For and on behalf of
Mr RJ Ogley (03008)
Minerals Investments Ltd (Mr Ian Brealey) (03116)
Higgins Agriculture Ltd and Bellway Homes (03467)
South Yorkshire Housing Association (05214)

DONCASTER LOCAL PLAN EXAMINATION
STAGE 4 HEARING SESSION REPRESENTATION
MATTER 1 LEGAL AND PROCEDURAL REQUIREMENTS AND OTHER GENERAL MATTERS

Site Allocation Ref: 040 - Land off Sheffield Road, Conisbrough
HELAA Site Ref: 184 - Brodsworth Quarry, Green Lane, Doncaster
Site Ref: 189 - Higgins Site, Old Bawtry Road, Finningley
Site Ref: 446 – Mosham Road / land east of Hurst Lane, Auckley

Prepared by
DLP Planning Ltd
Sheffield

September 2020
DLP Consulting Group disclaims any responsibility to the client and others in respect of matters outside the scope of this report. This report has been prepared with reasonable skill, care and diligence. This report is confidential to the client and DLP Planning Ltd accepts no responsibility of whatsoever nature to third parties to whom this report or any part thereof is made known. Any such party relies upon the report at their own risk.
## CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.0 INTRODUCTION</td>
<td>4</td>
</tr>
<tr>
<td>2.0 RESPONSE TO INSPECTORS QUESTIONS</td>
<td>5</td>
</tr>
</tbody>
</table>
1.0 INTRODUCTION

1.1 This representation has been prepared by DLP Planning Ltd on behalf of Mr RJ Ogley, Minerals Investments Ltd (Mr Ian Brealey) and Higgins Agriculture Ltd* and Bellway Homes in response to the Stage 4 Examination Hearing Sessions of the Doncaster Local Plan.

1.2 This representation addresses Matter 1 in relation to the following sites:

- Site Allocation Ref: 040 - Land off Sheffield Road, Conisbrough
- HELAA Site Ref: 184 - Brodsworth Quarry, Green Lane, Doncaster
- Site Ref: 189 - Higgins Site, Old Bawtry Road, Finningley
- Site Ref: 446 – Mosham Road / land east of Hurst Lane, Auckley

1.3 This document should be read alongside previous representations on the publication version of the Plan, as submitted in September 2019.

*NB - The representor (03467) previously referred to as Higgins Agriculture Ltd is herein referred to as M Higgins Ltd.
2.0 RESPONSE TO INSPECTORS QUESTIONS

Matter 1 - Legal and Procedural Requirements and Other General Matters

Issue - The Duty to Cooperate

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 No further comment.

Issue - Public Consultation and Engagement

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 No further comment.

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 No further comment.

Issue - Sustainability Appraisal

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

2.4 No further comment.

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?

2.5 Despite the fact that there were some sites previously promoted to the Council during the Local Plan process as reasonable alternatives to accommodate development compared to sites that are subject to flood restraint or are suitable for agricultural use, some of the sites failed to be considered in the development of the strategy as “reasonable alternatives” within the Sustainability Appraisal (CSD7.1).

2.6 The Council’s approach to identifying the likely significant effects has not had sufficient regard to the evidence base for the Local Plan (including its assessment of full objectively assessed housing need). This limits the degree to which the Local Plan’s proposals can be
shown to have been developed as part of an iterative process, taking account of the appraisal’s findings at each stage of preparation as required by the PPG (reference ID 11-018-20140306).

2.7 The Council has not ensured that realistic alternatives are considered for key issues, and that the reasons for choosing them are documented, as part of assessing the Plan’s strategic priorities and how these might be delivered. This is a requirement of legislation for Sustainability Appraisal. Specifically, it is a requirement that all reasonable alternatives tested are realistic and deliverable (PPG reference ID 11-018-20140306). This is not the case for the scenarios tested as part of the Council’s Sustainability Appraisal (CSD7.1), which in turn means the Sustainability Appraisal (CSD7.1) does not provide an accurate understanding of the potential effects of the selected strategy compared to other reasonable alternatives.

2.8 The PPG requires all reasonable alternatives to be assessed against the same baseline environmental, economic and social characteristics (following paragraph 152 of the NPPF 2012). Furthermore, it makes it clear that reasonable alternatives must be assessed to the same level of detail as proposed allocations.

2.9 The PPG anticipates that a comprehensive range of options will be undertaken under ‘Stage B’ of the requirements for preparing the Sustainability Appraisal and align with the process for preparing the Local Plan at Regulation 18 stage (reference ID 11-013-20140306). This has been considered through the Courts in Heard v Broadland [2012] EWHC 344 (Admin). In particular, see paragraphs 53 to 73, where the approach to the process of Sustainability Appraisal and alternatives are considered. In summary, Ouseley J in paragraph 73 states:

“... the aim of the directive, which may affect which alternatives it is reasonable to select, is more obviously met by, and it is best interpreted as requiring, an equal examination of the alternatives which is it reasonable to select for examination alongside whatever, even at the outset, may be the preferred option. It is part of the purpose of this process to test whether what may start out as preferred should still end up as preferred after a fair and public analysis of what the authority regards as reasonable alternatives …”

2.10 This is not the approach that has been taken by the Council in its assessment of reasonable alternatives. As such, its assessment is flawed in fundamental respects and does not follow the Regulations / the SEA Directive nor case law.

2.11 An example which provides evidence for the above is one such reasonable alternative that
was previously promoted for mixed use and has failed to be considered in the development of the strategy as a “reasonable alternative”, which is the site at Brodsworth Quarry comprising of approximately 61 hectares of land adjacent to the western settlement boundary of Highfields, and immediately south of Adwick le Street. This is a large area of degraded land having been restored after mineral extraction and so while technically greenfield land is nevertheless of substantially less value than other greenfield sites. Previously promoted to the Government in respect of the Millennium Village in 2003 at the same time as being promoted to the Council as part of the then Development Plan review, the Sustainability Appraisal (CSD7.1) appears simply not to have assessed the potential of this site. Given the scale of greenfield releases being proposed this would appear to present a serious shortcoming in the approach of the Sustainability Appraisal (CSD7.1) and a gap in the Council’s evidence base. DLP Planning Ltd’s previous representation as submitted in September 2019 for “Brodsworth Quarry, Green Lane, Doncaster” and the site plan attached at Appendix 1 confirm the location of the Brodsworth Quarry site.

2.12 In a similar manner the previously worked site 446 Blaxton Quarry Phase 2 (north of the railway line at Finningley) and site 189 Higgins Agriculture Road, Finningley Ltd, Old Bawtry have been rejected in this location and yet there are proposed substantial greenfield releases being proposed for release in Finningley which score worse in terms of the appraisal.

2.13 The allocated site 940 (Site 1 Land east of the Poplars) scores worse than both site 446 Blaxton Quarry Phase 1 and site 189 Higgins Agriculture Road, Finningley Ltd, Old Bawtry, both of which are partly or wholly brownfield land, in the summary tables 8.17 and 8.23 (the Sustainability Appraisal (CSD7.1)).

- 3B(i) Access to Existing Centre – site 940 scores negative on this criterion as does site 189 but site 446 scores 0
- 3B(iv) Access to GP Surgery – site 940 scores negative and both sites 189 and 446 score positive
- 8A(i) Encourage the Re-use of Land and Buildings - Site 940 scores 0 as does site 189 but 446 scores double positive (++)
- 12A(i) Biodiversity - Site 940 scores double negative as does site 189 but site 446 scores 0
- 13B(i) Archaeology - Site 940 scores double negative but sites 189 and 446 score
• 14B(i) Groundwater Source Protection - Site 940 scores negative but sites 189 and 446 score 0
• 14B(ii) Pollution to Surface Water Bodies - Site 940 scores double negative as does site 189 but site 446 scores 0

2.14 In reporting these impacts the double negatives are reported for site 189 (paragraphs 8.2.92 8.2.93, the Sustainability Appraisal (CSD7.1)) but it is clear these can be mitigated.

2.15 The impacts for 940 are reported (paragraphs 8.2.63 8.2.64, the Sustainability Appraisal (CSD7.1)) but in this case there will be loss of habitat and there is no mitigation offered in respect of archaeological impact and it concludes that there would be a major archaeological objection to the allocation of the site.

**Issue - Habitats Regulation Assessment**

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

2.16 No further comment.

**Issue - Equalities**

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?

2.17 No further comment.

**Issue - Plan Period**

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?

2.18 Whilst the Plan states that it is to cover the period 2015 to 2035, it fails to make adequate provision for the post adoption period 2020 to 2035 in a number of ways. These include the following:

• Allocations are only to be made for the period 2018 to 2033 (as illustrated in Table 5 in the draft Plan) which means that the proposed allocations cover just 13 years from the adoption of the Plan (on the basis that it was expected in December 2020, although this is increasingly unlikely given that the Examination of the Plan is taking
place in late 2020). This is contrary to paragraph 22 of the NPPF which states that strategic policies should look ahead over a minimum 15 year period from adoption.**

- The employment led housing requirement of 912 dpa is based upon a projection for the period 2016 – 2026, i.e. just the first 6 years after the adoption of the Plan rather than the requirement for the Plan period as a whole. This is contrary to paragraph 22 of the NPPF which states that strategic policies should look ahead over a minimum 15 year period from adoption.

2.19 **Further to the above, the following is acknowledged from the Council’s Housing Topic Paper (DMBC4). Section 7.11 (Beyond the Plan Period) of the Paper firstly states that a number of sites allocated through the Local Plan are projected to continue to deliver beyond 2035. It then states that any housing that will be delivered after this date will not count towards any supply calculations in the Plan period, but serves to highlight how much housing the Local Plan will be responsible for delivering in total. The sites are as follows:

<table>
<thead>
<tr>
<th>Site</th>
<th>Units delivered by 2035</th>
<th>Units remaining (2035+)</th>
<th>Anticipated completion date (based on 70 units dpa)</th>
</tr>
</thead>
<tbody>
<tr>
<td>247 Former Rossington Colliery</td>
<td>293</td>
<td>56</td>
<td>2036</td>
</tr>
<tr>
<td>418 DN7 Initiative</td>
<td>1,015</td>
<td>2085</td>
<td>2065</td>
</tr>
<tr>
<td>836 South of Woodfield Way</td>
<td>980</td>
<td>151</td>
<td>2038</td>
</tr>
</tbody>
</table>

2.20 Site 247 is referenced in ‘Table H2(G): Allocations without planning permission (as at 1st April 2018)’ in the publication version of the draft Local Plan. However, in that table it is stated that site has an indicative capacity of 230, and achievability beyond the Plan period is 0.

2.21 Site 836 is referenced in ‘Table H2(A): Allocations without planning permission (as at 1st April 2018)’ in the publication version of the draft Local Plan. The information in the table is consistent with the Topic Paper.

2.22 Site 418 is referenced in ‘Table H1(E): Allocations with planning permission (as at 1st April
2018) in the publication version of the draft Local Plan. The information in the table is consistent with the Topic Paper. It is understood that outline planning permission for the mixed use development (which includes 3,100 residential units) was granted in April 2017 under reference 15/01300/OUTA. Subsequent to this, a discharge of conditions application for 11 of the conditions was approved in May 2018 under reference 17/01215/COND.

2.23 Further to the above, an outline planning permission (all matters reserved) was granted in June 2019 under reference 18/00101/OUTM for residential, commercial and employment development as part of the permitted Unity development. Following this, the following applications have taken place for the site:

- 20/00871/MAT - A non-material amendment application to vary the wording of 11 of 15/01300/OUTA’s conditions – Determined in March 2020 that the alterations are non-material in nature, not requiring the benefit of a formal planning application.

20/01198/COND - Consent, agreement or approval required by condition 5 (land drainage) of planning application 15/01300/OUTA – Application approved in July 2020.

- 20/01197/REMM - Reserved matters approval pursuant to outline approval 15/01300/OUTA, comprising details of appearance, landscaping, layout and scale, for a proposed primary estate road from the Hatfield Link Road into Unity Connect – Reserved Matters approved in August 2020

- 20/01784/COND - Consent, agreement or approval required by condition 54 (employment floorspace) of planning application 15/01300/OUTA – Validated in July 2020, awaiting determination.

2.24 There are concerns raised by the issues around the non-material amendment, discharge of conditions and reserved matters applications. This, together with the work that will still be required prior to housing completions being able to be achieved on the site, suggests that there would appear to be issues around the deliverability of this allocation and in particular the delivery of the numbers forecasted for the Plan period.

**Issue - Monitoring**

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?

2.25 No further comment.

**Issue - Strategic Policies and Neighbourhood Plans**

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?

2.26 No further comment.

**Issue - Climate Change**

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

2.27 No further comment.

**Issue - Flood Risk**

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?

2.28 No. It is understood from the Council’s ‘Housing & Employment Site Selection Methodology & Results Report’ (June 2019) (SDEB46) and the ‘Topic Paper 2: Flood Risk’ (February 2020) (DMBC2) that flood risk sequential tests have been undertaken for housing and employment sites. Nevertheless, it is notable that paragraph 155 of the NPPF sets out that inappropriate development in areas at risk of flooding should be avoided by directing development away from the areas that are at the highest risk (whether existing or future). Further to this, paragraph 157 of the NPPF sets out that all plans should apply a sequential, risk-based approach to the location of development to avoid flood risk to people and property where possible. Paragraph 158 of the NPPF then states the following:

“The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. …”

2.29 There are a number of housing allocations put forward within the draft Local Plan that are currently within Flood Zones 2 and 3, such as site refs. 81 and 343 at Alexandra Street in
Thorne. It is notable that planning application references 19/00099/OUTM and 19/00100/OUTM for outline planning permission for residential development at the Alexandra Street sites have been live with the Local Planning Authority since January 2019 and have not yet been determined. These sites are considered to be less sequentially preferable in policy terms for development when compared to other sites that are available and appropriate for development in sustainable locations, and that were promoted through the Local Plan process but were not allocated for development, such as the Brodsworth Quarry (site ref. 184) and Higgins sites (site ref. 189) which are both located in Flood Zone 1.

2.30 There are three UDP housing sites carried forward as allocations in the Plan and the Inspector should satisfy themselves that robust evidence has been provided as to the deliverability of these sites for development, taking into account also the comments raised on viability matters below and the fact that the sites were not delivered during the previous plan period.

**Issue - Viability Evidence to Inform the Plan**

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?

2.31 No. Whilst it is acknowledged that the viability evidence base was updated in 2019 and an additional addendum prepared in March 2020, these documents do not provide sufficient evidence that the Plan is positively prepared or that the level of policy requirements is justified to ensure delivery of proposed allocations.

2.32 The 2019 NPPF confirms that viability should primarily be a plan-making matter and the PPG (reference ID 10-002-20190509) confirms that:

“Policy requirements, particularly for affordable housing, should be set at a level that takes account of affordable housing and infrastructure needs and allows for the planned type of sites and development to be deliverable, without the need for further viability assessment at decision making stage”

2.33 Appendix PQ32 (DMBC11) paragraph 2.9 acknowledges that none of the scheme typologies tested in low value market areas in the viability appraisals were viable, based on the proposed affordable housing requirement of 15% and with full planning contributions applied. Of the brownfield sites within low value urban settlement typologies, all remained unviable
even when sensitivity testing was undertaken based on a lower cost developer model, with reduced contributions, and increased densities. Sites were only shown to be viable on urban extension sites where costs and planning contributions were significantly reduced. However, the reduced contributions are not reflected in draft policies and if adopted unchanged would require all applicants in low value areas to provide justification under Policy 67 for undertaking viability appraisals at the application stage, contrary to the objectives of the NPPF. Paragraph 15.10 of the draft plan further underlines this tension in the drafting of the plan, in stating that development must address its impacts and where this cannot be achieved (including due to reduced planning contributions) then planning permission should be refused.

2.34 Pursuing the proposed affordable housing requirements for low value areas, as set out in policy 8, alongside the contributions anticipated in policy 66, will undermine the delivery of housing in these areas, particularly in the most sustainable Urban Settlement locations.

2.35 The Council’s response to PQ33 (DMBC7) indicates that 24% of the proposed housing allocations are in low value areas, where evidence confirms that schemes are likely to be unviable. This could put at risk the delivery of 569 affordable dwellings. There is no evidence based on the drafting of the plan to support the Council’s assertion that planning contributions in these areas are likely to be lowered to support the proposed level of affordable housing. It is more likely, particularly on brownfield sites, that contributions are particularly important to address additional pressure on existing local services. If the Council is suggesting that reduced planning contributions will always be accepted, through negotiation, in lower value areas to support the delivery of affordable housing, this undermines the soundness of the plan as it does not support development in addressing its impact.

2.36 PQ34 (DMBC7) considers the level of affordable housing expected to be delivered by the Plan, which is assessed against the need figure of 209 affordable dwellings per annum, as stated in Council’s Housing Need Study 2019 (SDEB24.1). The Council’s response to PQ34 (DMBC7) identifies a total of 3,461 affordable dwellings considered to be deliverable under policy 8b and indicates that this is likely to be an underestimation based on factors including the Council’s own house building programme. However, the Housing Need Study (SDEB24.1) figure explicit excludes affordable housing to be provided under the Council’s house building programme from 209 dpa figure and therefore claims that additional
affordable housing will be delivered to boost the figure in PQ34 is mis-leading.

2.37 The Council’s delivery figure also includes 276 units achieved within the DSA Airport Masterplan area. This allocation does not form part of the Council’s main housing supply and delivery is subject to future employment growth, therefore it cannot be relied upon to support affordable housing provision to meet identified need. If the figures for the sites allocated with and without permission (1,009 and 1,472) are discounted by 24% to reflect those potentially undeliverable sites in low value areas, then only 1,886 affordable dwellings are secured through allocations. When added to the figure of 704 affordable dwellings from previous permissions, the total affordable housing provision cover is 627 dwellings short of meeting the need. This is without considering any reduced provision in medium and high value areas due to viability constraints.

2.38 It is clear that based on a necessary reduction to the proposed affordable housing requirement in low value areas in order to reflect viability evidence and ensure the deliverability of sites, there will be a need to identify additional land such as sites 446 (Blaxton Quarry Phase 1) and 189 (Higgins Agriculture Road, Finningley Ltd, Old Bawtry) identified to meet affordable housing need (as discussed at para. 2.49-2.52 of DLP’s Matter 2 Hearing Statement).

2.39 This approach will ensure that the Plan makes provision for sufficient affordable housing to meet need and that planning contributions are set at a level that will not undermine the deliverability of the plan, in accordance with paragraph 34 of the NPPF and the PPG (reference ID 23b-005-20190315).

**Issue - Developer Contributions and Viability Assessments at Planning Application Stage**

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?*

2.40 No. Policy 66 is ineffective in providing the clarity required to assist developers in understanding the level of planning contributions required from housing allocations. The Council should set out specific planning contribution requirements or commit to do so through supplementary planning documents for clarity and to ensure deliverability and soundness of the Plan.
2.41 The supporting text to policy 67 at paragraph 15.8 acknowledges that in order to be in accordance with national policy contributions expected from developers towards infrastructure should be set out in Local Plans and such policy requirements should not undermine the deliverability of the Plan. This upfront approach therefore ensures costs associated with providing infrastructure and other development costs can be factored into land transactions between developers and landowners, and therefore negates the likely occurrences of viability being at issue.

2.42 The Council’s suggested Main Modifications document (June 2020) (DMBC15) and the Inspector’s MIQs (INSP4) seek to address the removal of the pooling restriction from the CIL Regulations 2019. This change is not considered necessary to make the Plan sound but does offer clarity and is therefore welcomed if incorporated as set out below.

2.43 The Council’s pooling amendment should be incorporated within point A2 regarding the provision of off-site works, rather than as a standalone additional point, as matters of pooling contributions are associated with off-site strategic infrastructure.

2.44 Paragraph 15.4 (supporting text to policy 66) should also be updated to remove reference to Regulation 123 which has now been deleted following the changes to the CIL Regulations 2019.

Q1.15. Is policy 67 consistent with national policy and guidance relating to the use of viability assessments at the planning application stage?

2.45 No. The effectiveness of policy 67 is undermined by the proposed affordable housing requirement for low value areas, which should be reduced to reduce the number of instances where viability assessments are required at the planning application stage. This will ensure that the envisaged level of housing and affordable housing can be delivered to support the Government’s objective to significantly boost housing supply and that policy 67 is effective.

2.46 There should be clear cross-referencing between policy 8 and policy 67 to ensure the flexibility to continue to test viability, where the terms of the policies and the NPPF are met is sufficiently clear.
Various Clients

Local Plan Hearing Statement

– Stage 4 – Matter 1

September 2020

16