

DEVELOPMENT MANAGEMENT COMMITTEE 20 NOVEMBER 2023

Case No: 23/00724/S106

Proposal: S106 DISCHARGE OF PLANNING OBLIGATIONS FOR THE REMOVAL OF REQUIREMENT TO PROVIDE AFFORDABLE HOUSING ON-SITE AND PAYMENT OF A FINANCIAL CONTRIBUTION TO SUPPORT OFF-SITE AFFORDABLE HOUSING PROVISION INSTEAD FOR 19/02280/FUL AND 21/02079/S73.

Location: HOW GARDENS, HOUGHTON ROAD, ST IVES

Applicant: THE HOW DEVELOPMENT 2 LIMITED

Grid Ref: 530116 271969

Date of Registration: 16.04.2023

Parish: ST IVES

RECOMMENDATION - Delegated powers to enter into a S106 Agreement Deed of Variation

Or REFUSE in the event that the obligation referred to above has not been completed and the applicant is unwilling to agree to an extended period for determination, or on the grounds that the applicant is unwilling to complete the obligation necessary to make the development acceptable.

The proposal is referred to the Development Management Committee (DMC) in accordance with the Scheme of Delegation as it seeks to secure additional S106 financial contributions in excess of £100,000.

1. DESCRIPTION OF SITE AND APPLICATION

1.1 The application site comprises garden land to The How, a large mid-Victorian residential dwelling situated to the south of Houghton Road and on the western edge of St Ives. At the northern end of the site is the Gate Lodge which is a separate dwelling.

- 1.2 The How stands in spacious grounds that extend down to the Thicket Path, which runs alongside the River Great Ouse. Its grounds are densely planted with trees which are protected by a Tree Preservation Order and was listed by Historic England following evidence received as part of a previous planning application. Part of The How grounds within a distance of approximately 150m of the Thicket path is within the St Ives Conservation Area.

- 1.3 The site forms part of the land allocated for residential development in the Local Plan to 2036 with allocation SI 1 'St Ives West'. The land to the east/north east of The How site is the former St Ives Golf Course which has been developed by Barratt Homes as 'The Spires'. The southern part of the former Golf Course has permission for change of use of to a publicly accessible Strategic Green Space covering approx. 8.4 hectares. Land to the west also forms part of the Local Plan allocation; the land to the immediate west (referred to within the Local Plan as the BBSRC Field Site) is owned by Homes England and an outline application was submitted in April 2023 under reference 23/00627/OUT for the construction of up to 120 homes; this application is currently pending. Further to the west is Houghton Grange which has planning applications for residential development and construction is underway.

- 1.4 Planning permission was granted under 19/02280/FUL in July 2021 for the erection of 18 dwellings and the refurbishment of the Lodge, including five units for affordable housing at The How site. Permission was granted in March 2023 under application reference 21/02079/S73 for the variation of condition C2 (Plans) for 19/02280/FUL to amend approved plans for house types A2, A4, B1 and C1, resiting of Plots 10-12 and 16-18, change of Plots 7 & 8 from 1-bed to 2-bed, change of Plot 9 from 2-bed to 3-bed and reconfiguration of driveways at the site.

- 1.5 The S106 signed as part of application reference 19/02280/FUL, and linked to the subsequent permission under 21/02079/S73, includes an obligation to provide for five affordable housing units at the site, with 80% (4 units) being for social rent and the remainder as shared ownership. The S106 agreement secured an affordable housing scheme to be submitted for approval prior to the commencement of development.
- 1.6 S106A of The Town and Country Planning Act and National Planning Practice Guidance sets out that planning obligations can be renegotiated at any point with two processes available to applicants, depending on the age of the agreement and whether there is agreement by the Council to the modification proposed. In this instance, as the S106 agreement was entered into less than 5 years ago, S106A1a the only route open to renegotiate is 'by agreement' between parties. In order to consider the acceptability of the revised obligation, and whilst this not an application for planning permission, regard is given to the relevant Local Plan policies.
- 1.7 The applicant is now seeking to remove the requirement to provide affordable housing on-site and instead pay a financial contribution to support off-site affordable housing provision. This submission has been made as the applicant has been unable to secure a Registered Provider to take on the five affordable properties due to estate management charges.
- 1.8 This submission, supported by development costs and market values, originally proposed an off-site affordable housing contribution of £286,208 in lieu of the five units on site.
- 1.9 The District Council has engaged with external viability consultants (BNP Paribas) to determine the extent of any commuted sum payable in lieu of on-site provision. Following the submission of additional information by the applicant and their agent, the viability consultants have made a recommendation to

the Council as to the level of commuted sum that should be secured in lieu, which amounts to £543,002.00; the proposal is therefore to be considered on this basis.

2. NATIONAL GUIDANCE

2.1 Section 106A of the Town and Country Planning Act 1990 (as amended).

2.3 The National Planning Policy Framework (2023) sets out the three objectives - economic, social and environmental - of the planning system to contribute to the achievement of sustainable development. The NPPF 2023 at paragraph 10 provides as follows: 'So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11).'

2.3 The NPPF 2023 sets out the Government's planning policies for (amongst other things):

- delivering a sufficient supply of homes;
- building a strong, competitive economy;
- achieving well-designed, beautiful and safe places;
- conserving and enhancing the natural, built and historic environment.

2.4 Paragraph 57 of the NPPF (2023) states that "Planning obligations must only be sought where they meet all of the following tests:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.

- 2.5 Paragraph 58 of the NPPF (2023) explains that it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage and that all viability assessments should reflect the recommended approach in national planning guidance, including standardised inputs.
- 2.6 Planning Practice Guidance is relevant and a material consideration.
- 2.7 Paragraph: 010 Reference ID: 23b-010-20190315 states that planning obligations can provide flexibility in ensuring planning permission responds to site and scheme specific circumstances. Where planning obligations are negotiated on the grounds of viability it is up to the applicant to demonstrate whether particular circumstances justify the need for viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker.
- 2.8 Paragraph: 020 Reference ID: 23b-020-20190315 notes that Planning obligations can be renegotiated at any point, where the local planning authority and developer wish to do so.

For full details visit the government website [National Guidance](#)

3. PLANNING POLICIES

- 3.1 Huntingdonshire's Local Plan to 2036 (Adopted 15th May 2019)
- LP4 Contributing to Infrastructure Delivery
 - LP24 Affordable Housing Provision
 - SI1 St Ives West
- 3.2 Supplementary Planning Documents (SPD) / Other Guidance
- Developer Contributions - Adopted 2011 (costs updated annually)

Local For full details visit the government website [Local policies](#)

4. PLANNING HISTORY

- 4.1 19/02280/FUL - Refurbishment of The Lodge and its retention as a single dwelling, the erection of 18 dwellings (including five units of Affordable Housing) with associated private amenity spaces and parking, the provision of public open space, landscaping, and improved vehicular and pedestrian access - PERMISSION GRANTED 28.07.2021 subject to conditions and S106 Agreement.
- 4.2 21/80335/COND - Conditional Information for 19/02280/FUL: C3 (CEMP), C4 (pre commencement site meeting - Trees), C5 (TPP), C6 (AMS), C10 (Facilitation Tree Works), C14 (Details of pedestrian step off points) and C15 (Services Installation) - DETAILS APPROVED 03.02.2023.
- 4.3 21/02079/S73 - Variation of condition C2 (Plans) for 19/02280/FUL to amend approved plans for house types A2, A4, B1 and C1, resiting of Plots 10-12 and 16-18, change of Plots 7 & 8 from 1-bed to 2-bed, change of Plot 9 from 2-bed to 3-bed and reconfiguration of driveways – PERMISSION GRANTED 09.03.2023 subject to conditions and S106 Deed of Variation.
- 4.4 22/80083/COND - Conditional information for 19/02280/FUL: C7 (Floor and Site Levels), C8 (Surface Water Drainage), C9 (Land Contamination), C11 (Access Drainage Details), C13 (Hard Surfacing) and C16 (Evacuation Drainage) - PENDING CONSIDERATION.
- 4.5 23/80232/COND - Discharge of conditions 20 (Foul water drainage scheme), 21 (Landscape management plan), 22 (Pedestrian links), 23 (Materials), 25 (External lighting), 26 (Fire hydrants) and 27 (Construction management plan) of 21/02079/S73 – PENDING CONSIDERATION.

- 4.6 23/80249/COND - Discharge of conditions 18 (Hard landscape details), 19 (Soft landscape details), 24 (Architectural details) and 29 (Cycle and bin store) for 21/02079/S73 – PENDING CONSIDERATION.
- 4.7 23/02105/NMA – Non-Material Amendment to 19/02280/FUL and 21/02079/S73 - A revised description to: Refurbishment of The Lodge and its retention as a single dwelling, the erection of 18 dwellings with associated private amenity spaces and parking, the provision of public open space, landscaping, and improved vehicular and pedestrian access - PENDING CONSIDERATION.

Of relevance, but outside of the red line site for the above applications is:

- 4.8 22/02411/FUL - Refurbishment of the main house to provide 6 no. 1 and 2 bed apartments with associated parking, refuse storage and landscaping. Remodelling the Outhouse and Stables to form a 3-bedroom dwelling – PENDING CONSIDERATION.

5. CONSULTATIONS

- 5.1 HDC Housing Enabling Officer – NO OBJECTIONS, noting that that in this particular instance an off-site contribution towards affordable housing is acceptable, and that by working with one of HDC's Registered Provider partners at least 5 affordable homes will be provided on another development.

6. REPRESENTATIONS

- 6.1 None received to date.

7. ASSESSMENT

- 7.1 The principle of the development has been established by virtue of the site's location within the built-up area of St Ives and within

the site allocation of SI1 within the Local Plan. The site also has the benefit of planning permission for residential development.

- 7.2 It should be noted that this proposal is not an application for planning permission and instead relates to revised obligations within the S106 Agreement which the development is bound by. For the avoidance of doubt, this report focuses on the impacts associated with the proposed amendment for an off-site affordable housing contribution to be made rather than on-site provision; it does not seek to repeat or re-assess the conclusions reached under permissions 19/02280/FUL and 21/02079/S73 relating to other S106 matters; the Officer Reports for these applications are viewable on Public Access.
- 7.3 Therefore, the main issue to consider in the determination of this proposal is the impact of agreeing to an affordable housing off-site contribution in lieu of an on-site provision.
- 7.4 As noted, the S106 signed as part of application reference 19/02280/FUL includes an obligation to provide for 5 affordable housing units at the site, with 80% (4 dwellings) being for social rent and the remainder as shared ownership. The original S106 agreement secures the affordable housing scheme to be submitted for approval prior to the commencement of development.
- 7.5 Application reference 21/02079/S73 identified the affordable housing units to be plots 2-5 (at the northern end of the site) and plot 6 (in the centre of the site, to the south), although no affordable housing scheme has been formally submitted as required under the original S106 agreement.
- 7.6 The applicant is now seeking to remove the requirement to provide affordable housing on-site and instead pay a financial contribution to support off-site affordable housing provision.

- 7.7 As detailed in paragraph 1.6 above, planning obligations can be renegotiated at any point. As the original S106 agreement was entered into less than 5 years ago, S106A1a is the only route open to renegotiate and is 'by agreement' between parties.
- 7.8 Policy LP24 'Affordable Housing Provision' of Huntingdonshire's Local Plan to 2036 states that in order to assist in meeting the identified local need for additional affordable homes, a proposal which includes housing development will be required to provide a range of affordable housing types, sizes and tenures. The policy notes that in exceptional circumstances it may be appropriate to accept off-site provision and/or commuted payments where this would offer an equivalent or enhanced provision of affordable housing. Supporting text at paragraph 7.11 reaffirms Policy LP24, noting that an off-site contribution may be appropriate towards the delivery of affordable housing on alternative sites.
- 7.9 The Developer Contributions SPD (2011) at section A.12 states that given the overwhelming need to provide affordable housing it will only be in very exceptional circumstances that a capital contribution/commuted sum may be acceptable in lieu of on-site provision. It is noted that the minimum sum paid will be equivalent to the market value of the land assuming private development, that would otherwise have been required to provide affordable housing, and explains that the council will appoint a suitably qualified surveyor to assess the value and developers will be required to meet the costs of this.
- 7.10 The development previously approved at The How includes extensive areas of open landscaping and woodland (covered by a Tree Preservation Order), as well as roads and on-site drainage, all of which will need to be under a management company for ongoing maintenance purposes. The applicant has confirmed that the on-going management costs associated amount to approximately £1,200 for a one bedroom home and

£1,600 for a two bedroom home per year. These costs have been generated based on the number of bedrooms proposed.

7.11 As noted above, the Council's Housing Enabling Officer has confirmed support for an off-site contribution towards affordable housing in this particular instance. It is noted that discussions initially took place between several Registered Providers (RPs) and this led to just one RP progressing matters further. The Housing Enabling Officer has explained that there are some unusual characteristics to the development, including the relatively long access road and due to overall layout/design considerations, four of the originally proposed affordable homes are located to the north and the fifth is located some distance further south. It is acknowledged that this layout makes it more difficult in achieving economies of scale than if all the affordable homes were located in one area. It is also noted that the homes are of relatively high market value and service charges are at an unusually high level (recognising the wider estate management that will include the maintenance of extensive landscaping and include a number of trees the subject of a TPO), which has created affordability issues and led to the RP reviewing its position. The Housing Enabling Officer is confident that by working with one of HDC's RP partners HDC will be able to provide at least 5 affordable homes on another development, and in this instance therefore the officer supports the option of taking an off-site contribution towards affordable housing, as this will provide the same quantum of affordable housing to meet a district wide need.

7.12 Given the comments from the HDC Housing Enabling Officer and in this particular circumstance, whereby the issue raised by the Registered Provider in relation to estate management charges cannot be overcome, the principle to agreeing an off-site contribution in lieu of affordable housing is considered to be acceptable.

- 7.13 In line with the SPD requirements whereby a capital contribution/commuted sum can be acceptable in lieu of on-site provision in exceptional circumstances; given the estate management costs and particulars of this site as detailed above, it is considered that such circumstances have been presented.
- 7.14 The Local Planning Authority have appointed an independent external viability consultant (BNP Paribas) to determine the extent of any commuted sum payable in lieu of on-site provision. The applicant has borne the costs for this independent review, in accordance with Policy LP24 of Huntingdonshire's Local Plan and the Developer Contributions SPD.
- 7.15 BNP Paribas have undertaken a full and thorough review of the details submitted and following the submission of additional information by the applicant and their agent, they have made a recommendation to the Council as to the level of commuted sum that should be secured in lieu of on-site provision. The appraisal results within the report from BNP Paribas conclude that the payment in lieu of on-site provision should amount to £543,002.00.
- 7.16 In reaching this figure, BNP Paribas have taken into account 'valid build' costs (as these are known entities) and the sold values of other dwellings on the wider site. Evidence has been submitted by the applicant's agent with regard to property values at the site and comparable sites across the local area. However, none of the comparable units are located within a 'prestigious estate' that has (as referred to by the selling agent) achieved "unprecedented" values for the area. Purchasers of the units would therefore benefit from being within the estate with the product type and specification expected to command a premium in comparison to the alternative units on the market in the surrounding area.

- 7.17 BNP Paribas have undertaken research into the local market and taken into account the location, specification and type of the units in comparison to both the units in the southern section of the site in addition to those units in the surrounding areas. The achieved values from the other units within the wider scheme are of significant importance in establishing values for the four dwellings at the front of the site closest to Houghton Road. The values associated with Plot 6 are agreed as this unit has been sold by the developer (notwithstanding the S106 and planning permission), reflecting a capital value of £400,000 equating to £471 per square foot. The units to the front of the site have been reduced slightly from that of Plot 6 to £466 per square foot, given the location of these closer to the road. BNP Paribas have advised that this amount is within the range identified in the comparable evidence and within the expected premium they would expect the units to command, taking into account size, specification and location.
- 7.18 It is noted that since the issue of the report from BNP Paribas (report dated 5 October 2023) a fire has taken place at the development site (6 October 2023) and two of the originally proposed affordable dwellings have been significantly damaged. Following discussions BNP Paribas have confirmed that their report dated 5 October 2023 is accurate as it assesses the planning permission granted (and thus the recent events which have taken place at the site do not change the off-site contribution figure).
- 7.19 The applicant has reviewed the BNP Paribas report and accepted the findings of this, including the contribution of £543,002.00 towards the provision of off-site affordable housing in lieu of on-site provision.
- 7.20 The level of off-site contribution is considered to be acceptable and is supported by the Council's Housing Enabling Officer. The contribution will go towards working with one of HDC's

Registered Providers partners to provide at least 5 affordable homes on another development, to meet district wide housing need. The proposal to change the provision of on-site affordable housing to an off-site contribution is therefore considered to be acceptable and in accordance with Policies LP4 and LP24 of Huntingdonshire's Local Plan to 2036, as the off-site contribution would offer an equivalent or enhanced provision of affordable housing.

- 7.21 Without prejudice to the determination of this proposal discussions have been held with the applicant's agent with regard the triggers for this off-site payment. The original S106 agreement signed as part of application reference 19/02280/FUL secured the delivery and transfer of 80% of the affordable dwellings (4 dwellings) to the Registered Provider before occupation of 20% of the market dwellings (3 dwellings) and for the remaining affordable dwelling to be delivered and transferred before 80% of the market dwellings are occupied (the final 11 dwellings).
- 7.22 As part of this current proposal Officers have suggested that the off-site contribution has two triggers, whereby £200,000.00 will be payable prior to occupation of the first dwelling on the site and £341,002.00 will be payable prior to occupation of the fourth dwelling on the site. These payment triggers have been accepted in principle by the applicant.
- 7.23 In all other respects the original S106 Agreement (as would be varied by the new deed) shall remain in full force and effect.

Other matters

- 7.24 A section 96a application has recently been submitted at the request of HDC (23/02105/NMA) which seeks to remove the reference to the provision of five affordable dwellings on site in the description of application reference 19/02280/FUL. This

S96A application will remain pending until this current proposal is determined.

CONCLUSION

7.25 Having regard to applicable national and local planning policies, and having taken all relevant material considerations into account, it is therefore recommended that an off-site affordable housing contribution instead of the provision of affordable housing on site as was originally envisaged is supported and in accordance with S106A(2) of the Act that this is secured through a deed of variation to the existing S106 agreement. This accords with policies LP4 and LP24 of Huntingdonshire's Local Plan to 2036.

8. RECOMMENDATION - to enter into a S106 Agreement Deed of Variation to amend the affordable housing provision

Or REFUSE in the event that the obligation referred to above has not been completed and the applicant is unwilling to agree to an extended period for determination, or on the grounds that the applicant is unwilling to complete the obligation necessary to make the development acceptable.

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CONTACT OFFICER:

Enquiries about this report to **Laura Fisher, Senior Development Management Officer** laura.fisher@huntingdonshire.gov.uk

Development Management Committee



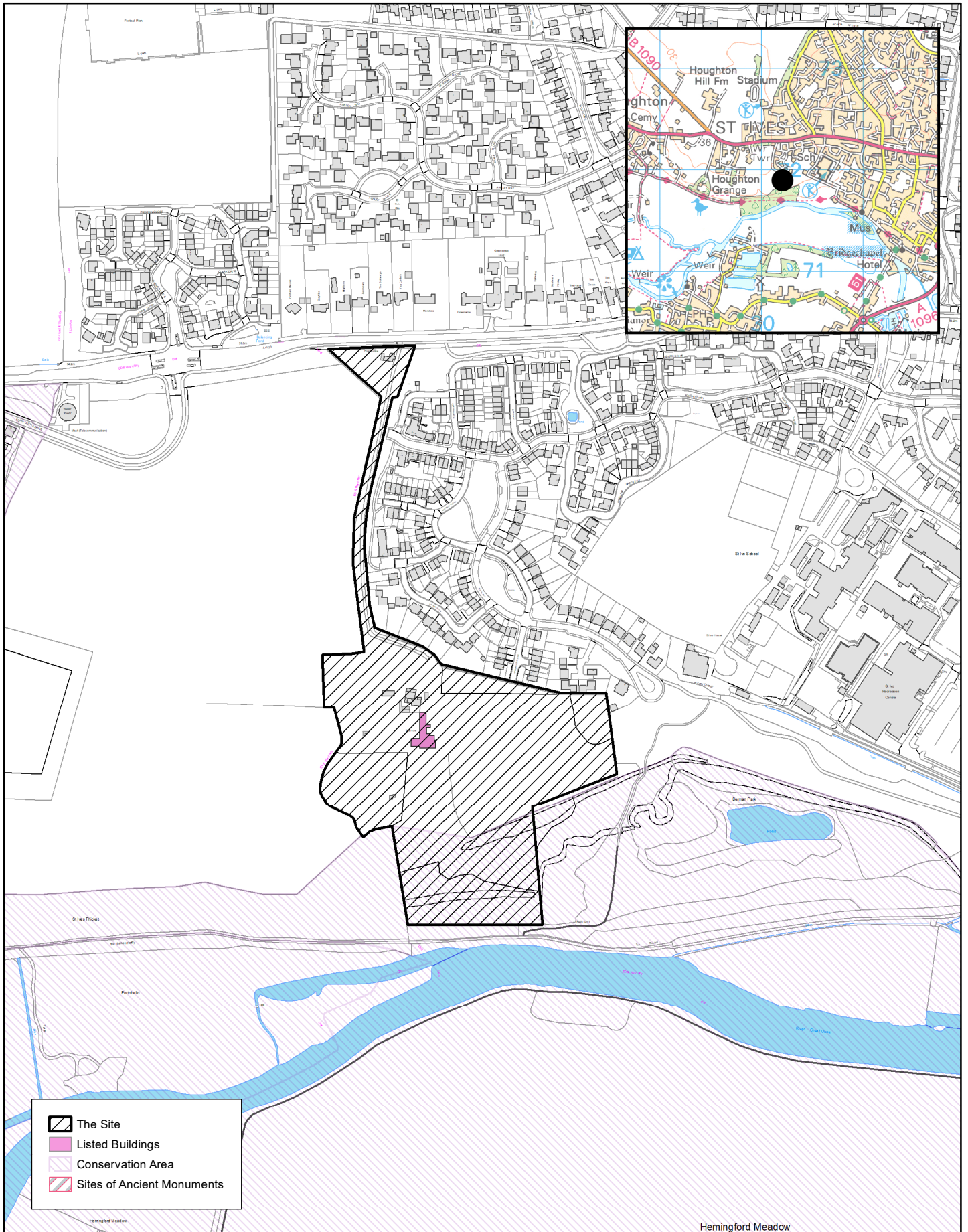
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Date Created: 02/11/2023

Location: St Ives

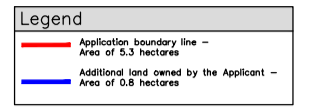
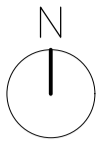
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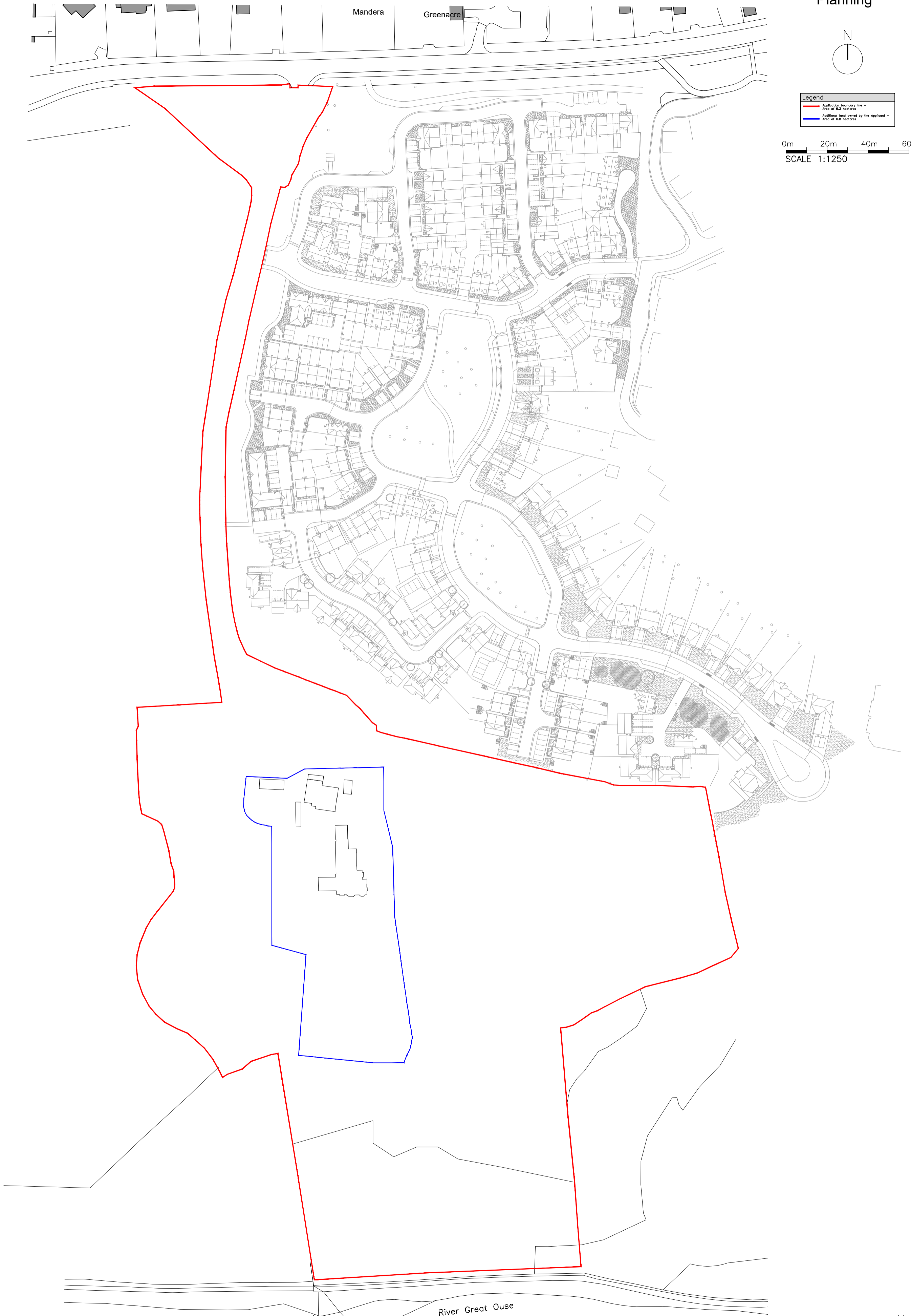
The How, Land to the South of Houghton Rd, Saint Ives

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Planning



0m 20m 40m 60m
SCALE 1:1250



Site Location Plan



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Project
Land to the South of Houghton Rd
Saint Ives, Cambridgeshire
Title
Site Location Plan
Scale
1:1250 @ A2
Date
October '19

Drawn
CP
Checked
LS

Drawing No.
437/18/FUL/PH1/PL1000

Revision
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