proposes to cover a period up to 2035, which if adopted potentially in early 2021 would be only for 14 years and therefore at least one year short.

2.14. This approach is not consistent with the Framework. Furthermore, Firsure Ltd will explore the Council’s approach to the housing need, requirement and supply and the overarching spatial strategy in response to the relevant Matters, Issues and Questions.

2.15. It is concerning that the Council appears to indicate that the requirement to review the plan within five years negates the necessity to have a Plan that looks ahead a minimum of 15 years post adoption. Firsure Ltd does not consider this to be consistent with the Framework.

2.16. In light of these deliberations, Firsure Ltd considers as a minimum this Plan should be covering a 15 year period from the point of adoption in accordance with national guidance. As a minimum the Plan Period should be extended to at least 2036 to ensure that the Plan is consistent with the Framework, given the timing of the hearing sessions it may be more pragmatic to extend the Plan Period until 2037 to allow time for Examination.
Q1.9. Will the approach set out in paragraphs 15.12 to 15.14 and Appendix 12 ensure that the Plan can be effectively monitored so that the extent to which its policies are being achieved will be clear?

Firsure Ltd has no specific comment in relation to this issue.

Q1.10. Does the Plan set an appropriate framework, and allow an appropriate role, for neighbourhood plans having regard to current progress in their preparation in the Borough? In particular: a) Does the Plan appropriately identify “strategic policies”? b) To be effective, is it necessary for the Plan to be modified to include a housing requirement for each designated neighbourhood area?

Firsure Ltd has no specific comment in relation to this issue.

Q1.11. Is the Plan consistent with national planning policy relating to the mitigation of, and adaptation to, climate change?

Firsure Ltd has no specific comment in relation to this issue.

Q1.12. Are the spatial strategy and allocations in the Plan, including those listed above, consistent with national planning policy relating to development and flood risk?

Firsure Ltd has no specific comment in relation to this issue.
Q1.13. Is the Council’s viability evidence proportionate and up to date having regard to relevant national policy and guidance? Are the policy requirements set at a level such that the cumulative cost of all relevant policies will not undermine deliverability of the Plan?

2.22. Paragraph 34 of the Framework established the importance of viability to ensure that development identified in the Plan should not be subject to such scale of obligations and policy burden that their ability to be delivered might be threatened.

2.23. Appendices 3-10 of the Viability Report 2019 [SDEB 48] demonstrated viability issues for a number of site typologies including all typologies in low value areas. Typologies in low value areas were unviable when tested against the base assumptions. The study concluded that in high and medium value areas site typologies were comfortably viable. However there are some circumstances where there are viability pressures in medium value areas, significantly the additional policy costs and sensitivities were tested against the study’s base assumptions which notably included 15% affordable housing and not 23% sought by Policy 8. Furthermore, it should be noted that this assessment did not consider the cumulative/in combination impact of all of the policy requirements.

2.24. Firsure Ltd remain concerned that there is little evidence to support an affordable housing target of 15% in low value areas. Further viability evidence is required to support the target of 23% in combination with the policy requirements of the Plan, including, mix, housing design standards, and density. The viability assessment shows that a significant proportion of sites will not be able to achieve affordable housing due to viability matters. The Government is keen to avoid such a situation where viability assessments are being submitted regularly to vary planning policy obligations. Firsure Ltd considers that the proposed approach will necessitate the use of viability assessment at planning application stage and believes applying this approach will undermine the deliverability of the Plan.

2.25. In response to the PQ [DON INSP2 PQs], a Whole Plan Viability Testing – Addendum has been prepared [DMBC 11]. The purpose of the addendum responded to concerns that the cumulative impact of all the policies was not modelled.
2.26. The results within the addendum demonstrate that there are significant viability concerns for all typologies in low value areas with the exception of low cost developer urban extension-greenfield. Firsure Ltd consider this will impact on deliverability of these sites and ultimately the Plan. The addendum again demonstrates that there are issues with viability on occupied brownfield sites in medium value areas. Of note 24% of sites are within low value areas [DMBC 7], and whilst a number benefit from permission we have reviewed land supply and have identified a number of sites that are stalled, and identified sites with viability issues.

2.27. Firsure Ltd review indicates that up to 652 dwellings should be discounted from the allocated sites due to deliverability issues and lapsed applications. In addition, we note that sites such as Site 838 for 671 dwelling, whilst subject to recent planning applications with recommendations to Grant subject to Section 106 Agreement, are noted to be unviable and are reliant on grant funding from Homes England.

2.28. Taking the latest information into account Firsure Ltd consider that there is a potential for the requirements to undermine the delivery of the Plan. The Addendum notes that a cautious approach has been taken to sales values, however these have not been updated and due to the current pandemic there is potential for viability to be negatively affected in the short/medium term potentially impacting on deliverability of the Plan and five year supply.

2.29. Firsure Ltd consider that there will be an increased reliance on viability testing on a site by site basis due to the policy requirements being set too high for low value and in some circumstances medium value area. This is contrary to the approach being sought by national policy and guidance.

Q1.14. Is policy 66 justified and consistent with national policy and guidance relating to the use of planning obligations? Is the Council’s suggested change necessary to make the Plan sound?

2.30. Firsure Ltd concerns are expressed in response to policy Q1.13, and relate to ensuring that policy requirements do not undermine the deliverability of the Plan. The latest information [DMBC 11] does not address concerns raised within our representations.
Q1.15. Is policy 67 consistent with national policy and guidance relating to the use of viability assessments at the planning application stage?

2.31. In relation to concerns raised in Q.1.13 Firsure Ltd considers there may be some instances where this policy and the use of trigger points in Part B can be utilised to bring forward the delivery of homes.

2.32. However, Firsure Ltd have concerns around the implementation of this policy and how frequently it will be used. The use of trigger points could add further burdens to any developer who will need to reproduce viability assessments on a potentially regular basis, going against Government initiatives that seek to reduce the need for viability assessments. Firsure Ltd considers that this policy causes unnecessary uncertainty and additional risk for developers, particularly in low and borderline medium value areas. The policy could therefore become an impediment to the development process and compromise the deliverability of large sites, particularly those phased and implemented over long periods of time. This is of particular concern when the Viability Assessment demonstrates that a number of typologies are unviable necessitating viability assessments at planning application stage.

2.33. This is not consistent with national policy and guidance and should be considered unsound.

Proposed Change

2.34. To overcome the objection and address soundness matters, the following changes are proposed:

- Review the outcomes and conclusions of the sustainability appraisal and outcomes of the site selection process to ensure that the process is consistent and objective and that it clearly and consistently used to inform the Plan.
- Extend the Plan Period until at least 2036 to ensure a sufficient supply of housing and employment land and appropriate housing trajectory.
- Review the policy requirements for housing development in Low and Medium value areas.