



Please ask for Liz Athorn
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The Chair and Members of Planning
Committee

27 June 2023

Dear Councillor,

Please attend a meeting of the PLANNING COMMITTEE to be held on WEDNESDAY, 5 JULY 2023 at 1.00 pm in Committee Room 2, the agenda for which is set out below.

AGENDA

Part 1(Public Information)

PLEASE NOTE THAT THE MEETING WILL BE PRECEDED BY THE FOLLOWING SITE VISITS.

Planning Committee Members should assemble in Committee Room 2 at 11am. Ward members wishing to be present should attend on site as indicated below:-

- | | | |
|----|---------|--|
| 1. | 11.30am | Land at Tapton Business Park, Woodall
Homes Ltd
CHE/22/00604/FUL |
|----|---------|--|

Members are reminded that only those attending on site will be eligible to take part in the debate and make a decision on these items, unless a reasonable adjustment is in place by prior arrangement. Members intending to declare a Disclosable Pecuniary Interest, or any other matter which would prevent them taking part in discussions on an item, should not attend the site visit for it.

A reasonable adjustment meeting will take place at 10.30am in Committee Room 2 for those not able to attend the site visits.

Ward members are invited to attend on site and should confirm their attendance by contacting Liz Athorn on tel. 01246 959612 or via e-mail: liz.athorn@chesterfield.gov.uk by 9.00 a.m. on Wednesday, 5th July 2023.

If you do not confirm your attendance, it will be assumed that you will not be attending on site.

Please ensure that all mobile phones are switched off during site visits and at the meeting at the Town Hall.

1. Apologies for Absence
2. Declarations of Members' and Officers' Interests Relating to Items on the Agenda
3. Applications for Planning Permission - Plans Determined by the Committee (Pages 3 - 106)

Yours sincerely,



Head of Regulatory Law and Monitoring Officer

Agenda Item 3

COMMITTEE/SUB	Planning Committee
DATE OF MEETING	5th July 2023
TITLE	DETERMINATION OF PLANNING APPLICATIONS
PUBLICITY	*For Publication
CONTENTS SUMMARY	See attached index
RECOMMENDATIONS	See attached reports
LIST OF BACKGROUND PAPERS	For each of the attached reports, the background papers consist of the file specified in the top right hand corner on the front page of the report. Those background papers on the file which do not disclose exempt or confidential information are open to public inspection at the office of the Development Management and Conservation Manager – Planning Services. Additional background papers (if any) will be separately listed in the report.

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Case Officer: Paul Staniforth
Tel. No: (01246) 959669
Ctte Date: 5th July 2023

File No: CHE/22/00604/FUL
Plot No: 2/1637

ITEM 1

FULL APPLICATION FOR RESIDENTIAL DEVELOPMENT COMPRISING DEMOLITION OF ALL EXISTING BUILDINGS, TO BE REPLACED BY THE ERECTION OF 83 DWELLINGS AND 41 APARTMENTS, 20 FLATS OVER GARAGES (FOG) TOGETHER WITH GROUND FLOOR COMMERCIAL UNITS (USE CLASS E), LANDSCAPING, INFRASTRUCTURE AND ASSOCIATED WORKS ON LAND AT TAPTON BUSINESS PARK, WOODALL HOMES LTD.

Local Plan: Strategic Site – SS3 Chesterfield Waterside & The Potteries
Ward: Spire

1.0 PROCEDURE

- 1.1 The Applicant, Woodall Homes, lodged an appeal against non-determination with the Planning Inspectorate on 11th May 2023.
- 1.2 The Application will now be determined as an Appeal by an appointed Planning Inspector through the process of a Public Inquiry which is scheduled to sit for 6 days commencing on 19th September 2023.
- 1.3 The Appellant's appeal has removed the Council's opportunity to determine the application. The Application would have been considered by the Planning Committee had the appeal not been issued.
- 1.4 The report to Planning Committee is therefore intended to establish the Council's position on the Application/Appeal Proposal ahead of the Inquiry. It provides advice to the Planning Committee to establish how they would have been minded to determine the application had the appeal not been issued.

- 1.5 Council Officers have engaged extensively with the Applicant/Appellant prior to the submission of the appeal and, contrary to assertions in the Statement of Case, the Council considers that it has acted positively and constructively in an open dialogue to reach an appropriate decision on the application, having regard to its location within the strategic site allocation within the adopted local plan.
- 1.6 This Report explains the Officers' view that although the Appeal Proposal is in accordance with certain parts of the development plan, the Appellant has failed (to date) to comply with certain requirements: specifically in respect of access/connectivity, open space and financial contributions. As a consequence, at the present time, Officers consider that the Appeal Proposal remains in conflict with the development plan. Whilst the Council has had careful regard to all material considerations, it is not considered that permission should be granted until this matter is resolved.
- 1.7 Subject to the Committee's resolution, Officers will continue to work with the Appellant through the course of the Appeal to seek resolution of these matters.

2.0 **CONSULTATIONS**

Local Highways Authority	Comments received – see report
Design Services	Comments received – concur with LLFA and YWS
Environmental Services	No comments received
Economic Development Unit	Comments received – no objection – see report
Crime Prevention Design Advisor	Comments received – some concerns – see report
Coal Authority	Comments received - no objection

Yorkshire Water Services	Comments received – no objection to revised detail – cond rec – see report
Environment Agency	Comments received – condition rec – see report
Derbyshire Wildlife Trust	Comments received – conditions rec – see report
Lead Local Flood Authority	Comments received – condition rec – see report
Chesterfield Canal Trust	Comments received – Comment received – see report
Trans Pennine Trail Partnership	Comments received – see report
CNEDRA Ramblers Assoc	Comments received – see report
DCC Countryside Service	No comments received
DCC Planning	Comments received – contributions sought – see report
Transition Town Chesterfield	Comments received – see report
Chesterfield Civic Society	Comments received – no objection – see report
CND Royal Hospital	Comment received – contribution requested – see report
NHS CCG	Contribution requested – see report
Tree Officer	Comments received – see report
Housing Services	No comments received
Housing Delivery Manager	Comments received – see report
Leisure Services	Comments received – see report

C/Field Cycle Campaign	Comments received – comments received – see report
DCC Archaeologist	Comments received – rec condition – see report
Ward Members	No comments received
Site Notice/Advert/Neighbours	No representations received

3.0 **THE SITE**

3.1 The application site is a part of the wider Chesterfield Waterside Regeneration area which is identified as a strategic site on the adopted local plan and which is located between Brimington Road to the east, the A61 bypass to the west and which stretches from the Brewery Street roundabout close to the railway station to the south through to the DCC depot site to the north. The site is located approximately 1 kilometre to the north of Chesterfield Town Centre.

3.2 The site extends to an area of 2.59 hectares and comprises of the existing Tapton Business Park as shown on the plan below which includes the north pointer in the box on the right hand side, adjacent to the scale. The River Rother bounds the west and part northern side of the site and which is defined by a green corridor of semi-wooded land. There are slivers of land between the site and the river edge which are unregistered land. Brimington Road forms the east site boundary and from which a vehicular access to the site is taken towards its southern end. To the north is the Great Places Housing scheme which is separated from the site by Footpath FP100 which links Brimington Road via old stone steps down to the river corridor. FP100 joins FP17 which is the riverside walking route for the Trans Pennine Trail and which runs in the unregistered land along the northern boundary of the site to an old bridge over the river at the north west corner of the site. After crossing the river the footpath continues along the river edge to the south but on its western side. This links to Holbeck Close and

onwards to the rail station and town centre beyond. To the north the riverside path links to the Chesterfield Canal towpath network and the Trans Pennine Trail cycling route which links up the gradient to Brimington Road and then along the public highway towards the town centre. From the old bridge over the river to the north west corner of the site, a footpath route rises up over a pedestrian bridge running to the west over the A61 bypass. This is a nodal point where a new footpath and cycle route provided through the adjacent Avant Homes site joins. To the south of the site is the site of an old Petrol Filling Station currently used as a car wash and for vehicle repairs and beyond which further to the south is the Parsons Electrical site.



3.3 The overall Waterside site comprises a mix of vacant parcels of land and buildings however there are a number of new buildings which have been developed. As well as the provision of the basin area to the south of Holbeck Close, the former Telephone Exchange site at the end of Holbeck Close is currently used on a temporary consent for caravan repair, maintenance and sales (Kimberley Caravans). A new office building with commercial ground floor has been developed at Basin Square (No 1 Waterside Place). Great Places built 19 affordable houses as phase 1 on the Brimington Road frontage and Avant Homes is developing 173 new dwellings on land accessed from the newly constructed road bridge from Brimington Road.

3.4 The Application Site itself comprises of a number of older industrial units which were developed in the 1960s and which accommodate businesses undertaking industrial uses including vehicle repairs, stone cutting, fabrication, steel casting warehouses and ancillary offices and administrative facilities. The site includes areas of open storage around the buildings with a generally untidy appearance. The internal access road runs around the main central building on the site.





Typical internal site photos



Google Streetview images of site from Brimington Road frontage

4.0

RELEVANT SITE HISTORY

4.1

CHE/859/7 – Use of land to develop Agricultural Implement factory
– Approved 22nd September 1959

4.2

CHE/1060/15 – Replace stone wall with chain link fencing –
Approved 6th November 1960

- 4.3 CHE/1060/16 - Use washland as car park – Approved 22nd November 1960
- 4.4 CHE/1264/18 – Use land for industrial purpose and car park – Approved 19th January 1965
- 4.5 CHE/666/29 – Factory Extension – Approved 21st June 1966
- 4.6 CHE/671/35 – Erect fork lift truck fabrication unit – Approved 26th July 1971
- 4.7 CHE/977/516 – Canteen at Factory – Approved 27th September 1977
- 4.8 CHE/295/105 – Extension to Paint Assembly shop – Approved 20th April 1995
- 4.9 CHE/08/00243/FUL – Construction of canal basin – Approved 10th June 2008.
- 4.10 CHE/09/00662/OUT – Outline for Mixed Use Regeneration scheme comprising residential (1560), retail (A1, A2, A3, A4, A5), Offices (B1), Doctors Surgery and Creche (D1), 2 hotels (C1), Health and Fitness (D2), Nursing Home (C2), ancillary creative uses including possible arts centre, canal link, open space and eco and linear parks, new public realm and car parking including a MSCP. – Approved with Conditions 9th March 2011 (Associated s106 legal agreement).
- 4.11 CHE/13/00464/REM – Approval of Reserved Matters for 19 dwellings, access, parking and landscaping - Approved with Conditions 8th November 2013.
- 4.12 CHE/13/00817/REM1 – Variation of Conditions of outline CHE/09/00662/OUT – 5 (phasing plan); 6 (A61 footbridge Improvement); 8 (public realm strategy); 27 (fish passage around weir); 37 (northern access to Brimington Road); 38 (Toucan crossing on Brimington Road). – Approved 26th February 2014.

- 4.13 CHE/13/00833/EIA – Screening request associated with variation of conditions 5, 6, 8, 27, 37 and 38 of outline CHE/09/00662/OUT – Determined 24th December 2013.
- 4.14 CHE/15/00119/FUL – New road bridge and access road off Brimington Road – Approved 1st July 2015.
- 4.15 CHE/15/00520/NMA – Non-Material Amendment to add condition to outline CHE/09/00662/OUT specifying approved plans and minor changes to conditions 5 (phasing plan), 34 (limit on other accesses), 35 (Highways and access infrastructure staging plan), 38 (Toucan crossing on Brimington Road), 39 (timing for provision of Holbeck Close signalisation), 40 (multi user link to station from Brimington Road) and 45 (streets to base course level) – Approved 4th January 2016.
- 4.16 CHE/16/00183/REM1 – Variation of Conditions 3 (Tie to Design & Access Statement and masterplan), 10 (Code for Sustainable Homes), 11 (BREEAM very good), 12 (10% renewable energy), 13 (bird and bat opportunities), 14 (household recycling), 39 (timing for provision of Holbeck Close signalisation) and 47 (approved plans) of outline CHE/09/00662/OUT – Approved 12th May 2017.
- 4.17 CHE/16/00187/REM – Approval of Reserved Matters for layout, scale and access for Basin Square area (increasing storey heights) – Approved 16th December 2016.
- 4.18 CHE/16/00188/FUL – temporary surface car park and enabling earthworks to create development platforms in Basin Square area – Approved 14th June 2016.
- 4.19 CHE/16/00189/EIA – Screening Request for temporary car park and enabling works – Determined 1st April 2016.
- 4.20 CHE/16/00190/REM – Approval of Reserved Matters for Acoustic Bund and Enabling Earthworks – Approved 29th June 2016.
- 4.21 CHE/16/00192/EIA – Screening Request for enabling development platforms – Determined 1st April 2016.

- 4.22 CHE/16/00475/EIA – Screening Request for dredging works to river – Determined 1st August 2016.
- 4.23 CHE/16/00529/FUL – Dredging River to make navigable with associated works – Approved 10th October 2016.
- 4.24 CHE/17/00741/NMA – Non-Material Amendment of CHE/15/00119/FUL to change bridge from skew design to straight and alterations to retaining walls – Approved 31st October 2017.
- 4.25 CHE/18/00083/REM1 – Variation of Conditions 3 (tie to Design & Access Statement and Masterplan), 5 (phasing plan), 8 (public realm strategy), 14 (archaeological recording and WSI), 18 (tie to FRA), 24 (Water Vole management strategy), 25 (fish passage around weir), 33 (highway and access staging plan) and 45 (approved plans) of CHE/16/00183/REM1 to omit canal arm – Approved 24th April 2018.
- 4.26 CHE/18/00599/FUL – New road bridge and access road off Brimington Road – Approved 25th October 2018.
- 4.27 CHE/18/00626/REM1 – Variation of Conditions 31 (highways improvements), 37 (junction improvements at Holbeck Close/Brimington Road), 39 (junction improvements at Brewery Street/Brimington Road), 41 (pedestrian crossing) and 45 (approved plans) of CHE/16/00183/REM1 – Approved 17th December 2018.
- 4.28 CHE/19/00007/REM – Approval of Reserved Matters of CHE/18/00083/REM1 for 173 dwellings, open space and associated infrastructure in Park and Island areas for Avant Homes – Approved 12th June 2019.
- 4.29 CHE/19/00116/REM – Approval of Reserved Matters of CHE/18/00626/REM1 for office building in Basin Square area – Approved 26th July 2019.
- 4.30 CHE/19/00166/COU – Change of Use of Engineering workshop (Multiplex site) to Place of Worship for IKON Church – Refused 23rd July 2019.

- 4.31 CHE/20/00268/NMA – NMA of CHE/18/00626/REM1 re condition 31 (highway improvements) – Approved 21st May 2020.
- 4.32 CHE/20/00302/NMA – NMA of CHE/18/00626/REM1 re condition 35 (access to Brim Road 2A) – Approved 10th June 2020.
- 4.33 CHE/20/00544/NMA – NMA of CHE/18/00626/REM1 re condition 36 (Toucan 2C) – Approved 6th October 2020.
- 4.34 CHE/21/00018/NMA – Avant – NMA of CHE/19/00007/REM – amend layout of apartment blocks 1 and 2 and delete footpath connection (cond 28) – letter 28th July 2021 not accepted as NMA
- 4.35 CHE/21/00184/REM – Reserved Matters of CHE/18/00626/OUT for hotel and Apartments at Basin Square – Undetermined.
- 4.36 CHE/21/00186/REM – Reserved Matters of CHE/18/00626/OUT for MSCP at Basin Square – Undetermined.
- 4.37 CHE/21/00263/NMA – NMA of CHE/19/00116/REM to allow re-position of substation – Approved 17th May 2021
- 4.38 CHE/21/00498/NMA – NMA of CHE/19/00116/REM to allow amendment to louvres and reduction in recess of recessed panels – Approved 10th August 2021
- 4.39 CHE/21/00754/REM1 – Avant – Variation of condition 1 of CHE/19/00007/REM to alter and reposition apartments to Brimington Road frontage – Approved 16th May 2022.
- 4.40 CHE/22/00534/NMA – Basin Square Office – NMA of CHE/19/00116/REM to vary condition 5 to requirement within 6 months – Approved 25th July 2022
- 4.41 CHE/23/00137/EIA – Screening Opinion for residential development of 144 dwellings and retail space at Tapton Business Park for Woodall Homes Ltd – EIA Not Required 21st March 2023

4.42 CHE/23/00168/DEM – Demolish portal frame single skin commercial building at Tapton Business Park for Woodall Homes – Prior Approval Not required 31st March 2023

4.43 CHE/23/00236/DEM – Demolish portal frame single skin commercial building at Tapton Business Park for Woodall Homes – Prior Approval Not required 17th May 2023

5.0 **THE PROPOSAL**

5.1 The Application is a full submission and proposes the re-development of the site with 83 dwellings, 41 apartments and 20 flats over garages together with commercial units in the ground floor of the apartment block. The scheme includes landscaping and associated works. The scheme has been reduced from 145 to 144 units through the course of processing the submission. An extract from the latest site layout plan is attached below.

5.2 The scheme reuses the existing vehicular access position from Brimington Road providing access into the site with a new roadway, 'Main Street', which runs down the levels through 'The Square' to 'Rotherside Road' at the west boundary of the site. A simple hierarchy of streets is proposed across the site.

5.3 'Rotherside Road' runs parallel to and along the western edge of the site providing access to dwellings on the northern portion of the site and which is fronted by three and four storey gable fronted properties with roof terraces along the riverside. The river fronting houses continue to the south part of the site but which are accessed by an extension of 'Rotherside Road' into a private drive arrangement. On the opposite side of 'Rotherside Road' between the roadway and the river there is an open space area which the applicant intends as an opportunity to provide a new riverside path and landscaping. The plan shows the inclusion of a trim trail with equipment at 6 locations along the western and northern side of the site.



5.4 'Tapton Bridge Way' links back up the levels from 'Rotherside Road' towards Brimington Road and which is aligned with FP19 to

the east of Brimington Road which links via a bridge over the railway and which is also fronted by three and four storey gable fronted properties. A snaking path connects 'Tapton Bridge Way' to Brimington Road. 'Brimington Mews' runs parallel to Brimington Road and connects 'Main Street' with 'Tapton Bridge Way' however 'Brimington Mews' is a lower category street than 'Main Street', 'Tapton Bridge Way' and 'Rotherside Road' where a landscaped pedestrian priority shared surface space is provided in its design. 'Brimington Mews' provides rear access to the undercroft parking to the rear of two and three storey town houses fronting Brimington Road (three and four storey to the rear). These dwellings include garden terraces above the undercroft parking areas.

- 5.5 'Rotherside Mews' is a loop around the northern end of the site and would be of a similar shared surface space to 'Brimington Mews' and which provides access to predominantly three storey properties. A footpath link is shown to the boundary intending to connect to FP100 at the north end of the site adjacent to a proposed Pumping Station enclosure. To the north west corner of the site a nodal feature is proposed which is shown to connect the footpaths on site to the boundary where FP17 borders along the northern edge of the site. An area is identified for public art at this nodal point.
- 5.6 A total of 289 parking spaces are proposed across the site which produces an average of 2 spaces per residential unit.
- 5.7 The scheme includes a larger-scale building up to five storeys which accommodates the apartments and commercial units and which is located on the Brimington Road frontage toward the southern end of the site. The plans show two commercial units of 114m² and 66m² respectively. The submitted scheme also included 8 No affordable housing units in a two storey block of 1 bed flats at the southern end of the Brimington Road frontage but which would be accessed from the west beneath the residential block of plots 50-57.

5.8 The scheme proposes the following housing mix:

- 8 No 1 bed affordable flats
- 22 No 1 bed apartments
- 19 No 2 bed apartments
- 10 No 1 bed Flats over Garages
- 10 No 2 bed Flats over Garages
- 39 No 3 bed dwellings
- 36 No 4 bed dwellings

5.9 The scheme is designed in a modern style which reflects the characteristics of the Avant development on the adjacent site and which generally comprises of red brick buildings with grey roof tiles.





5.10 There are a number of constraints that have been identified which impact on the proposals and to which the scheme responds. These are;

- 1.2m diameter combined sewer pipes below ground, with easement orientated north-south running the full length of the application site [as shown on drawing n1950-008-02 Yorkshire Water Constraints Plan];
- 2 No combined sewer overflows located to the northern boundary;
- Noise generated from Brimington Road and the mainline railway;
- Flood Zone 3 covering the majority of the site;
- Level differences across the site east to west.

5.11 The application is supported by the following documents:

- House Type Pack by Nineteen 47
- Cross sections n1950_300 and 301
- Materials and Boundary Treatment Plan n1950_600D
- Planning Layout n1950_008G
- Landscaping Plans 0001-PO5; 0002-PO5 and 0003-PO5;
- Flood Risk Assessment by Avie Consulting Ltd – Aug 2022
- Design & Access Statement by Nineteen47 dated January 2023;
- 3D Visuals Pack by Nineteen 47 – 15 viewpoints dated Mar 2023;
- Travel Plan by BWB Consulting Ltd. Dated Dec 2022;
- Transport assessment by BWB Consulting Ltd dated Aug 2022;
- Biodiversity Net Gain Report by FPCR dated Dec 2022;
- Arboricultural Assessment by FPCR dated Dec 2022;
- Ecological Appraisal by FPCR dated Aug 2022;
- Planning Statement by DLP Planning dated Aug 2022;
- Phase 1 Geotechnical and Geo-Environmental by Eastwood & Partners dated 30th March 2022;
- Noise Assessment by BWB dated Aug 2022;

- Heritage Impact Assessment by Locus Consulting Ltd dated Aug 2022;
- Townscape Visual Impact Appraisal by FPCR dated Aug 2022;

6.0 **CONSIDERATIONS**

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 provides that, ‘applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise’. The relevant Development Plan for the area comprises of the Chesterfield Borough Local Plan 2018 – 2035 (adopted 15 July 2020).

6.2 **Chesterfield Borough Local Plan 2018 – 2035**

CLP1 Spatial Strategy (Strategic Policy)
 CLP2 Principles for Location of Development (Strategic Policy)
 CLP3 Flexibility in Delivery of Housing (Strategic Policy)
 CLP4 Range of Housing
 CLP6 Economic Growth
 CLP8 Vitality and Viability of Centres
 CLP9 Retail
 CLP11 Infrastructure Delivery
 CLP13 Managing the Water Cycle
 CLP14 A Healthy Environment
 CLP15 Green Infrastructure
 CLP16 Biodiversity, Geodiversity and the Ecological Network
 CLP17 Open Space, Play Provision, Sports Facilities and Allotments
 CLP18 Chesterfield Canal
 CLP19 River Corridors
 CLP20 Design
 CLP21 Historic Environment
 CLP22 Influencing the Demand for Travel
 SS3 Chesterfield Waterside and the Potteries

6.3 **Other Relevant Policy and Documents**

National Planning Policy Framework (NPPF)

Part 2. Achieving sustainable development

Part 4. Decision-making

Part 5. Delivering a sufficient supply of homes

Part 6. Building a strong, competitive economy

Part 7. Ensuring the vitality of town centres

Part 8. Promoting healthy and safe communities

Part 9. Promoting sustainable transport

Part 11. Making effective use of land

Part 12. Achieving well-designed places

Part 14. Meeting the challenge of climate change, flooding and coastal change

Part 15. Conserving and enhancing the natural environment

Part 16. Conserving and enhancing the historic environment

Supplementary Planning Document - Successful Places'
Residential Design Guide

6.4

Key Issues

- Principle of development
 - Land use and principle
 - Masterplan
 - Infrastructure
 - Affordable Housing
 - Play/Open Space
 - CIL Liability
 - Viability
- Design and appearance of the proposal
- Highway safety
- Heritage
- Impact on neighbouring residential amenity
- Biodiversity
- Ground conditions
- Drainage and Flood Risk

Principle of Development

Land Use and Principle:

- 6.5 Paragraph 10 of the NPPF identifies that, at the heart of the Framework is a presumption in favour of sustainable development. Paragraph 11 of the Framework states that decisions should apply a presumption in favour of sustainable development and provides a definition of sustainable development for decision taking as:
- c) approving development proposals that accord with an up-to-date development plan without delay; or*
 - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*
- 6.6 It is considered in this case that the 2018-35 Local Plan is up to date in so far as policies concerning the Waterside area comprising the Appeal Site are concerned. The Council can also demonstrate a five year supply of deliverable housing sites and is exceeding 100% in the Housing Delivery Test. NPPF 12 is engaged, which states that “Where a planning application conflicts with an up-to-date development plan .. permission should not usually be granted.”
- 6.7 Local Plan Policies CLP1 and CLP2 seek to concentrate new development within walking and cycling distance of centres and in locations in need of regeneration. The Waterside Regeneration Area (and the Application/Appeal Site) sits within an area where this objective is of particular importance. The Site is sustainably located close to the town centre on brownfield land. Policy CLP2, in particular, requires development to ‘maximise’ opportunities for walking, cycling and the use of public transport to access a range of key facilities. It is crucial that appropriate walking and cycling connections are provided in a comprehensive manner to achieve the necessary links to the surrounding facilities.

- 6.8 There is a significant, relevant planning history relating to the wider Waterside Regeneration Area as referred to in Section 4 above. A key part of the planning history is the grant of outline Planning Permission CHE/09/00662/OUT, having regard to an associated Design and Access Statement and Masterplan. This Application was also considered at the time of the Examination of the Local Plan. The content of that Application and the objectives it sought to achieve remain very important in terms of the delivery of the Regeneration Area, including the area comprising the Application Site/Appeal Proposal.
- 6.9 Since the grant of outline planning permission in 2011, the redevelopment of the Waterside site has been a priority for the Council on the basis that it is a strategic brownfield regeneration opportunity close to the town centre and public transport hub and thereby a sustainable development opportunity. It is also a priority in terms of delivering the restoration of Chesterfield Canal, one of the Council's priorities in the Council Plan. The Council has promoted the Waterside development to ensure a contribution to jobs, the restoration of the canal and river to navigation with a new basin, the achievement of a mix of uses, improved access to the Regeneration Area including the footpath and cycle network, a high-quality environment and a scheme which manages flood risk. The Waterside site has been the subject of a specific Strategic Place Making policy in successive Local Plans since 2006, prior to the grant of the outline permission. All of these objectives remain current and of significant importance today, as the redevelopment continues.
- 6.10 The Application Site forms part of the Strategic Site Allocation SS3 in the adopted Chesterfield Borough Local Plan (adopted 2020): The policy states (in full):

“Within the Chesterfield Waterside area as set out on the Policies Map, the council will support development proposals that contribute towards:

- *creating jobs in office, industry, retail, tourism and education;*
- *restoring Chesterfield Canal and the River Rother to navigation and creating a new canal terminus;*
- *achieving a mix of uses including residential (up to 1550 new homes), office (up to 30,000 sqm), employment, leisure, health and fitness, hotels, creche, doctor's surgery and nursing home;*
- *improving access to the site including enhancing the footpath and cycle network through the site and making links to the wider Trans Pennine Trail and Chesterfield Railway Station;*
- *a high quality urban environment including eco-park and green infrastructure corridor;*
- *managing flood risk.*

Land within the Chesterfield Waterside area will be comprehensively redeveloped in accordance with an approved masterplan, including provision of a new Local Centre located adjacent to the existing canal basin.

Planning applications submitted for development outside of the existing outline planning permission, but which otherwise deliver the objectives of the approved masterplan, will be expected to contribute towards the overall delivery of the infrastructure required for comprehensive development, secured through a section 106 agreement.”

- 6.11 Policy SS3 is accompanied by a Masterplan on the next page (p105). The status of the Masterplan and the Policy SS3 reference to “an approved Masterplan” are discussed in the next section below, The Masterplan shows the Application Site as part of the Riverside East Character Area and identified this area primarily for residential development. The Masterplan also envisages the dwellings mainly as apartments. Subsequent evidence prepared by BNP Paribas on the market for Waterside

has indicated that a higher ratio of houses to apartments would be a better fit for the market and the ongoing review of the masterplan is expected to move in this direction. There is therefore no objection to the principle of the development of high density family living in this location. It is considered that the Application's proposed house/dwelling mix will further the aims of the Strategic Allocation and is therefore in accordance with Policy SS3 in this respect.

- 6.12 The Application also includes 180sqm of development for use class E with the drawings showing two retail units, one of 114 sqm and one of 66sqm. The end use of these units is not specified but the reference on the plan to retail is indicative of shops. Neither the Masterplan in the Local Plan nor the Design and Access Statement envisage any retail within this character area.
- 6.13 Policy SS3 and the Masterplan envisages the creation of a new Local Centre and retail and food provision focused around Basin Square and a retail unit has already been delivered on the ground floor of the recently completed office, One Waterside Place, which is currently unoccupied.
- 6.14 However, Policy CLP9, makes provision for small scale retail outside of defined centres, specifically: *“Individual small shops designed to serve local day to day needs will normally be permitted outside defined centres (as shown on the Policies Map) subject to consideration of the impact test thresholds set out [in policy CLP9].”* The relevant threshold for the impact test in this location would be 200sqm (gross) as it would be within 500m of the basin where the Local Centre is to be located. The operative parts of the policy are ‘individual small shops’ and ‘designed to serve local day to day needs’. This means that a shop should be standalone and providing convenience goods.
- 6.15 The total floorspace indicated in the application form is under the Impact Assessment threshold (at 180sqm compared to a 200sqm threshold). The application shows two retail units, one of 66sqm

and one of 114sqm. As two shops, they cannot be considered under 'individual small shops', and the proposal is therefore in conflict with the policy. The Council has carefully considered the appropriate consequence of this conflict. If an individual shop were permitted in this location, in order to accord with policy CLP9 it should be subject to a condition restricting the range of goods that can be sold from the premises so that it meets the policy test in CLP9 of serving 'local day to day needs'.

6.16 The inclusion of additional retail space on this site risks diluting the demand for space at Basin Square, making it more difficult to deliver the proposed Local Centre. The inclusion of retail in this location has the potential to harm the creation of the planned local centre at Basin Square. Subject to the inclusion of such a condition, it is considered that the inclusion of two shops would be acceptable, having regard to the development plan. This will be considered further with the Applicant/Appellant as part of the Appeal.

6.17 Policy CLP6 requires that the applicant should set out how they will work with the Council covering recruitment, training and procurement to benefit the local economy and supply chain. The Council's Economic Development Officer (EDU) has commented that given the nature of the proposal there will be significant employment, training and supply chain opportunities created during the construction of the development. The EDU recommends that a local labour/ supply chain clause is negotiated and secured via either a s106 agreement or planning condition which would encourage local employment, training and supply chain opportunities during the construction phase to promote these opportunities to local businesses and local people. This is also supported by the County Council in line with their Employment and Skills Strategy.

Masterplan:

6.18 Policy SS3 requires that the area "*will be comprehensively redeveloped in accordance with an approved masterplan*". A

Masterplan for the area was approved as part of the outline planning permission CHE/09/00662/OUT granted for the whole development, including the Application Site. Condition 3 of the outline permission stated “Outline consent is granted on the basis of the principles set out in the Design and Access Statement dated December 2009 and approved Indicative Masterplan (drawing no. MM100 rev G). All reserved matters applications shall demonstrate how any proposed development accords with this Indicative Masterplan and its Design and Access Statement.”.

- 6.19 The Council granted two s73 permissions CHE/16/00183/REM1 and CHE/18/00083/REM1 on 12th May 2017 and 24th April 2018 respectively. Following these decisions, the masterplan was updated to reflect the evolution of the development of the site and the latest aspirations for the wider site development. In drafting the Local Plan and consideration of previous planning applications for the Waterside development, “the approved masterplan” has always been considered to consist of (1) the approved Masterplan (2011) and (where applicable) (2) later versions of the same Masterplan reflecting changes under further permissions. That is because although the permissions have changed certain elements of the original layout, a number of core overarching objectives remain – for example in respect of the importance of providing access throughout the whole Regeneration Area, and the promotion of pedestrian/cycle access to the river/waterside. The three versions are included below. It can be seen that although certain changes have taken place, there has also been significant continuity overall.
-



2011



2016



2018

6.20 The 2011 Outline Permission lapsed in respect of new applications received within the Waterside area on 9th March 2021 but it still applies in respect of undetermined reserved matters applications.

- 6.21 The Council is presently in the advanced stages of updating the Masterplan (as discussed further below).
- 6.22 The Applicant/Appellant has submitted as part of the Statement of Case (following submission made during the application determination) that:
- The indicative masterplan and Design and Access Statement (DAS) which supported the 2011 outline for the wider Waterside site are no longer capable of commanding any material weight in decision-making;
 - There is no policy basis to require Woodall to include land outside the red line or to include particular infrastructure (eg a footbridge) simply to accord with the indicative principles of a DAS and masterplan which have lapsed, have been superseded and have been consistently departed from and which the Council accepts are no longer fit for purpose and will be replaced;
- 6.23 The Applicant/Appellant bases a significant part of its case on the fact that the Council has approved different layouts for both the Great Places and Avant sites, from that shown in the Masterplan.
- 6.24 Officers have considered Policy SS3 and all relevant circumstances in considering whether the Application Proposal conflicts with the development plan and in determining the weight to be given.
- 6.25 It is considered that there is a conflict with Policy SS3 arising from the failure to (1) incorporate and deliver access routes and riverside open space adjacent to the Site and (2) thereby to ensure that this area is redeveloped in a comprehensive manner, as required by the text of the policy and the Masterplan. The Council has assessed the proposal against the
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current approved Masterplan namely the version re-produced in the adopted Local Plan. Later versions following the s73 decisions do not alter the position in respect of the Application Site. In due course, it is also correct for the Council to consider any updated version of the Masterplan that has been approved by the Council (it would also be appropriate to consider any advanced drafts of such a document immediately prior to such approval). The Council does not agree with the Appellant's position as set out in the Statement of Case that the approved version of the Masterplan should be attributed no weight and thereby disregarded. This is not a correct interpretation of Policy SS3 and does not reflect all the relevant circumstances, notably the continuing relevance of the objectives of the Masterplan.

6.26 Policy SS3 was examined and adopted less than 3 years ago on 15 July 2020. The inspector's report was issued on 27 May 2020, following consideration of all written evidence and submissions and hearing sessions. The Inspector recommended that Policy SS3 was sound, as modified. The inspector stated in his report at paragraph 71 that "*For effectiveness the latest approved version of the masterplan should be included at page 98 of the plan*". The Inspector was therefore well aware that the masterplan was a dynamic document. It was plainly considered that the masterplan remained a relevant component of the policy and should form the basis for assessment of all proposals. It was also envisaged that a later document could be approved and should continue to guide development on the site. This is reflected in the text: "an approved masterplan".

6.27 Since the adoption of the Local Plan, there have been two main changes that have been made to the Masterplan (through the section 73 applications) – but the rest of the Masterplan remains in much the same form, including in respect of the Application Site:

(i) CHE/16/00183/REM1 – Update with revised layout in the Basin Square Character Area;

(ii) CHE/18/00083/REM1 – Update with removal of the additional section of canal through the ‘Park’ character area;

- 6.28 The masterplan has not changed in in the Application Site area, nor in any significant way elsewhere. It continues to reflect the objectives in SS3 (a) to (f). The sub paragraphs within the policy reflect important objectives of comprehensive development of the whole area, promoting regeneration and high-quality development across that area, all of which are consistent with national policy and the wider development plan. The developments which have been approved across the Waterside site (Great Places and Avant Homes) have been designed to comply with Policy SS3.
- 6.29 Policy SS3 does not tie the masterplan to the Outline Permission. It refers simply to “an approved masterplan”, i.e. the most recent such document. Moreover, the policy wording allows for another masterplan (including one in similar terms) to come forward. The expiry of the outline permission therefore does not mean that the masterplan has now become immaterial and not a relevant consideration. It would also be wrong to accord the document “no weight” as per the Applicant’s/Appellant’s submission. Whilst the Council may have made decisions to depart partially from the layout of the Masterplan in other consented schemes, this does not mean that the entire document should be set to one side. The masterplan did not set, for example, the specific layout of the Great Places or Avant Homes sites. However the fundamental components of the masterplan have remained consistent, notably in respect of access and accessibility through the whole Waterside Regeneration Area. The Masterplan gives direct effect to SS3(d)’s policy objective “[improve] access to the site including enhancing the footpath and cycle network through the site and making links to the wider Trans Pennine Trail”. It illustrates how this should be delivered in the Application Site location. All of the key elements necessary to deliver that are set out in the Masterplan and have remained unchanged following the Section

73 decisions, including (1) a new/upgraded bridge across the river Rother and (2) improvement to the riverside footpath/cycleway, including onwards connections to other parts of the comprehensive scheme.

- 6.30 The Local Plan's reference on page 105 to the masterplan as "illustrative" (read alongside Policy SS3's wording "an approved masterplan") also supports the view that the masterplan should be approached in a dynamic fashion, such that the latest approved version can be used in assessing the appropriateness of development schemes.
- 6.31 The Masterplan is currently being reviewed and updated by the Council's Strategic Planning Team, with advice and technical support from AECOM. The draft masterplan is expected to be approved for consultation at the meeting of Cabinet on 18th July 2023. There will be a period of consultation with landowners and developers within the Site. The principle of development and general principles have already received wide scrutiny through the examination of the Local Plan. It is currently expected that the new/updated Masterplan, with any revisions arising from the consultation, will be reported to the Council's cabinet on 19th September for approval. This will then form the approved masterplan for the purposes of Policy SS3.
- 6.32 The Applicant's/Appellant's suggestion that it cannot be required to have regard to, and make provision for, matters beyond its own boundary on the basis that it is not consistent with (a) the development plan; (b) national policy; (c) material considerations such as the importance of access/accessibility and connectivity to wider networks. Policy SS3 (especially (d)) provides a strong policy foundation for such a requirement. Policy SS3(d) expressly requires proposals to look to accessibility across the wider area, seeking improvements to networks and making links to the wider Trans Pennine Trail. The NPPF also expressly requires the enhancement and delivery of sustainable transport, recreation and regeneration. In the instant case, the Applicant/Appellant has

not taken the necessary steps to put in place and/or partly fund infrastructure immediately adjacent to (but outside) the Site's red line boundary. This shall be considered further in the section on "Accessibility" below. The result of this omission/refusal by the Appellant is that the Application/Appeal proposal does not accord with Policy SS3 both in respect of accessibility/wider connectivity and also in respect of the requirement for comprehensive development within the Regeneration Area.

6.33 The Application Site sits within what is referred to as the 'Riverside East' character area in the Masterplan. The approved Masterplan sets out a series of key design principles relating to the overall development that are particularly relevant to this location including the networks of vehicle, walking and cycling routes, open space and landmarks and key views, eg:





6.34 Policy SS3 sets out that a key requirement of the Masterplan is to secure the comprehensive development of the land . The Design & Access Statement sets out a series of Masterplan Principles specific to Development in this Character Area as follows:

Connections

- Primary pedestrian/cycle route running north-south alongside Riverside Park
- Secondary pedestrian streets connecting Brimington Road with the riverside
- New pedestrian bridge across River Rother
- New riffle weir creates navigable stretch of River Rother up to the Canal Basin
- Linear Riverside Park with timber jetties providing controlled access to rivers edge
- Views out from residential buildings and communal courtyards to riverside
- Native emergent planting and flood meadow along riverside
- 5m habitat buffer
- Reduced traffic speeds and pedestrian crossings along Brimington Road
- Residential frontage overlooking riverside terraces

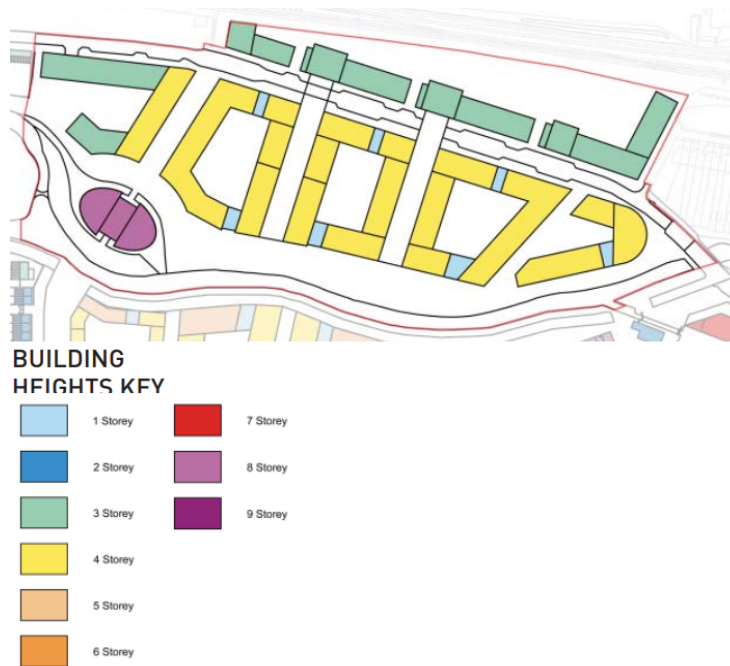
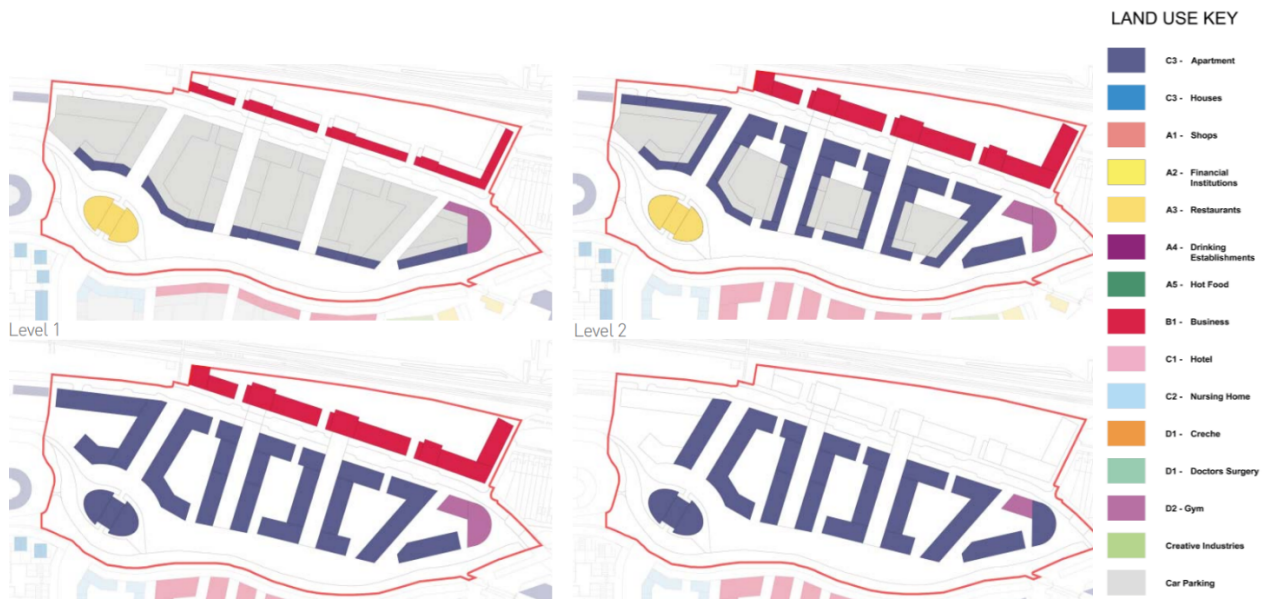
- *Appropriate use of lighting and CCTV*
- *Residential development located around central communal space*
- *Play provision located within the Riverside Park and communal podium gardens*
- *Breaks in building form allow framed views out from communal podium gardens to riverside*
- *Views from Brimington Road to riverside*
- *Urban SUDs swales within pedestrian streets*
- *New Linear Riverside Park with opportunities for play, recreation and habitat*
- *Landmark residential tower*
- *Ground floor parking hidden behind building frontage*
- *Perimeter block layout with podium courtyards above at grade parking*

6.35

The approved Design and Access Statement includes illustrative guidance relating to land uses and building heights as shown in the extracts below:

DETAIL PLAN & CORE DESIGN PRINCIPLES





6.36 The Application Site boundary only covers part of the Riverside East Character Area. It excludes much of the riverbank, footpath to the north, and the bridge over the Rother. The Application Site also excludes land on the east side of Brimington Road (former Severn Trent Water Board site) and land to the southern end of the Site including the car wash site (former Petrol Filling Station) and the Parsons Electrical site further to the south

6.37 The unregistered land is in two parts: [1) A narrow strip of land, including the riverbank, to the south west of the Application Site sandwiched between the river and buildings on the Site and which is generally treed and unmanaged (“the South-Western parcel”); (2) Land to the north of the Application Site between the site and the river edge which includes the route of FP17 and the bridge over the river (“the Northern parcel”). This parcel of land also includes the route of FP100 which links Brimington Road down to the river corridor via a set of stone steps. The areas of unregistered land are shown on the plan below which includes the north pointer (directing to the right).



Whilst the land is unregistered, the landowner of the Application site has direct access to the south western parcel of the land and has placed structures upon it. There is extensive evidence of historic planning application details indicating ownership of the area up to the river’s edge. The omission of this land is the cause of the Council’s primary concern in respect of access/accessibility, wider connectivity and delivery of a comprehensive solution.

6.38 In addition, the application site boundary runs through existing buildings on the Site and the Applicant/Appellant has sought

separate demolitions through the Prior Approval process to deal with the anomaly, which have now been granted. Nonetheless the exclusion from the site of the unregistered land shown in the excerpt above means that the development of the site is not being undertaken in a comprehensive manner. It is considered that the boundary of the site should have been extended to include all of the land between the site and the River Rother, and the land including the footpath and pedestrian bridge to the north (land which is not currently registered) to allow for proper design and delivery of the required infrastructure.

- 6.39 The treatment of the edges to the site are vital to the successful integration of the development into the wider site area and achievement of a good quality scheme. Currently the land is overgrown and littered with debris and requires management. It provides a physical and visual barrier between the site and the river, directly contrary to the Masterplan principles and the objectives of policy SS3 identified above. Furthermore, this land is the key outlook and a “USP” for the houses being developed on the Site which rely upon an attractive outlook toward the river. It is therefore essential that the unregistered land is properly maintained and delivered as part of the current Appeal/Application.
- 6.40 The Council wrote to the Applicant/Appellant on 20th April 2023 and advised of the procedure which could be followed to progress the issue of the unregistered land within the South Western parcel to achieve a comprehensive solution. It is considered that the site owner can claim ownership of the South Western parcel through adverse possession. The Council has provided the evidence of historic ownership, notably through the historic applications. The Applicant has not responded on this matter to date.
- 6.41 If the Applicant/Appellant is unable to deliver such improvements themselves, the alternative would be for the Council to seek to acquire and improve the land, for example through an unopposed

Compulsory Purchase Order (CPO) process. In such a circumstance the Applicant/Appellant would be expected to provide a S106 commuted sum to the Council to cover acquiring this parcel of land and to bring it up to the required standard with the necessary landscape and habitat improvements. As the comprehensive development and management of the Waterside site will rely on effective long-term management and maintenance, any planning obligation should also include provisions to bring the long term management of the land under the same arrangements as the adjacent stretch of riverbank that is within the application boundary. This is considered to be only relevant to the South West parcel as the footpath to the north will not require acquisition by Woodall, as it is already maintained by Derbyshire County Council. CPO acquisition is also considered to be the last resort and should only be entertained in the event that the simpler solutions of inclusion in the boundary, registering the land, or adverse possession are not possible. The potential for the applicant to argue delay has been considered however if this matter is not resolved as part of this scheme, then it would just simply delay the completion of this part of the development as any other planning obligation would. It is anticipated that for the South West parcel that if the land were included as a part of the site then a condition could be used to trigger the improvements either as a percentage of the dwelling units or a particular part of the site that cannot be implemented until it is resolved.

- 6.42 The Northern parcel of unregistered land includes an existing footpath, PROWs FP 17 and FP100. There is no evidence that this has been in the same ownership as the Application site in the past and it is currently managed/maintained by Derbyshire County Council as the authority responsible for PROW matters. The question of acquisition does not arise in respect of the northern parcel of land. If not included within the red line boundary of the site, the improvement of this stretch of path would fall to the public sector and the Applicant/Appellant should provide a S106 commuted sum to the Council to cover acquiring this parcel of land and bringing it up to the required standard with

the necessary footpath improvements. The study undertaken by AECOM for the Council provides options together with costs for such infrastructure, currently estimated at £131,750. This is a budget estimate, based on a visual inspection, using standard indices of costs. This figure also includes preliminaries, design and construction risk percentage and is subject to detailed development as project progresses.

- 6.43 The commuted sum should also cover a contribution to the replacement/improvement of the existing footbridge over the River Rother. The Section 106 Agreement should also make provision to integrate them into the development in the long term. This would need to include a sum for the acquisition of relevant land, which may require Compulsory Purchase. The study undertaken by AECOM for the council provides options together with an estimated total budget cost of c£1.7m. This budget estimate includes allowance for capital works and percentages for preliminaries, design and constructions risk. The Council have identified that based on the proportion of dwellings proposed in the Riverside East character area, the appellant should make a contribution of 75% of the cost of a replacement bridge.
- 6.44 The Applicant/Appellant has referred in general terms to potential ransom implications. It is recognised that the replacement or improvement of the footbridge in particular would require third party land, currently controlled by a combination of Arnold Laver and Derbyshire County Council and that a commuted sum would be the most appropriate mechanism in this case, rather than direct provision.
- 6.45 The Masterplan refers to the following important connections:
- *Primary pedestrian/cycle route running north-south alongside Riverside Park*
 - *Secondary pedestrian streets connecting Brimington Road with the riverside*
 - *New pedestrian bridge across River Rother*
 - *New riffle weir creates navigable stretch of River Rother up to the Canal Basin”*

It is now accepted that the Primary Pedestrian/Cycle Route envisaged running north-south through Waterside is likely to be better delivered on the western side of the Rother as an extension of the route already being provided through the Avant Homes site and where there is more space for provision. However it is considered that the Application proposal still needs to provide a strong cycle/walking route through the Site from Brimington Road to the Primary Route, over an improved bridge connection. The Appellant's position that either (1) no provision is necessary adjacent to the river or (2) the Appellant should make no provision for this or contribute towards it, is wholly contrary to Policy SS3, the Masterplan and the requirements of good design and place-making.

Policy CLP15 is also engaged on the basis that the development is at odds with the following sections

c) enhance connectivity between, and public access to, green infrastructure; and

d) (i) protect and enhance access to the multi-user trails network as shown on the Policies Map; and

(ii) increase the opportunities for cycling, walking and horse riding; and

h) where new green infrastructure is proposed, there must be clear funding and delivery mechanisms in place for its long-term management and maintenance, prior to the development commencing. Where necessary and appropriate development will be expected to make a contribution through planning obligations or CIL towards the establishment, enhancement and on-going management of green infrastructure by contributing to the development of a strategic green infrastructure network within Chesterfield Borough.

- 6.46 A key thread running through the Local Plan and government policy/guidance relates to the importance of walking/cycling both as a sustainable travel option but also for its health and wellbeing benefits. Local Plan policy requires that the site maximise the opportunity for walking and cycling being ideally placed close to the town centre and rail station with an opportunity to improve the

connections available along what is an attractive canal and river corridor environment.

6. 47 The proposed scheme provides a route linking Brimington Road to 'Tupton Bridge Way' via a snaking ramp. The intention is therefore to provide only a secondary route connecting Brimington Road with the riverside. The Application material provides very little detail of the walking and cycling provision within the development. The 'Transport and Infrastructure Study' submitted makes almost no mention of walking and cycling infrastructure within the site.
- 6.48 The Design and Access Statement references the National Design Guide, however it is considered difficult to see where the characteristics have been applied:
- Enhances the surroundings – the key point is the river however the layouts show the river 'shielded' from most points as a result of retaining the majority of existing, low value trees. The principle of the urban park and interaction of the river from the outline DAS is *"An urban linear park will create a natural and soft landscape contoured to deal with height change and provide a flowing green corridor along the riverside. The linear park provides habitats for existing and new wildlife and will improve the bio-diversity of the scheme. The dispersion of pause spaces offers the opportunity for relaxation. The provision of an informal network of paths will provide cycle and pedestrian links and the grass banks offer rest and relaxation. Areas of wildflower meadow and planting produce swathes of colour and seasonal interest.*
 - Movement – accessible and easy to move around – The connections of the proposed footpaths on site to an improved off site network at the Northern end of the site is a key point of connection and movement for this development which is not be delivered.
 - Nature – enhanced and optimised – It is unclear how this will be addressed as the scheme has excluded areas of the river bank to the South West of the development.
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6.49

The footpaths alongside the Rother and between the river corridor and Brimington Road at the northern end of the site (FP100 and FP17) require significant improvement. Both paths are of poor quality. They are narrow with landscape margins encroaching on both sides. The paths are generally unsurfaced and mainly of a muddy and puddled character. The photographs below show FP100 and FP17 taken during June 2023. Conditions are worse in the winter months.



- 6.50 The footpath routes have been excluded from the Application Site. It is crucial that these footpaths are subject to improvement as part of the current development. The paths should be widened to a minimum of 2 metres and surfaced with a compacted/bound aggregate typical of canal and riverside paths. The development stops at the red edge boundary (existing chain link fence) and does not intend on implementing any off site works to the footpaths. In the Statement of Case, the Applicant/Appellant has confirmed a willingness to safeguard land to the northern corner of the site to allow for the possible landing of a new bridge link into the site and to allow space in the landscape buffer area to safeguard a widening of the existing public rights of way alongside the site. The simplest solution would be to extend the red line boundary to include the area comprising the paths within the Application/Appeal Site and to secure the improvements through conditions by widening them into the edge of the Woodall land. Such improvements could be secured by condition which could, for example, require implementation of the improvements as part of the scheme by a given stage/percentage of occupancy on the site.
- 6.51 Without any improvement to the paths the experience for users will be seriously compromised. To access the north/south routes and river corridor from the Application Site, Pedestrians and cyclists would use the new 3 metre wide tarmac surfaced routes within the site up to the boundary line. They would then be faced with an overgrown landscaped edge to cross to be able to access FP100 and FP17 before ending up on the mud and puddles of the existing routes. This would directly conflict with Policy SS3's requirement to maximise walking and cycling opportunities providing a severely substandard experience.
- 6.52 The masterplan principles also include a new pedestrian bridge over the river Rother within this Character Area. The bridge is shown in the photographs below. It is substandard for modern purposes being narrow with a clear width of just 1.08 metres.

This is well below the standards set out in the government's Cycling Infrastructure Design guidance, LTN1/20. Policy SS3 and the Masterplan envisages that there should be a replacement bridge of sufficient width and specification (based on the standards set out in LTN1/20) to allow for its use by both pedestrians and cyclists and of sufficient height to allow the passage of canal boats underneath in typical conditions. As part of its work on understanding the required infrastructure requirements across the site AECOM has considered the most appropriate location and specification for a replacement bridge and this is referred to later under the section on Infrastructure.



6.53 The Masterplan includes reference to a 'riffle weir' in this location. This is no longer required due to the subsequent removal of the requirement for an additional waterway link through 'The Park' character area. However the need for wider access/connectivity remains a very important requirement for the comprehensive redevelopment of this location.

6.54 The proposed development will not deliver the off site requirements of the approved Masterplan in so far as walking and cycling opportunities are concerned. The development does not make any provision for the improvements to adjacent footpaths or the replacement of the current substandard bridge. These are both necessary to improve walking and cycling

provision through the Waterside site to the wider network. It is considered that a contribution should be made at such an important key point of connection for this development. Failure to secure such improvements would significantly harm the ability to deliver the comprehensive improvements to the environment and accessibility required to link the sites and ensure a sustainable and comprehensive form of development, in direct conflict with Policy SS3 and the NPPF.

- 6.55 The Council has consulted a number of statutory and other consultees regarding the access/connectivity considerations including the Trans Pennine Trail Partnership, the County Council Countryside Service, Transition Chesterfield, the Chesterfield Cycle Campaign, The Ramblers and the Chesterfield Canal Trust. The responses provided are referred to below and which in general support the development of the land but consider that the delivery of improvements and subsequent maintenance of routes in the wider area is crucial.

Trans Pennine Trail Partnership (TPT)

- 6.56 The Trans Pennine Trail Partnership (TPT) comment that the proposed layout drawing indicates strong walking and cycling infrastructure to be provided as part of the development. However, there is a need to extend the route south to make a meaningful connecting route, rather than the route just coming to an end. It is necessary for there to be on site infrastructure which is LTN1/20 compliant and forms links to the Trans Pennine Trail network. The TPT comment that maintenance of the new infrastructure should also be included within the proposal. They comment that the layout drawing indicates a proposed cycle / walking link to be developed to the west of the site and this is a welcome addition to the network and this proposal is supported. However they also note that the path to the west of the site as a 'secondary route' is 2m wide and is not LTN1/20 compliant and should be a minimum of 3m. The new proposed walking and cycling route along Tapton Bridge Way would also provide a link

to the Trans Pennine Trail cycling route along Brimington Road, and this should be constructed to LTN1/20 standards.

- 6.57 The TPT comment that the scheme should offer the opportunity of improving the walking section of the Trans Pennine Trail as a part of the development. They comment that the bridge over the A61 is used locally by walkers and cyclists and can be redesigned to fully accommodate walking and cycling provision.
- 6.58 The routes adjacent to the site are a part of the national cycle route NCN67 and the Trans Pennine Trail which provides a national route of over 370 miles. The Applicant's / Appellant's submitted statement does not indicate the wider connection that can be enjoyed by residents of the scheme.
- 6.59 Officers agree that the development scheme should fully integrate with and connect to the public footpath and cycle routes around the site and this is a requirement of the existing permission, Policy SS3 and the strategy for development of the wider site. The opportunity to run a LTN1/20 compliant route from Tapton Lock Bridge to the north along the west of the river/canal to Holbeck Close and onwards to the Railway Station is considered desirable as an alternative to the existing route. This route could then become the walking and cycling part of the TPT, removing the need to retain the cycle part of the route along Brimington Road. This is being delivered as part of the Avant Homes scheme including a written commitment to fund the bridge at the northern end to link to the existing route.
- 6.60 The proposed 2 metre wide route running through the open space within the site will merely be a 'secondary route'. It will not be the main walking and cycling spine route through the wider site. The route will provide the potential to connect through the petrol filling station and Parsons Electrical sites to Brimington Road in due course when these parcels of land eventually come forward for redevelopment. It would therefore be necessary to ensure the path is connected to the boundary of the site to avoid

any ransom issues in the future. In the meantime the route will open up an opportunity for local residents to utilise the open space alongside the river corridor. Improvement of the route over the A61 is appropriate and is being considered as part of the masterplan review by the Strategic Planning Team however this relates to a separate character area to Riverside East.

Derbyshire Countryside Service (DCS)

6.61

The Derbyshire Countryside Service (DCS) manage the Trans Pennine Trail on behalf of the Partnership and the public footpath network through the Waterside area. They make reference to Policy SS3 and comment that the proposed development does not address any of the criteria despite being exceptionally well placed to do so. The development should ensure that there is an ecologically beneficial and aesthetic transition from the water's edge to the development along its western boundary. They observe that because there are unregistered parcels of land to the west and north that the development traps against the river, it would be appropriate to expect that the development extends its boundary across all of its western and northern alignments to fulfil this transition. In doing so, the provision is thus also made to upgrade footpath 17 along the development's northern edge to cycleway standard. Improvements to the existing bridge crossing the River Rother would also be appropriate in order to make links to the wider cycling network. In the context of the wider cycle network, DCS dispute whether the Design and Access statement is correct in its suggestion that the cycle lanes along Brimington Road offer "suitable cycling opportunities to the surrounding area". The cycle lanes are predominantly aligned within the carriageway of a busy road and thus the development should look to make more appropriate offroad connections that exist around the development. The 2 connections for cyclists to exit the development site neither appear to DCS to be appropriately designed and offer little to suggest that they have been designed in accordance with LTN1/20 principle 18, "cycle routes must flow, feeling direct and logical". DCS seek further design information on the 'S' shaped connection to the east of 'Tpton Bridge Way'

to determine that it complies with LTN1/20 particularly in relation to gradient.

Transition Chesterfield (TC)

6.62 Transition Chesterfield campaign to raise awareness of the issues associated with climate change and the need to develop a resilient, sustainable low carbon society. They express disappointment that the Application does not appear to provide a connected walking and cycling route in line with the principles and proposals for the masterplan for Waterside. Instead, it seems that the proposed walking and cycling route at the southern end of the development simply stops in the middle of nowhere. At the northern end, it links into the towpath at a very narrow section that is not an official cycle route. This does not comply with Policy CLP20 Design which requires developments to “*provide appropriate connections both on and off site, including footpath and cycle links to adjoining areas to integrate the development with its surroundings*” and “*provide safe, convenient and attractive environment for pedestrians and cyclists.*”

6.63 At either end, TC argue that there needs to be proper consideration to ensuring that the route links into the existing network, particularly given that the priority is for family housing so there will be opportunities for children to cycle safely to and from the site. There is plenty of land to the south which would allow the route to continue to Brimington Road and at the north side, suggest that either the towpath could be widened or the route continued through the Avant Housing development to the north.

Chesterfield Cycle Campaign (CCC)

6.64 Chesterfield Cycle Campaign observe that the Avant Homes development north of this site and on the other side of the river is providing a good quality cycle path adjacent to the river. The bridge connecting this path across the river to the Trans Pennine Trail/National Cycle Route which was promised by Bolsterstone has not materialised which compromises the original vision of Waterside masterplan. CCC consider the vision of a through,

traffic free cycle route alongside the river has been further compromised by the granting of temporary planning permission for the caravan sales site at Waterside. A north-south cycle path shown on the proposed plans would appear to be a solution but sadly there appears to be no onward cycle connections north or south of that route leaving it isolated and of little use. This is contrary to the Local Plan's Policy CLP22. CCC consider that if the small footbridge across the river at the north end of the site was designated as a shared footpath/cycle route that would at least provide a connection to the path that Avant have built albeit still leading nowhere because Bolsterstone have not built the bridge that they promised. At the southern end of the proposed cycle route it is difficult to see what could be achieved to connect the path to Brimington Road unless an accommodation can be agreed to use the private road from Brimington Road leading to the businesses (Parsons Electrical). If a cycle route could be provided along this private road it would link up to the shared path being built alongside Brimington Road.

- 6.65 Reference is made by CCC to the comment that the primary pedestrian / cycle route should be achieved on the western side of the river rather than through the Application site and that the proposal for the site is therefore, to provide a 2m wide path along the western boundary intended as a secondary route. CCC state that this would not comply with Guidance LTN 1/20 as the width of any shared pedestrian cycle infrastructure should be 3m as a minimum. Even where a cycle / pedestrian route is regarded as "secondary" it should comply with the guidance contained within LTN 1/20 and be safe and suitable for both pedestrian and cyclists.
- 6.66 CCC note that the connection between 'Tipton Bridge Way' and Brimington Road has been amended to a 3m wide path and confirm that this will allow it to function appropriately for cyclists and other users.
- 6.67 CCC make reference to the cycle and pedestrian access which would be provided in the north west corner of the development to

connect across the river to the TPT on the Western side of the river going north. They comment that this is a positive addition to the Site but should also connect into adequate cycling (and pedestrian) infrastructure within the development that is LTN 1/20 compliant and that this does not appear to be the case at present. They state that the Council and the developer should make every effort to enhance cycling connectivity from the development via the new connection in the north west corner to the TPT and the onward route over the A61 footbridge into Chesterfield. This bridge is used by both cyclists and pedestrians and provides a crucial sustainable transport route into Chesterfield. Every effort should be made to re-design this route so that it is suitable for cyclists and pedestrians and complies with Guidance contained within LTN1/20.

- 6.68 In response, Officers note that the connection to the north of the Avant Homes site has still to be provided however there is a commitment in writing from Chesterfield Waterside Ltd to fund a bridge connection and discussions regarding the most appropriate solution are ongoing. The approval of a permission on the Kimberley Caravans site was for a temporary three year period to allow for a use of the existing building and site pending a more appropriate redevelopment of the land coming forwards and at which point the strategic walking and cycling route alongside the river can be achieved. It is agreed that the bridge over the river against the northwest corner of the site requires replacement as discussed earlier in the report. AECOM has designed a solution which provides an appropriate pedestrian / cycle replacement and which lands in the Woodall application site where it can be connected to the routes within the site. This provides the most appropriate solution to achieving a replacement for the substandard bridge and which would be suitable for pedestrian and cycle use. The width of the secondary path would not be the main route for pedestrians and cyclists which would be the route to the west of the river and a route at 2 metres width is therefore considered to be appropriate in the circumstances. Improvement of the route over the A61 is

appropriate and is being considered by the TPT however this relates to a separate character area to Riverside East.

Ramblers

- 6.69 The Ramblers note that Chesterfield FP 100 runs east west at the northern edge of the development, Chesterfield FP 17 (part), runs east west along the northern edge and then south north along the western side of the development. They note, with concern, that Chesterfield FP 100 is not shown, as an existing RoW, on the layout drawing and neither is it referred to in the access statement. The Ramblers question whether it is the intention that FP 100 be extinguished and replaced by the provision of the footpath shown along 'Tupton Bridge Way' and thence northwards alongside the river to join Chesterfield FP 17 at the northern boundary of the development. It is clear from the submitted layout that the intention is not to extinguish FP100 but to connect to it from the scheme.

Chesterfield Canal Trust (CCT)

- 6.70 The CCT comment that the site is a prominent industrial site with a long frontage to the River Rother which is an unkempt area of self-set trees with the backs of industrial buildings and open storage. The river will in due course become navigable and it is therefore important that the river frontage is improved and properly maintained so it will be a long term asset to the waterway and surrounding urban area. The CCT welcomes the application and recommends the imposition of a condition which requires a full landscaping scheme including details of the construction of the riverside path and its future upkeep and maintenance.

Infrastructure:

- 6.71 Policy CLP11 seeks to secure infrastructure and mitigation for new development. The Council expects to use a combination of planning obligations through S106 agreements, and the use of Community Infrastructure Levy (CIL) to achieve this. As a comprehensive scheme, the infrastructure to support Waterside

needs to be considered in the wider context. The quality and value of development on the Application Site will be supported by the delivery of other essential infrastructure adjacent to and beyond the site, including the restoration of the river to navigation, the canal basin and associated infrastructure, and the wider network of walking and cycling routes and bridges that will provide connectivity within and beyond the site.

6.72 The Council's Infrastructure Funding Statement (IFS), published annually, sets out the types of infrastructure that can be funded through CIL. Certain off-site infrastructure, including higher level off-site open space and education capacity, will be supported through the Council's CIL charging regime. Specific onsite infrastructure such as affordable housing and the long term maintenance and management of on-site POS would need to be secured via a S106 planning obligation.

6.73 The IFS also expects that S106 planning obligations will be used to secure other 'Site Specific' Infrastructure. This is not to be confined to infrastructure only within the boundary of the red line of the Application. Development will also be expected to contribute to the ongoing delivery and maintenance of the wider Waterside infrastructure from which it will benefit. This is a clear requirement of the development plan. Policy SS3 sets out clearly that *"Planning applications submitted for development outside of the existing [note, now lapsed] outline planning permission, but which otherwise deliver the objectives of the approved masterplan, will be expected to contribute towards the overall delivery of the infrastructure required for comprehensive development, secured through a section 106 agreement"*.

6.74 A Management Company is already in place for the overall development. A planning obligation is necessary to set up mechanisms for service charges to support the management of the wider development.

Education

- 6.75 In terms of Education provision the County Council has provided comments stating that the number of pupils that the development is expected to generate and is calculated using the formula that for every 100 dwellings there will be 24 primary, 20 secondary and 8 post 16 pupils.

2022/23 Level of Contributions

	Places per 100 dwellings	Cost per pupil place	Cost per 1 dwelling	Cost per 10 dwellings	Cost per 100 dwellings
Primary phase	24 places	£18,165.55	£4,359.73	£43,597.31	£435,973.09
Secondary phase (without Post16)	20 places	£27,372.07	£5,474.41	£54,744.14	£547,441.40
Secondary phase (with Post 16)	28 places	£28,033.07	£7,849.26	£78,492.59	£784,925.86
SEND	0.7 places	£103,946.90	£727.63	£7,276.28	£72,762.82

- 6.76 At Primary level, the proposed development falls within and directly relates to the normal area of Abercrombie Community Primary School. The proposed development of 144 (discounting 40 x 1 bedroom) dwellings would generate the need to provide for an additional 25 primary pupils. Abercrombie Community Primary School has a net capacity for 210 pupils, with 216 pupils currently on roll and the number of pupils on roll is projected to remain at 216 during the next five years. The County Council consider that the normal area primary school would not have sufficient capacity to accommodate the 25 primary pupils arising from the proposed development.
- 6.77 At Secondary level the proposed development falls within and directly relates to the normal area of Brookfield Community School. The proposed development of 144 (discounting 40 x 1 bedroom) dwellings would generate the need to provide for an additional 29 secondary with post 16pupils. Brookfield

Community School has a net capacity for 1,090 pupils with 1,093 pupils currently on roll however the number of pupils on roll is projected to decrease to 1,057 during the next five years. Evaluation of recently approved major residential developments within the normal area of Brookfield School shows new development totalling 230 dwellings such that the normal area secondary school would not have sufficient capacity to accommodate the 29 with post 16 pupils arising from the proposed development.

6.78 At SEND level (Special Educational Needs and Disability) the County Council comment that provision is not subject to an analysis of capacity within a given geographical area as the pattern of provision across the County often involves pupils travelling a significant distance in order to access the most appropriate place to suit their needs. They comment that it is therefore not appropriate or possible to assess capacity against the need for places generated by any given development within any specific locality. A multiplier as follows is applied for 144 dwellings $\times 0.7/100 = 1.008$ pupil places.

6.79 In total the education contributions sought through a s106 by the County Council amount to £454,138.75 for primary provision, £812,959.03 for secondary provision and a contribution towards SEND of £75,673.34. It is the case however that such off-site infrastructure would be supported through the council's CIL charging regime and contributions through a s106 are not required. Engagement is continuing with the County Council as part of the Masterplan update to address strategic capacity issues and how any necessary school expansions could be supported through the CIL funding process.

Health

6.80 On Broadband Infrastructure, the County Council has commented that all housing developments should look to provide for NGA broadband infrastructure and services as part of the design of their development schemes at the outset and Local

Planning Authorities should attach advisory notes to planning permissions to request that developers work with broadband providers to ensure NGA broadband services are incorporated as part of the design.

- 6.81 The Derby & Derbyshire Integrated Care Board (ICB) has commented that the development will generate an increased patient population of 360 and that they would like to discuss the potential for a s106 contribution to be used to provide additional clinical capacity at GP facilities. Using the Department of Health calculation HBN11-01 a commuted sum of £129,600 is indicated. Such infrastructure is not covered under CIL and would therefore need to be the subject of a s106 consideration.
- 6.82 In order for the Council to seek to secure a contribution, it must meet the tests for planning obligations set out in the CIL Regulations and NPPF. The ICB states that it is unlikely that a single-handed GP development would be supported as the solution to sustainably meet the needs of the housing development and that the health contribution would ideally be invested in enhancing capacity /infrastructure within existing local practices and they have listed 7 GP practices which are closest to the proposed development site.
- 6.83 The Infrastructure Study and Delivery Plan, which was prepared in support of the Local Plan, included consideration of the health requirements associated with future growth and the delivery of the expected housing across the Borough (including Waterside as a strategic site allocation). Working with the ICB the Plan includes those GP surgeries most affected by the local plan's strategy and identifies which surgeries would be most impacted as a result of the quantum of potential patients caused by new residential development. The Infrastructure Delivery Plan does identify that a number of the practices identified by the ICB face capacity challenges. No precise location or infrastructure project has been identified and the ICB's position is that they are unable to specify schemes until the funding is confirmed as being received on the

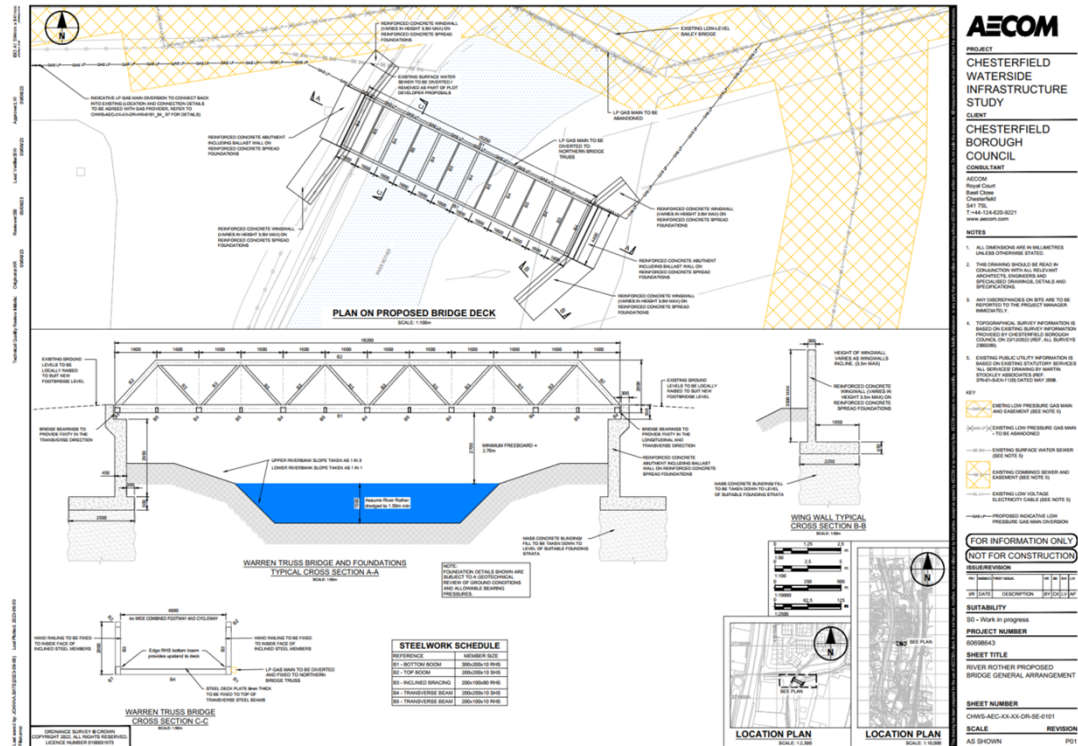
basis that these sites are all owned or leased by the GP partners and they consider that it would be unreasonable to expect them to fund the development of schemes, including costs for the drawing up of proposals for a S106 contribution when they cannot confirm if or when the funding would be available. Instead, the ICB's position is that the requested contribution would be used to increase capacity at one or more GP practices sites that provides services to the development site, either through internal reconfiguration or extension and that detailed, costed plans would be provided prior to requesting the funding. Early discussions have been undertaken with Whittington Moor Surgery for example, where capacity issues have been identified and where potentially an extension would be possible, should there be funding available. However, in conclusion, unless and until the ICB is able to specify the extent to which each of the GP surgeries identified will be impacted on from this particular development, including specific capacity issues and identify a specific capital infrastructure project or projects which would be funded by the requested contribution, it is not currently possible to be satisfied that the tests for planning obligations have been met sufficient to confirm that the request can be made.

- 6.84 Chesterfield and North Derbyshire Hospital (NHS) has also requested a contribution of £366,000 to mitigate the impact on health services at The Royal Hospital. It is the case however that Hospital funding is not generated through development schemes but is provided centrally by the government and a contribution through a s106 would not therefore be appropriate.

Transport/Access

- 6.85 To date the Council has commissioned and received a strategic review of the masterplan (undertaken by AECOM), and a market assessment of the proposed development, undertaken by BNP Paribas. This has included options and a costing of the infrastructure delivery and maintenance considered necessary to deliver the development across the complete site. This work has confirmed that the general masterplan approach is still appropriate, but that the mixture of uses is likely to be

rebalanced towards less commercial floorspace and smaller number of family dwellings (as opposed to a larger proportion of flats/apartments). The principles of the approved Masterplan therefore remain essentially unaltered. AECOM have prepared an options appraisal to establish a technically optimal solution for a bridge over the River Rother as a replacement for the existing and a drawing has been produced as attached below.



6.86

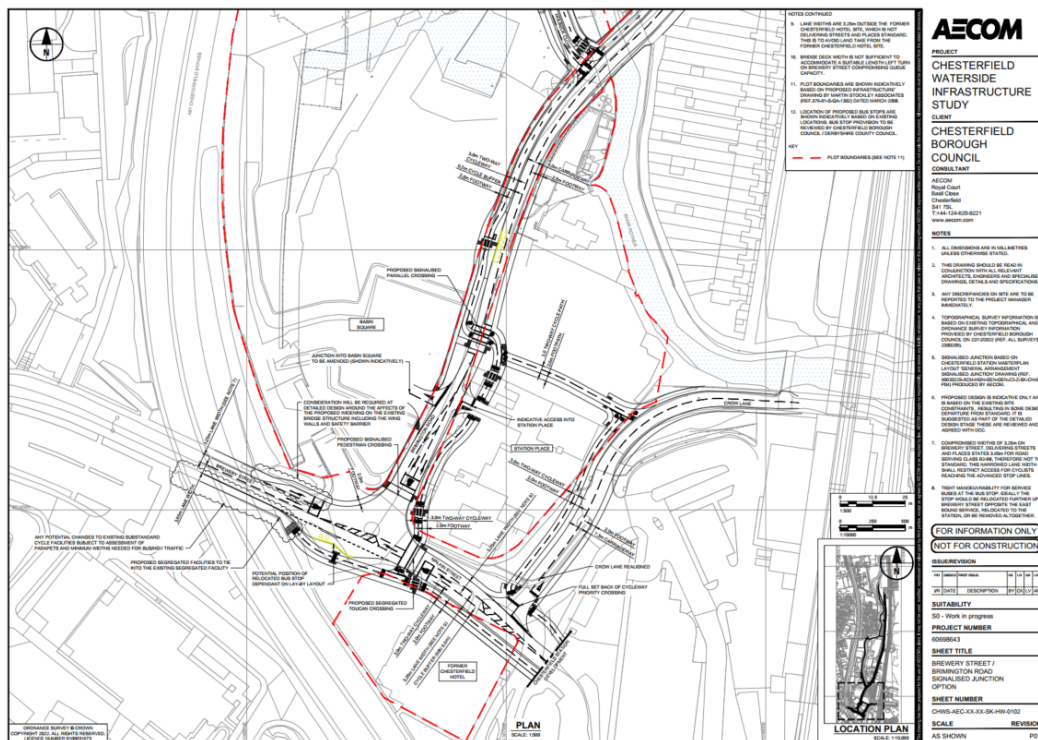
A budget estimate of £1.1m was initially provided to the Applicant/Appellant as a working estimate for the bridge connecting Riverside East to Waterfront character areas. An initial working assessment has indicated that an apportionment based on the percentage of development proposed by the Applicant/Appellant within the Riverside East Character Area would be £825,000. (75% of the working budget estimate). As work on this has progressed by AECOM, the figure has been revised to c. £1.7m overall, to account for preliminaries, design and construction risk. This presents a potential percentage contribution of c. £1.275m.

The above relates to one of a range of possible solutions for crossing the river. AECOM were commissioned to provide one

possible solution it was confirmed to the Applicant/Appellant at an application meeting on 30 November 2022 that the Council require them to “include connection to the north west and include a bridge over the river Rother”. The Applicant/Appellant has throughout been encouraged to bring forward a solution to a replacement bridge crossing itself.

- 6.87 The AECOM work has also initially indicated that the improvement of the footpaths FP100 and FP17 along the northern boundary of the site to LTN 1/20 standard with ongoing maintenance for 10 years would amount to a capital cost of £85,000. However as above, as detailed work has progressed, the estimated budget figure for capital works to upgrade the footpath is £131,750, with details of expense for maintenance contained in a final report from AECOM which will be provided on 30 June 2023.
- 6.88 The Brewery Street junction improvement is also attached as an element that the Applicant/Appellant should make a contribution towards, given the cumulative impact of their scheme and this work is currently being costed by AECOM. It is considered that the development should fund its share of this infrastructure improvement to achieve the desired comprehensive approach to the development.
- 6.89 As covered above, an evidence-based budget figure for a revised signalised junction will be contained in the final report from AECOM which will be proved on 30th June 2023.
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6.90



Affordable Housing

6.91

Policy CLP4 requires that development of 10 dwellings or more include provision for 5% of units to be affordable in this location and that they should be provided on site as preference and be split 90/10 between affordable rent and affordable home ownership. This equates to 7.2 units for this scheme however this would be reduced on the basis of the application of Vacant Building Credit (NPPF para 64). Although details of the existing floorspace has been provided, it is not currently clear how much of this is vacant at the time of the application, and therefore eligible for calculating the application of Vacant Building Credit (para 64 states that “where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount).

6.92

The requirements result in a level of affordable housing that includes a fraction and the Council’s preference would be to maximise on site provision with the remainder to be secured through a commuted sum under a S106 agreement.

6.93 The Application documents indicated that the affordable housing provision would be in the form of 8 No1 bed properties. The Council's Housing Delivery Manager stated at a meeting with the Applicant/Appellant on 30 November 2022 that this would not be policy compliant and would not meet housing need in the Borough. This was followed with a response from the Case officer to the appellant on 25 January 2023, 1 March 2023 and detailed evidence of need dated 17 March 2023. The information confirms the need for additional single bed affordable homes in Chesterfield is very limited and it is considered that the affordable provision should reflect the mix of properties on the wider site, the majority of which are 2, 3 and 4 bed family units. The objective of the policy is to meet the greatest affordable housing need in the borough which in this case is considered to be accommodation suitable for families. Overall the 7.2 units, split 90% affordable rent and 10 shared ownership/ affordable home ownership generates a requirement for 6.48 affordable rent and 0.72 shared ownership/ affordable home ownership. The Housing Delivery Manager suggested a mix on site of 1 x 2 bed, 3 x 3 bed and 2 x 4 bed as affordable or social rented tenure with £133,428 as a financial payment in lieu of the 0.48 and 0.72 fractions.

6.94 The Applicant/Appellant has now departed from its initial intention to provide affordable housing. It has since confirmed as a result of submission of a viability assessment, as required under policy CLP4, that the scheme cannot provide affordable housing provision. This is on the basis that it would not be viable. They have now opted to revert the provision to standard market provision with no affordable housing. Viability is considered further below under the relevant section.

Play/Open Space

6.95 Policy SS3 refers to the need for '*a high quality urban environment including eco-park and green infrastructure corridor*'. For the Riverside East character area, the masterplan envisages a:

- *New Linear Riverside Park with opportunities for play, recreation and habitat”*
- *Linear Riverside Park with timber jetties providing controlled access to rivers edge*
- *Views out from residential buildings and communal courtyards to riverside”*

- 6.96 The proposed layout includes provision for a Linear Park along the riverside to the west and north of the site with a trim trail with 6 stations spread out along the length of the site. No provision is made for jetties or details of how the development will address the River Bank and whilst dwellings on site face outward. They do not address the riverside.
- 6.97 The ‘Public Open Space (POS) Proposals and Softworks Schedules’ appear to show a sufficient buffer and indicate planting appropriate to the requirement in the Masterplan for native emergent planting and flood meadow. No provision is made on site for any form of play provision with the nearest children’s play provision at Tapton Park, which is 750m from the entrance of the site uphill and on the other side of a busy 40mph road or reached via a footbridge over the railway line and an unlit footpath. The Council’s residential design SPD (‘Successful Places’) recommends that playgrounds should be within a 300-400m walking distance, and toddler’s provision ideally 100-200m and the existing masterplan indicates the need for play provision within the site area.
- 6.98 Given the reduction in density of development across the wider site, provision of a single, well designed play space may be preferable to a number of separate spaces. This should be located where it can also serve the wider development, suggesting a location to the northern end of the linear park may be appropriate.
- 6.99 The Council’s Green Space Strategic Manager has commented that the scheme needs to address the basic requirements of the

local plan or the future needs of residents for whom it is intended and expresses concerns that the current proposals are quite near to the river corridor and adjacent linear footpath which present a risk. He comments that it is necessary to secure a minimum of a single piece of semi natural open space 0.4HA in size with a play space of minimum fixed play equipment of 0.09Ha. In order to address the needs of future residents the play elements should provide for Kindergarten (0 – 5 year olds) Junior (6 – 12 year olds) and Teen Play 12+ and that this should be arrived at through a combination of traditional fixed play equipment and natural play elements.

6.100 The scheme provides an area of approximately 0.36 hectares as part of the linear open space area along the site and which can be used as informal open space. This is adjacent to the river and footpaths, however it is considered that the inherent risks from such a location are outweighed by the opportunity to provide a well-connected, natural and attractive edge to the scheme which benefits the local residents. The open space area is sufficiently sized to be able to accommodate an enclosed play area however it would be difficult because of its elongated character to achieve 0.09Ha. However given the original intention to secure 4 No 100 m² informal areas across this site as shown in the extract diagram above, it is the case that a condition could be imposed to require detail of provision on the site in addition to or as an alternative to the trim trail proposed.



CIL Liability

- 6.101 The proposed development is liable for the Community Infrastructure Levy (CIL), subject to any exemptions that may be applied for. The site is located within the Low CIL charging Zone for residential development as set out in the Council's Charging Schedule and which is currently charged at a rate of £24.65 per square metre of gross internal floorspace. The commercial floorspace currently proposed is also covered by the Charging Schedule, charged currently at a rate of £98.61 per square metre of gross internal floorspace.
- 6.102 The Applicant/Appellant has provided a CIL form 1 which indicates a total of 16,703.3 m² of proposed floorspace (residential) and 180m² of commercial floorspace however 11614.6 m² of floorspace is to be demolished. These figures are being corroborated, including whether any floorspace is vacant or has been occupied for a period of at least 6 months during the last 3 years to qualify for an offset. Based on the Applicant's/Appellant's provided figure the CIL liability would amount to £143,186 which is greater than the figure shown in the Applicant's/Appellant's viability appraisal at £129,873. The difference appears to be accounted for with changed indexation rates and non-inclusion of the liability for the retail units.
- 6.103 Given that this is strategic regeneration site requiring comprehensive development and a coordinated approach to infrastructure delivery, the Council would be prepared to consider applications from the Applicant/Appellant or landowner to utilise its CIL policy on Exceptional Circumstances Relief. Any applications for CIL relief are the responsibility of the developer and do not have to be considered alongside the planning application, but must be received before development commences, and the decision whether or not to grant these reliefs would remain at the discretion of the Council. Based on the estimated CIL contribution, the development would
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automatically benefit from the Council's policies on paying CIL liability by instalments.

- 6.104 The Applicant/Appellant has referred to the use of CIL payments for Waterside Area infrastructure. The Council does not agree that this is the correct approach in respect of this Application.
- 6.105 Policy SS3 addresses the issue of how to determine applications outside of the context of the previous outline application and S106 agreement, where it clearly requires that “[development] *will be expected to contribute towards the overall delivery of the infrastructure required for comprehensive development, secured through a section 106 agreement.*” This policy was adopted in July 2020, at a point when the Council had already been operating the Community Infrastructure Levy for 4 years. It is therefore clear that this policy requirement already accounts for the operation of CIL and is intended to sit alongside it, rather than be replaced by it. The Council's Infrastructure Funding Statement sets out the infrastructure that CIL can be apportioned to – (page 5 of the current IFS). This includes “Restoration of Chesterfield Canal”, “Implementation of Chesterfield Strategic Cycling Network”, and “Measures to improve walking, cycling and public transport provision within...the A61 Corridor [and] the proposed Strategic Cycle Network”. However, it is also important to note the caveat at the end of the table relevant to the latter two items, that this is: “*Excluding Site Specific measures arising as a result of specific development proposals*”. This clause was specifically inserted to prevent developments avoiding providing specific infrastructure necessary for the site to connect into its location, in order to meet the requirements under policy CLP22 (‘Influencing the Demand for Travel’) that development “*maximise walking, cycling and the use of public transport through the location and design of development*”, demonstrate “*improvements to walking and cycling facilities and public transport services that are provided early in the build out period of new developments and that are sufficient to encourage sustainable modes of transport*” and “*optimisation of the existing highway network to prioritise walking, cycling and public transport*”

such as measures to prioritise the needs of pedestrians above the car and improved or new cycle and bus lanes, provided early in the build out period of new developments”.

6.106 As referred to above, the Council does provide routes to the management of issues that may arise in terms of viability. The Council also offered to collaborate with the Applicant/Appellant to identify potential funding sources to assist in the delivery of infrastructure should a funding gap be demonstrated to exist, including through use of Strategic CIL and applications for funding. This approach of funding gaps has been used successfully on other sites forming part of Waterside, including the funding of the creation of the canal basin, funding site preparation works on Basin Square and the relocation of essential services. The Council is currently completing a wide ranging study to understand the infrastructure issues and develop updated details and costs which is part funded by Homes England and which is referred to above under Infrastructure.

6.107 In addition, under the S106 agreement associated with the outline permission, a site management company has already been set up to manage the shared infrastructure that support the Chesterfield Waterside Development that provides an existing mechanism by which infrastructure on site can be maintained through management fees – a mechanism already being used by the adjacent Great Places and Avant Homes developments.

Viability:

6.108 The applicant has provided a Viability Report by Turner Morum (TM) which states that based on the methodology used by (TM) *“That the proposed scheme incurs a deficit, even when the affordable contributions are reduced. In these circumstances, the scenarios tested should therefore be considered technically ‘non viable’.* Based on the method used by TM, the development, not including a contribution for affordable housing provides an outturn deficit of £3,972,651.

- 6.109 The report comments that “despite there being a deficit it would *“not take a significant change in market conditions (ie an increase in GDV or decrease in construction costs) for the deficit to be eroded and a surplus produced....*This highlights that although the scheme is non viable it could still be considered as deliverable.”
- 6.110 TM stated *“in my experience, where certain deficits are incurred in viability, developers can choose to take the ‘commercial decision’ to proceed with the scheme at a certain of affordable, provided the deficit does not any further beyond that point. The commercial decision would be reached on an individual site basis formed on the assumptions within this appraisal. In this instance, the applicant has advised me that they are prepared to deliver the scheme as per the appraisal in my submission, with a provision for no affordable housing.”*
- 6.111 The appraisal carried out by TM was based upon the developer (here the Applicant/Appellant) receiving 20% profit on market housing and 15% on the commercial units and then calculating a ‘residual’ land value, assumes the above level of profit for the developer and calculates the maximum amount the developer can afford to pay for the land. This method of assessment has identified the developer would generate a profit of £7,630,725. The appraisal takes account of s106 costs of £20,550, CIL at £129,873 and usual abnormal, purchaser costs and developer finance costs.
- 6.112 The Council has instructed Thomas Lister (TL) to advise on the appraisal and they have undertaken a shadow appraisal. TL’s approach to valuation differs from TM. TL use a Benchmark Land Value approach (BLV) which sets out what the anticipated value of the land might be and determines what level of profit the developer may expect, based on sales values and costs. TL concluded that with a BLV of c£2.9m, the development would generate a profit for the Applicant/Appellant of 18.23% (£7.6m profit on development value) and TL concluded that “assuming a nil affordable housing

provision and nil Section 106 contribution, then the level of developer's profit derived remains at a level that would be considered only marginally viable in present market conditions. The stance taken by the Applicant/Appellant that it can make no contributions at all is not supported and the intention is to seek to discuss the contributions that the Applicant/Appellant should make to deliver a comprehensive development.

- 6.113 Sensitivity testing carried out within the report by TL looked at a range of profit levels based on the proposed layout. This provides a guide to the amount of 'surplus' that could be generated and may be put towards wider infrastructure. TL highlighted that if the appellant accepted a developer profit of 17% (£7.1m) then an expected £571,016 could be released as a contribution towards infrastructure. They further identified that if the Appellant accepted a 15% profit, which is still within the range outlined in the Planning Practice Guidance, (paragraph 10-018), this would generate a developer profit of £6.3m and release a contribution of £1,358,456 towards infrastructure.
- 6.114 TL also noted in the review of viability "*it is unclear why the developer has sought to include flats and rental units within the scheme as these are considered to lack sufficient profitability in the current market*" it is therefore possible to suggest that there are options to improving profitability of the development by including a different composition of unit types. The especially around the South Eastern corner of the Site which contains the majority of apartments and lower profitability units.
- 6.115 This would provide another potential route to enhance viability to replace less profitable units with units which do provide higher profitability.
- 6.116 Such an approach would assist in prioritizing the provision or contributions from the Applicant/appellant towards infrastructure to maximise the opportunity for active travel and contribute towards integrating the Riverside East character area into the wider SS3 Waterside Strategic site. Based on the sensitivity testing around percentage profit levels carried out by TL and their identification of opportunity for the applicant/appellant to enhance

the viability of the scheme, the council does not agree with the applicant/appellant's stance they are unable to make any contribution towards infrastructure. The council will seek to discuss the contributions the applicant/appellant should and could make towards a comprehensive development.

6.117 The appraisal includes figures for CIL which are likely to rise as the Liability Notice is calculated at the time of issuing and it is accepted that a number of the units are already not occupied. The only s106 funds taken account of are the Travel Plan monitoring and the costs associated with the Brimington Road crossing. As referred to earlier in the report it is considered that the development should not need to contribute to the provision of local healthcare facilities at local GP surgeries or at the hospital and it is accepted that the affordable housing component should not be provided. It is considered however that for the development to be integrated into the area and represent a comprehensive approach, as required in policy SS3, then the development should be contributing to:

- Bus Stop Improvements – £39,800
- Brewery Street/Brimington Road Junction – being costed, will appear in final report from AECOM expected 30 June 2023.
- Footpath improvements to FP100 and FP17 - £131,750 budget estimate, updated figure will appear in final report from AECOM, expected 30 June 2023
- Acquiring and improving the unregistered land to the South West of the Site – part of wider works to both river banks, high level costs for entire project will be included in AECOM final report expected 30 June 2023.
- Contribution to replacement bridge – apportioned c£1.275, apportioned from an initial £1.7m budget estimate, updated figure will appear in final report from AECOM, expected 30 June

7.0 **Design and Appearance Considerations**

7.1 Local Plan policy CLP20 states “*All development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context...*

All development will be expected to:

- a) promote good design that positively contributes to the distinctive character of the borough, enriches the quality of existing places and enhances the quality of new places;*
- b) respect the character, form and setting of the site and surrounding area by virtue of its function, appearance and architectural style, landscaping, scale, massing, detailing, height and materials;*
- c) be at a density appropriate to the character of the area whilst not excluding higher densities in and close to designated local, district and town centres;*
- d) Contribute to the vitality of its setting through the arrangement of active frontages, accesses, and functions, including servicing;*
- e) Ensure that the interface between building plots and streets and also the boundaries of development sites and their surroundings are attractive and take account of the relationship between public and private spaces;*
- f) Provide appropriate connections both on and off site, including footpath and cycle links to adjoining areas to integrate the development with its surroundings;*
- g) Provide adequate and safe vehicle access and parking;*
- h) Provide safe, convenient and attractive environment for pedestrians and cyclists;*
- i) Preserve or enhance the landscape character and biodiversity assets of the borough;*
- j) Be designed to be safe and secure and to create environments which reduce the potential for crime;*
- k) Minimise the impact of light pollution; and*
- l) Be able to withstand any long-term impacts of climate change.”*

7.2 Policy CLP20 also sets out that:

“Planning applications for major new development should be accompanied by a statement (as part of or in addition to a design and access statement) which sets out how the development would do this in terms of:

i. following the steps in the energy hierarchy by seeking to use less energy, source energy efficiently, and make use of renewable energy before efficiently using fossil fuels from clean technologies:

ii. optimising the efficient use of natural resources;

iii. reducing emissions through orientation and design.”

- 7.3 A number of discussions have taken place with the Applicant/Appellant resulting in revisions such that the latest revised drawings, aside from the issues referred to regarding connectivity and comprehensive approach to the development, provide a layout, design and architecture which is considered to be generally appropriate and in accordance with Policy SS3 and the respective policies of the development plan.
- 7.4 The proposed massing fits within the building heights envelope set out in the Masterplan and reflects that which has been developed on the adjacent Great Places and Avant Homes schemes. Likewise, the architecture is similar to that on the Avant Homes scheme with distinctive ‘industrial’ styled gable roofs and upper floor balcony areas. The scheme provides a strong frontage to Brimington Road with a continuation of the Avant Homes and Great Places approach already carried out and as reflected in the masterplan. The development also secures a layout with the potential to provide dwellings with an attractive outlook over the area of open space and river corridor.
- 7.5 The proposal achieves 144 residential units split between apartments and family dwellings with a range of bed numbers and which, in the context of the current market situation and advice by BNP Paribas is not an inappropriate mix.

7.6 The site entrance is via the existing positioned main road access from Brimington Road and which passes through 'The Square' where the enclosed space provides termination opportunities to views in both directions. The roadway drops down the site to the river environment linking to the road layout which provides a circuit around the site.

7.7 The Masterplan identifies key primary and secondary frontages and the locations of landmark buildings as shown below:



The Masterplan indicated a location for a landmark building on the North Western corner of the site and whilst it is acknowledged that the form of the building shown in the masterplan is not likely to be appropriate for a scheme focused on more family housing, it remains a key nodal location within Waterside. The Application design does not create any form of visual interest in this location, either in the form of the buildings or the space that presents any sense of arrival or connection to the adjacent bridge and footpath network. The scheme proposes a landscaped nodal point as a gap in the buildings facing north and west and which comprises of a circular landscaped feature bed with footpath/cycle links into the site and to the red edge application site boundary. There is also an identified area for an art installation. The buildings on plots 103-110 facing east / west and plot 139 facing north / south include articulation to their side gables with doors and windows as an

alternative to the option of a blank gable and the use of a contrasting brick colour. Other than a staircase window the dwelling on plot 134 on the opposite corner does not really address the proposed nodal point.

- 7.8 Ideally the nodal location would have been redesigned to create more of a sense of place and visual interest. There is a clear disconnect between the design ambitions of the Masterplan and the proposed approach to this key location. It is not even referred to in the Applicant's/Appellant's DAS as having potential for a landmark building. However, it is considered that the proposed design solution could be enhanced by application of a condition requiring a good quality landscaping solution including a possible central feature at the heart of the circular bed and it is considered that on balance this specific design issue is not sufficiently harmful to justify a refusal of planning permission having regard to the importance of delivering a development on this strategic site.
- 7.9 There remain a number of anomalies in the submitted house type plans which will need to be addressed. For example, the plans for the FOG1 type A on plots 103-110, (100-01 rev A) still show windows in both gable elevations however the building sits attached to the FOG 2 house type on plots 99-102.
- 7.10 The scheme shows the incorporation of textured brickwork panels for some house types, although the precise nature of these details is not currently provided. Details of these features could be required by condition.
- 7.11 Policy CLP20 encourages the inclusion of public art into development and whereas the outline planning permission included a planning obligation requiring a scheme of public art to be set out for the whole development this requirement has fallen away with the expiry of the outline permission. The Applicant/Appellant is now encouraged rather than required to set out a scheme for the incorporation of elements of public art and this can be secured by condition where art is proposed.

- 7.12 Policy CLP20 requires major development, as far as is feasible and financially viable, to minimise CO2 emissions during construction and occupation, and also maximise both the use of and the generation of renewable energy. The policy states that planning applications for major new development should be accompanied by a statement (as part of or in addition to a design and access statement) which sets out how the development would do this in terms of:
- i. following the steps in the energy hierarchy by seeking to use less energy, source energy efficiently, and make use of renewable energy before efficiently using fossil fuels from clean technologies;
 - ii. optimising the efficient use of natural resources;
 - iii. reducing emissions through orientation and design.
- 7.13 The NPPF paragraphs 152-173 also provide guidance on planning and climate change. The Application seeks to reduce the overall carbon footprint of the development by encouraging the use of other means of transport to the private car, through sustainable construction methods and the re-use of materials where feasible. Transition Chesterfield comment that although they have no objections in principle to housing development at this location they hope that the housing will follow the requirements of Policy CLP20 however they have been unable to find any information about the energy standards of the buildings. Given the climate emergency, and the energy crisis, the council should be ensuring that all new housing meets the highest possible energy standards and has renewable energy fitted as a matter of course. It is the case with this scheme that no detail of specific renewable measures or whether the dwellings are to be constructed to a standard which exceeds Building Regulations has been provided.
- 7.14 Landscaping is shown in some detail however conditions would still be needed to deal with the specification, timing of planting and maintenance together with circumstances where landscaping may not survive and measures to protect the landscaping which is to be

retained along the riverside. Furthermore, detailed proposals will be needed for example for trees in hard landscape areas which would require appropriately designed tree pits.

7.15

The submitted Arboricultural Assessment by FPCR includes a detailed survey showing all the existing 20 individual trees and eight groups of trees would require removing to facilitate the current proposals. Most of the trees on site are of poor condition except for 6 No trees which are classed as Category B trees that should be considered for retention and are of moderate quality with an estimated remaining life expectancy of at least 20 years. The majority of existing trees are on the Brimington Road frontage of the site and all would be removed. The current site layout proposals make it impossible for the retention or planting of any new trees to the frontage of the site off Brimington which would be dominated by buildings and car parking however the opportunity for limited soft landscaping is provided to soften the frontage. The tree cover along the western boundary with the river Rother will, in the most part, be retained to maintain the current level of screening provided to the site from the river Rother however this is largely because this landscape falls between the site boundary and river and is outside of the control of the applicant. Policy CLP18 and CLP19 of the Local Plan seek to safeguard and enhance the Chesterfield Canal and the River Rother corridors and the allocation for this policy includes the stretch of the river Rother alongside the site. Whereas the scheme shows landscaping to be largely retained the scheme has been amended such that some of the trees within G6 along the river corridor are to be removed to allow intermittent views from the new development to the existing waterside footpath. This will enhance connectivity with the waterside in a controlled manner whilst retaining the green edge and it will enhance the leisure and recreational value of this edge. It is also accepted that the river in this location will require future dredging to restore it to navigation and provide access for vessels to the canal basin to the south and which is likely to impact on the landscape which exists immediately alongside.

- 7.16 The trees across the site are neither protected nor worthy of protection with the majority being of poor quality and an opportunity therefore exists to improve the landscaping across the site with a good quality new landscaping scheme with new tree planting to provide natural screening and increased habitat value. The Council's Tree Officer has confirmed no objection to the latest submitted information and has set out a number of conditions which could be used to deal with the landscape component of the site.
- 7.17 The Crime Prevention Design Advisor (CPDA) commented on the proposal stating that there is some detail which should be amended to improve aspects of the scheme. The great majority of the development proposal is well thought through from a community safety perspective, save for the footpath/network connections. The CPDA makes reference to FP100 which connects Brimington Road to the river corridor and which is enclosed between the higher built up sides of the Great Places housing and existing chain link fencing and planting which forms this edge of the site. This route is referred to as strewn with rubbish, heavily graffitied, including at the roadside, has the aroma of a public convenience, and in the CPDA view is neither a safe or convenient route. The CPDA suggests that given the newly proposed connection onto Tapton Bridge Way from Brimington Road, that the short link of FP100 should be extinguished as a community safety benefit to both existing and new residents. The CPDA comments that if FP100 is retained, the peripheral planting adjacent will continue to visually detach the route, and provide a secluded approach and means of escape into the new site and if it's not possible to remove the route there will be work necessary to provide enclosure for the edge of the development site, and some clearing of tree growth to open sight lines to allow supervision of the path. The principle of tree thinning and enclosing semi-private space to open and define public movement routes needs to continue around the land between the existing and proposed canal path to the northern edge of the site. The CPDA notes that currently no treatment is proposed for any path edge, and that for

the neighbouring development a post and rail fence has been used however this has already been damaged in more than one section and accordingly the CPDA suggests that a metal estate rail would be more appropriate. The CPDA comments that if the footpath route is to be retained it needs to be structurally detached from private/semi-private space adjacent, and the continuing public footpath defined from the semi-public open space of the new development, up until a point meeting with the newly proposed circular area path to the north west corner of the site.

7.18 The Applicant/Appellant has not shown that the proposed scheme will deliver any improvements to the footpath routes referred to. Ideally the route of FP100 would be replaced by the new route proposed from the nodal point up to Brimington Road through the site via Tapton Bridge Way however it is accepted that this would involve a separate procedure through a footpath closure Order which would need to be considered by the Secretary of State via a public inquiry. The issue here is that as referred to earlier the Applicant/Appellant is only intending to undertake works on land within the red line boundary of the Application site such that the land outside the site (footpaths and landscaped edges to the river) remains unaltered and un-managed. A comprehensive solution would incorporate the land between the site and river into the Application site area and to propose an improvement to the footpath routes and landscaping which can sit in an open, well observed and managed corridor alongside the site. This is a crucial point referred to under the masterplan section above as the current proposal is indicative of the issues referred to as promoting a scheme which is not considered as reflecting the comprehensive requirements of policy SS3.

7.19 The package of revisions to the scheme received are appropriate and address the majority of points which have been made on the design and appearance of the scheme and which in the main is an appropriate design response taking account of the site constraints, there remains a number of design issues which still need to be addressed by condition on any approval. The comments offered by

the Crime Prevention Design Advisor are however more crucial and further indicate a conflict with Policy SS3 in that the proposal does not address an appropriate connection to the adjacent footpath network in a comprehensive manner and which as a result may compromise public safety. The design solution does not show how a bridge could be linked in. It makes the assumption that the existing bridge will remain but provides no solution in the design for either a direct replacement of the existing bridge, or a replacement bridge in a different location.

8.0 **Highways Matters**

8.1 Policy CLP22 seeks to:

“reduce congestion, improve environmental quality and encourage more active and healthy lifestyles, the Council will seek to maximise walking, cycling and the use of public transport through the location and design of development and parking provision. Priority will be given to measures to encourage more sustainable travel choices.

To secure this aim, the council will expect development proposals to demonstrate the following in order of priority:

- a) site specific and area wide travel demand management (measures to reduce travel by private car and incentives to use walking, cycling and public transport for appropriate journeys including travel planning);
- b) improvements to walking and cycling facilities and public transport services that are provided early in the build out period of new developments and that are sufficient to encourage sustainable modes of transport;
- c) optimisation of the existing highway network to prioritise walking, cycling and public transport such as measures to prioritise the needs of pedestrians above the car and improved or new cycle and bus lanes, provided early in the build out period of new developments; and
- d) mitigation including highway capacity enhancements where the initiatives required under points (a) to (c) above are insufficient to avoid significant impacts from the development on the transport network in terms of capacity and congestion; and

e) provision of opportunities for charging electric vehicles where appropriate.”

The policy goes on to state:

“Development proposals will not be permitted where they would have an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Any necessary mitigation measures should be set out in development proposals, including within Transport Statements, Transport Assessments and Travel Plans where these are required, and secured through conditions and/or legal agreements. Priority areas for combinations of sustainable transport measures and highways improvements will be:

- the A61 Corridor;
- the A619 Chatsworth Road;
- the A619 corridor through Brimington and Staveley;
- Chesterfield Town Centre;
- access to Chesterfield Railway Station.

8.2 The location of the development is well suited to encouraging active travel being close to Chesterfield Town Centre and Rail Station and forming a part of the A61 and A619 corridor.

8.3 The outline permission for the overall Waterside development secured a number of highway mitigation improvements to the surrounding highway network, in order to offset the transport impact of development. These identified the broad form of mitigation and trigger points for implementation of such works and was governed by proposals within certain ‘character’ areas within the development. Conditions also required details of a highway and access infrastructure staging plan highlighting the phasing of highway infrastructure to support the specific ‘character’ areas. Whilst such conditions and requirements of the legal agreement have fallen away, it remains appropriate to consider as part of the development details of improvements to the pedestrian / cycle routes through the site, details of a crossing point on Brimington Road and opportunities to enhance public transport as well as the need to improve the safety and capacity of local highway junctions.

- 8.4 The Applicant/Appellant has provided a Transport Assessment and a Travel Plan by BWB as a part of its submission. However, neither document sets the application in the context of the wider development or acknowledges the Travel Plan or transport infrastructure measures that were previously set out in the outline permission or the existing masterplan. The documents do however state that *“whilst the outline permission has lapsed, significant weight is still given to the approved masterplan which remains relevant through policy SS3 of the Chesterfield Local Plan.”*
- 8.5 The Transport Assessment concludes that;
- The development is expected to generate a small increase in traffic (1 additional movement in the morning peak hour and 21 in the evening peak hour) compared to the existing industrial estate. This does not take account of any reductions from secondary trips associated with the retail uses and overall there should be no significant off site impacts;
 - The two access points to Brimington Road are designed with visibility splays to accommodate the speed of vehicles on Brimington Road;
 - The site is within a highly sustainable location accessible by foot, bicycle and public transport with existing bus stops at the site frontage;
 - Appropriate parking space numbers of between 1 and 3 spaces per dwelling based on size and type of property are proposed given the sites sustainability credentials;
 - The internal road layout is designed to appropriate standards.
- 8.6 The Highway Authority (HA) initially raised comments regarding the site layout which have been responded to by the applicant with a revised plan such that the HA confirm that the layout is considered acceptable in highway terms subject to a number of conditions and is suitable for adoption.

- 8.7 The HA expressed concern regarding the cumulative impacts of the development across the Waterside site and the provision of off-site highway improvements to mitigate the impact as a whole on the highway network. They comment that if the Applicant/Appellant is unwilling to provide or contribute to those highway improvements, the mechanism for acquiring funding or for highway improvements to be secured is unknown.
- 8.8 The HA comment that if the aspiration for the Waterside site has now been revised and reduced, with a lower scale of overall development, there is likely to be a reduced impact on the highway network which could lessen the required mitigation measures; however, at this time this is unknown. The HA comment that CBC are working with AECOM on the potential highway impact of a revised masterplan which will inform the required highway mitigation measures. However, until any assessment has been undertaken the highway authority is unable to accurately determine what measures are required and how any required mitigation or funding for such can be realised.
- 8.9 On this basis the HA state that their response should be treated as a holding response until the issues relating to the mechanism for securing funding from future developers, including the Applicant/Appellant for this Application, for highway mitigation measures is clarified and also until the potential impact of development on the network is fully understand if the original masterplan is to be reduced which will inform the type and scale of mitigation required.
- 8.10 There is therefore a real concern that this Application ignores the wider transportation mitigation strategy developed under the original Waterside application with the potential situation emerging whereby the original Waterside consent, which forms the basis upon which the principle of the (wider) Waterside scheme is established in planning terms, being set aside, with the traffic impact considerations of the individual parts of the overall Waterside site being assessed individually with the risk

that the wider cumulative transportation considerations are abandoned. Whilst there are unlikely to be any significant highways impacts arising directly as a result of the proposed development of 144 dwellings, such an approach to considering schemes in a piecemeal way rather than the cumulative manner will inevitably result in some mitigation (e.g. the signalisation of Brimington Road and Brewery Street mini roundabout) as well as a strategy to monitor and implement mitigation at a later date if required not being achieved. This is an indicator of the development not being considered on a comprehensive basis and which is at odds with policy SS3 which states *“Land within the Chesterfield Waterside area will be comprehensively redeveloped in accordance with an approved masterplan,Planning applications submitted for development outside of the existing outline planning permission, but which otherwise deliver the objectives of the approved masterplan, will be expected to contribute towards the overall delivery of the infrastructure required for comprehensive development, secured through a section 106 agreement.”*

- 8.11 The BWB Travel Plan refers to the development providing 2 metre wide pavements associated with the vehicular access from Brimington Road and which would extend through the site on the main spine road. There would also be a dedicated pedestrian and cycle access connection to Brimington Road via ‘Tapton Bridge Way’ providing an alternative route to access the National Cycle route 67 (which forms a part of the TPT). This includes a dropped kerb and tactile crossing to Brimington Road to allow connection to the railway footbridge opposite and to the east of the site. The Travel Plan indicates the scheme would also provide a pedestrian and cycle connection to the TPT at the North West corner of the site opposite the Avant Homes development adjacent to the existing river footbridge and A61 bridge. The Travel Plan sets out a number of measures and incentives to be implemented however these relate primarily to providing information rather than any

improvements to the network in the vicinity of the site. The Plan does however accept the need for a Travel Plan co-ordinator and monitoring for a 5 year period and the opportunity to offer taster bus tickets for each dwelling.

8.12 In terms of the Travel Plan the HA comment that since the walking and cycling routes in the vicinity of the site provide significant potential for sustainable travel journeys to and from the development, there should be suitable links provided, to maximise the site's potential for sustainable journeys for all residents and visitors. The HA comment that this should include improvements to LTN1/20 standard of:

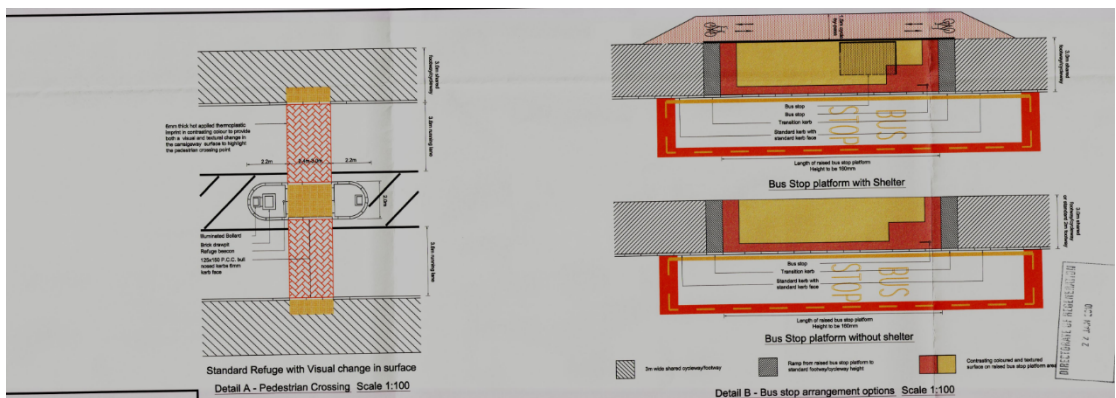
- Upgrades to Chesterfield footpath 17 along the northern edge of the development, including the provision of a suitable width of sealed surface to enable year round pedestrian and cycle access.
- Provision of all pedestrian and cycle paths within the site, and links to existing rights of way.
- Upgrades to the existing footbridge across the River Rother to enable pedestrian and cycle access.
- Improvements to Brimington Cycle Path / National Cycle Route 67 along Brimington Road.
- Any necessary safeguarding of land to enable future provision of a pedestrian and cycle link via the Southern edge of the development (ie close to plot no. 58).

8.13 In response to the Travel Plan initiatives, the HA comment that the dwellings should include cycle storage, vehicle charging points and high speed broadband connections and the Brimington Road bus stops should be upgraded to include raised kerbs, shelters, timetable cases, lighting, road markings and real time information (estimated cost of between £17,900 and £19,800 per bus stop). They also comment that an uncontrolled pedestrian crossing should be provided on Brimington Road to facilitate access to FP19 over the rail line and that a Travel Plan coordinator should be appointed. To encourage use of public transport taster tickets are recommended and for this development a sum of £10,440 should be set aside for Silver 28 day megarider tickets at 1 no per

dwelling. The applicant has indicated the intention to introduce such measures as part of the scheme. The applicants Viability Assessment includes appropriate sums for travel plan monitoring and an uncontrolled crossing of Brimington Road however improvements to bus stops are not included.

8.14

The original outline permission for the development included provision for improvements to Brimington Road to facilitate access across Brimington Road, which were to be implemented upon any occupation of the Riverside East Character Area (which includes this site) (condition 39 of CHE/09/00662/OUT as amended). These included improved bus stop and pedestrian refuge facilities. The implementation of comparable measures should be secured as part of this development. The two following diagrams are extracts from the outline approved scheme.



8.15

It is considered that in the event of an approval that a s106 agreement would need to be negotiated to cover the monitoring

costs over 5 years, the crossing to FP19, the travel plan initiatives and the bus stop improvements.

9.0 **Heritage**

- 9.1 The application is accompanied by a Heritage Impact Assessment by Locus which concludes there is a low to moderate potential of archaeological remains of local interest surviving and low likelihood of any impacts occurring on remains of greater than local archaeological interest. In terms of impact on designated assets the study has considered the impacts on the Crooked Spire, Tapton House and its Scheduled Monument and 4 No grade II listed buildings. It concludes that the impacts on the Crooked Spire will be at the lower end of the scale but would bring about an element of enhancement. In respect of the other heritage assets the report concludes that the impacts will be neutral. Overall, the Assessment concludes, both individually and cumulatively that the proposed development is likely to bring about a minor positive contribution to the heritage significance of designated heritage assets.
- 9.2 Policy CLP21 concerns the historic environment and emphasises the importance of protecting local heritage assets and seeking to enhance them where possible. The policy aligns with the guidance set out in the National Planning Policy Framework.
- 9.3 Chesterfield Civic Society (CCS) confirm they strongly support the scheme commenting that it will replace a ‘conspicuous eyesore’ (principally the former S. & J. Kitchin light engineering works) on one of the main approach roads to Chesterfield with more housing within walking distance of the town centre and the railway station and will complement other aspects of the Waterside redevelopment scheme. The CCS comment that they support the layout of the development and the individual house and flat designs and the creation of undercroft parking spaces beneath raised gardens is particularly to be welcomed, since it will help to keep cars off the road and give residents some outside space.

- 9.4 CCS's main concern is that the mix of properties may include too many one-bedroom flats and houses, for which they believe there is limited demand in Chesterfield. They state that whilst Woodall Homes know what they can sell, CCS would prefer to see more two-bedroom units, for which they believe there would be a larger market, and a more traditional internal layout for the smaller flats and houses. CCS are pleased to see the inclusion of some four-bedroom houses, which should give the estate a more mixed social character than it might otherwise have.
- 9.5 CCS comment that the accompanying technical reports appear to be full and accurate, with the exception of the Heritage Assessment, which they consider is a particularly weak example of the genre, being far too long and containing a great deal that is either partly or completely irrelevant. CCS set out very briefly what they consider to be an adequate assessment of the history and archaeology of the site and its immediate environs.
- 9.6 The County Archaeologist (CA) refers to possible alluvial deposits in the former course of the River Rother on the western side of the site, noting that the river was canalised within the site and the former river filled in. The CA comments that as ground testing of the site has yet to occur insights from this will help model the likelihood of preservation of archaeological deposits on site and the CA recommends that the geotechnical deposits should also be monitored by an archaeologist. The CA comments that he has little doubt that there will be no impediment to development caused by archaeology however the CA considers that a standard condition requiring a Written Scheme of Investigation (WSI) can deal with the issues referred to as advocated in paragraph 205 of the NPPF.
- 9.7 CCS comment that the suggestion by the County Archaeologist concerning possible environmental deposits in the former course of the River Rother appears to be made on a misreading of the map evidence. When first opened in 1777 the Chesterfield Canal used the natural course of the river between Newbold Mill and the northern end of the Woodall site, from where an artificial cut led to

terminal basins west of the river at the end of Wharf Lane (off Sheffield Road). When the Manchester, Sheffield & Lincolnshire Railway's Chesterfield Loop was built in the 1890s these basins were destroyed, a new basin was created near the present Holbeck Close, and the river between those points was straightened by removing a loop to the west of the Woodall site. The course of the river that today skirts the site is largely a creation of the 1890s; the earlier course lay to the west of the site, not within it, and now lies beneath the A61. There is therefore no 'former river channel' within the development site to investigate and I see no reason to burden Woodall Homes with any additional expense of the sort proposed.

- 9.8 It is considered that the impacts on above ground heritage are likely to be a minor positive impact with the impacts of the proposal on the potential for archaeology, if any, to be at the low end of the harm spectrum. There appears to be some uncertainty regarding the former route of the river and on balance it would not appear to be inappropriate in the event of an approval to cover this with a condition seeking a WSI as advocated by the County Archaeologist.

10.0 **Residential Amenity**

- 10.1 Policy CLP14 states that '*All developments will be required to have an acceptable impact on the amenity of users and adjoining occupiers, taking into account noise and disturbance, dust, odour, air quality, traffic, outlook, overlooking, shading (daylight and sunlight and glare and other environmental impacts*'. Local Plan policy CLP20 expects development to '*k) have an acceptable impact on the amenity of users and neighbours;*'
- 10.2 The application includes a Noise Assessment by BWB which considers the impacts of noise generating uses on the development and its future residents concluding that the use of appropriate glazing will secure the necessary performance to protect residents. The main impacts are referred to as being

generated from road traffic noise and which are concluded as being capable of mitigation.

10.3 The business operations which have historically been taking place on the site have included noisy operations such as steel fabrication, stone cutting and blasting and which influenced the design and layout of the adjacent Avant Homes site. The uses on the site were regarded as potentially harmful to residential amenity such that replacement of them with new residential has significant positive benefits for the living conditions of the existing neighbours on the Avant Homes site.

10.4 The design and layout of the scheme is also considered appropriate in that it achieves individual garden areas and acceptable separation distances to safeguard privacy and potential for overlooking. New landscaping is also shown to add a softening to the area and provide screening such that it is concluded that the scheme will not adversely impact on existing neighbours or the amenity of the prospective new residents of the proposed dwellings.

11.0 **Biodiversity**

11.1 Policy CLP16 of the adopted Local Plan requires that new development provides a net measurable gain in biodiversity. Paragraph 174 of the NPPF also refers to the requirement to deliver a net measurable gain in biodiversity. This requires the submission of a clear baseline assessment, preferably carried out utilising the DEFRA metric, and quantified proposals for improvement.

11.2 The application is accompanied by a Preliminary Ecological Appraisal (PEA) and Bat survey together with a Landscape and Biodiversity Environmental Management Plan (LBEMP) by FPCR. The submissions conclude that there is very little of ecological value on the site but that the development provides opportunities to enhance and improve the situation. The environmental quality of

the site is insufficient to prevent the development however this can be supported by appropriately worded planning conditions should a permission be granted.

- 11.3 The applicant has also undertaken a Biodiversity Impact Assessment and Metric by FPCR which concludes that net gains are predicted: +2.4 habitat units (68.35%), +0.59 hedgerow units (100%) and +0.19 river units (13.33%).
- 11.4 Derbyshire Wildlife Trust (DWT) has commented that the trading rules have been satisfied and they have no further comments on the metric calculations which are supported. In so far as the Ecological submissions DWT comment that they include sufficient survey and assessment and accord with best practice. Whereas DWT make a comment that street trees do not appear to be incorporated along Tapton Bridge Way and Main Street, as they recommended, it is the case that street trees are included on Brimington Mews and it is accepted that space constraints preclude their inclusion elsewhere on the site.
- 11.5 The Derbyshire Swift Conservation Project have considered the submission and recommended a condition is imposed to ensure the development is built with 1 internal nest brick per dwelling designed for swifts as a universal biodiversity enhancement for urban bird species. It is considered this would add to the biodiversity value of the scheme and could be imposed as a condition on any planning approval granted.
- 11.6 The Environment Agency (EA) comment that developments which encroach on watercourses and/or their riparian zone can have a potentially severe impact on their ecological value however networks of undeveloped buffer zones help wildlife adapt to climate change and will help restore watercourses to a more natural state as required by the Humber River Basin Management Plan (RBMP). They comment that the proposed development will therefore be acceptable if a planning condition is included requiring a scheme to be agreed to protect and enhance a 10-metre-wide buffer zone

around the *Rother, Spital Brook to Doe Lea (GB104027057771)* water body.

- 11.7 Reference is made to Policy CLP19 on River Corridors which states “*New development proposals on or adjacent to a river corridor should investigate the creation, and management, of ecological buffer strips and corridors to preserve and enhance the biodiversity of the area*”.

The EA state that the ecological enhancements that have been proposed will require a management plan to be in place to ensure the landscape provides a maximum benefit to people and the environment. They comment that this approach is supported by paragraphs 174 and 180 of the National Planning Policy Framework (NPPF) which recognise that the planning system should conserve and enhance the environment by minimising impacts on and providing net gains for biodiversity.

- 11.8 It is considered that the submissions satisfy the policy requirements and subject to imposition of conditions will deliver appropriate mitigation to ecology and biodiversity.

12.0 **Ground Conditions**

- 12.1 Policy CLP14 requires that proposals for development on land that is, or is suspected of being, contaminated or unstable will only be permitted if mitigation and/or remediation are feasible to make the land fit for the proposed use and shall include:

- a) a phase I land contamination report, including where necessary a land stability risk assessment with the planning application; and
- b) a phase II land contamination report where the phase I report (a) indicates it is necessary, and
- c) a strategy for any necessary mitigation and/or remediation and final validation.

A programme of mitigation, remediation and validation must be agreed before the implementation of any planning permission on

contaminated and/or unstable land. The requirement to undertake this programme will be secured using planning conditions.

- 12.2 On the basis that the site has been an active industrial site for many years it is appropriate to consider the potential for contamination to exist and the nature of the ground. The application is accompanied by a full phase 1 Geotechnical and Geo-Environmental Ground Investigation Survey and Coal Mining Risk Assessment by Eastwood & Partners Consulting Engineers which concludes that further investigation is required including borehole surveys. The reports also conclude that piled foundations are likely to be required with precast concrete floors with vented voids beneath and that radon barriers will be needed. Soakaway drainage is not expected to be viable. The report recommends that an allowance for 600mm of clean capping soils are provided for gardens and landscaped areas increasing to 1000mm where coal outcrops are present. The report recommends sulphate precautions to be allowed for below ground concrete in contact with made ground and coal and protective water supply pipes should be used.
- 12.3 The recommendations of the report are not uncommon on such brownfield sites and where industrial operations have continued for many years. The ground conditions will need to be dealt with such that the new development is safe and fit for purpose and it is considered this can be secured through the use of appropriate planning conditions should a permission be forthcoming.
- 12.4 The Council's Environmental Health Officer was consulted and no objection has been forthcoming. The Coal Authority (CA) comment that they have no objection to the proposed development subject to the imposition of conditions as follows:
1. No development, except demolition, shall commence until;
 - a) a scheme of intrusive site investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;

b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

2. Prior to the first occupation of the development a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

12.5 It is considered that appropriate mitigation, remediation and validation of the ground conditions can be secured such that the requirements of policy CLP14 are safeguarded.

13.0 **Drainage and Flood Risk**

13.1 Policy CLP13 requires that the Council will require flood risk to be managed for all development commensurate with the scale and impact of the proposed development so that developments are made safe for their lifetime without increasing flood risk elsewhere. Development proposals and site allocations will:

- a) be directed to locations with the lowest probability of flooding as required by the flood risk sequential test;
- b) be directed to locations with the lowest impact on water resources;
- c) be assessed for their contribution to reducing overall flood risk, taking into account climate change.

Within areas of functional floodplain, development is expected to preserve or enhance the contribution of the area to water management / reducing flood risk.

Outside flood zone 1, the redevelopment of previously developed land for uses not allocated in this Local Plan land will be permitted where proposals can demonstrate that:

- i. the development will deliver the economic, social and environmental regeneration of the borough that outweighs the risk of flooding and reduces flood risk overall;
- ii. the safety of the development and users from flooding can be achieved and, as a minimum, there will be no increase in on- or off-site flood risk demonstrated through a site-specific flood risk assessment;
- iii. the proposed uses are compatible with the level of flood risk, and;
- iv. a sequential approach to the location of uses has been taken within the site itself, including matching the vulnerability of uses to the risk of flooding.

13.2 Policy CLP13 also requires that all new dwellings be constructed to the higher optional water efficiency standard of the building regulations, which should be secured by an appropriate condition.

13.3 The application is accompanied by a Flood Risk Assessment (FRA) by AVIE Consulting Ltd. This concludes the site is partially within flood zone 3a where the exception test needs to be satisfied. It is the case that the site is allocated for the type of development proposed in this application as set out in the adopted Local Plan and the flood risk sequential assessment requirement and exception test has therefore been satisfied at Local Plan preparation stage. Furthermore, policy CLP13 recognises that where social, economic and environmental benefits are capable of being delivered with appropriate mitigation, the exception test can be deemed to have been successfully met.

13.4 The FRA comments that finished floor levels will need to be 600mm above modelled flood levels within zone 3a and

compensatory storage for any flood volume lost should be provided within the site to mitigate the losses. The scheme is designed to limit surface water run off to 5l/s/ha and as the development includes less impermeable area than the current site usage it is not expected to have a negative effect on the limits, depth or volume of any flooding outside the site. The strategy includes a below ground attenuation facility with a volume of 1000 cubic metres.

13.5 With the above in mind the key consultees are the Environment Agency, The Lead Local Flood Authority and the Councils own Drainage Engineers.

13.6 Environment Agency (EA)

The latest comments for the EA confirm that they have reviewed the revised Flood Risk Assessment, topographical plan and supporting information submitted, and consider that it satisfactorily addresses their earlier concerns and subject to a condition suggested they withdraw their previous objection. The following condition is recommended:

The development shall be carried out in accordance with the submitted Flood Risk Assessment (ref P3656 Rev 4 / Dec 2022 / AVIE Consulting Ltd) and the following mitigation measures it details:

- Finished floor levels shall be set no lower than the floor levels detailed within Drawing "P3656-03", found in Appendix C of the submitted Flood Risk Assessment
- As per document "House Type Pack" (Dated December 2022), development types HT1, HT2(A, B, C & D), HT3, HT4 (A & B), HT5, FOG1 (A & B) and FOG 2 will be limited to Parking and non-habitable uses on the lower ground floors only.
- Flood resilience and resistance measures shall be included as detailed within Section 9.6, Page 11 of the submitted Flood Risk Assessment

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the

development.

13.7 Lead Local Flood Authority (LLFA)

The LLFA have sought further information from the applicant concerning discharge rates, the storage estimates and the location of the attenuation storage and permeable areas and details of the pumping solution proposed. This information has been provided by the applicant and the LLFA has since confirmed that no objections arise subject to the imposition of three conditions as follows.

1. “No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:
 - a. Avie Consulting Ltd. (22/03/2023) *Flood Risk Assessment*, P3656 Revision 6, including any subsequent amendments or updates to that document as approved by the Flood Risk Management Team,
 - b. And DEFRA’s Non-statutory technical standards for sustainable drainage systems (March 2015), have been submitted to and approved in writing by the Local Planning Authority.”

2. “Prior to commencement of the development, the applicant shall submit for approval to the LPA details indicating how additional surface water run-off from the site will be avoided during the construction phase. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the LPA, before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.”

3. “Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been

constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

13.8 Design Services

The Councils Engineer states that the developer's FRA shows that they have an understanding of the high flood risk of this site and the risk to properties. This includes drainage details and calculations for the 1 in 100 Year + 40% Climate Change rainfall event.

13.9 The main consultees in respect of flood risk and a drainage solution / strategy for this site have all confirmed that they are satisfied with the proposal to a point where they have now withdrawn their holding objections which were initially imposed and can therefore be accepted as satisfying the requirements of policy CLP13 of the local plan.

13.10 Yorkshire Water Services (YWS) has considered the impact of the proposal on sewer infrastructure and initially maintained an objection on the basis that the scheme showed buildings and landscaping within public sewer easements which cross the site. They make reference to

- a 1200/1295 mm diameter public combined water sewer recorded crossing the site.
- Two x 450 mm diameter Yorkshire Water Maintained overflows recorded crossing the site.
- a 533 mm & 686 mm diameter public syphon sewers recorded crossing the site.
- a combined sewer overflow and 2 outfalls to watercourse, plus 2 x public syphon sewer, under the control of Yorkshire Water, located near to the site.

YWS comment that in summary, the FRA report states that Foul water will discharge to public combined water sewer and Surface water will be discharge to the River Rother.

13.11 The Applicant/Appellant provided additional information and has worked with YWS to overcome their concerns such that they have now withdrawn their objection and recommended that if planning permission is granted that the following condition should be imposed.

The development shall be carried out in accordance with the details shown on the submitted plan, "Flood Risk Assessment P3656 (rev 4) prepared by Avie, dated 22/12/22", unless otherwise agreed in writing with the Local Planning Authority. (In the interest of satisfactory and sustainable drainage)

14.0 **REPRESENTATIONS**

14.1 The Application has been publicised by site notice and by advertisement in the local press and no representations have been received against the proposal.

15.0 **HUMAN RIGHTS ACT 1998**

15.1 Under the Human Rights Act 1998, which came into force on 2nd October 2000, an authority must be in a position to show:

- Its action is in accordance with clearly established law
- The objective is sufficiently important to justify the action taken
- The decisions taken are objective and not irrational or arbitrary
- The methods used are no more than are necessary to accomplish the legitimate objective
- The interference impairs as little as possible the right or freedom

15.2 It is considered that the recommendation is objective and in accordance with clearly established law.

15.3 The recommendation is considered to be no more than necessary to consider the development in the interests of all material planning considerations and which interferes as little as possible with the rights of the applicant. The applicant has taken advantage of the

right to appeal against the non-determination of the submitted application.

16.0 **CONCLUSION/PLANNING BALANCE**

Principle of Development

16.1 The site is a part of the wider Chesterfield Waterside Regeneration area which is identified as a site on the adopted local plan where redevelopment has been a priority for the Council on the basis that it is a strategic brownfield regeneration opportunity close to the town centre and public transport hub and thereby an important sustainable development opportunity. The Council has promoted the Waterside development as a way of contribution to jobs, restoring the canal and river to navigation with a new basin, achieving a mix of uses, improving access to the site including the footpath and cycle network, delivering a high-quality environment and a scheme which manages flood risk. The Waterside site has been the subject of a specific Strategic Place Making policy in successive Local Plans since the granting of the outline permission. The development brings clear benefits to the Borough in terms of delivering new housing in a sustainable location with all the associated investments which would arise.

16.2 In use terms, there is no objection to the principle of the development of high-density family housing in this location which accords with the advice from PNB Paribas and it would further the aims of the Strategic allocation. There is a risk that the inclusion of two retail units has the potential to dilute the demand for space at Basin Square, making it more difficult to deliver the proposed Local Centre. However, it is considered that on balance, having regard to the size of the proposed units and the opportunity to limit by condition the range of goods to be sold to convenience goods that would meet a local need, then the impacts arising are not considered to be so harmful to justify a reason for refusal.

Policy SS3 and Comprehensive Development

16.3 Policy SS3 of the adopted Local Plan promotes the development of the site but specifically on a comprehensive basis in accordance with an approved masterplan. The policy adopted in 2020 is up to date and makes it clear that *“planning applications submitted for development outside of the existing outline planning permission, but which otherwise deliver the objectives of the approved masterplan, will be expected to contribute towards the overall delivery of the infrastructure required for comprehensive development, secured through a section 106 agreement.”*

It is considered that the current proposal conflicts with Policy SS3 and the Masterplan and the requirement in that Land within the Chesterfield Waterside area will be comprehensively redeveloped in accordance with an approved masterplan. By not addressing the connectivity with the rest of the Waterside site and the wider walking and cycling network, and not addressing the unregistered sections of riverbank, it also conflicts with criteria (b), (d) and (e) of policy SS3, and the requirement to contribute towards the overall delivery of the infrastructure required for comprehensive development, and the requirements of policies CLP20 and CLP22 in respect of making appropriate walking and cycling connections and maximising opportunities for walking and cycling opportunities.

16.4 It is considered that the Council can have regard to and accord significant weight to both the most recent version of the masterplan including that version which is reproduced in the adopted Local Plan and in due course, any updated version of the Masterplan once approved. It is clear that Policy SS3 of the Local Plan was examined and adopted as recently as 2020 and the inspector’s report dated 27th May 2020 recommended the policy was sound.

Connectivity/Access

- 16.5 It is considered that for the development to be considered as appropriately connected to the local network, thereby providing a comprehensive development solution as part of the wider site and as required by policy SS3, that it should be paying its share and deliver on key infrastructure to mitigate the impacts arising in the local area. The development stops at the red edge boundary (existing chain link fence) and apart from the Applicant/Appellant confirming a willingness to safeguard land to the northern corner of the site to allow for the possible landing of a new bridge link into the site and to allow space in the landscape buffer area to safeguard a widening of the existing public rights of way alongside the site, they have offered to develop a crossing over Brimington Road to link to FP19 (which is presumably a set of dropped kerbs). The development provides no other improvements to the off-site infrastructure in the area with the prospect that the development will increase pressure on their use resulting in a worsening of their condition, and therefore would cause significant harm.
- 16.6 The development does not deal at all with the parcels of unregistered land sandwiched between the site and the river or along side the northern boundary resulting in the prospect of unmaintained “no man’s land” which is considered key to the success of, and the USP for this development. It does not appropriately address the connections to FP100 or FP17. It merely creates new paths to the red line boundary leaving users to negotiate the existing poor quality path provision immediately adjacent to the site. It does not address the opportunity to provide a new bridge crossing of the river through a commuted sum contribution such that a poor quality of connection is maintained into the future. As well as walking and cycling opportunities the scheme does not appropriately promote public transport use by not including the opportunity to enhance the bus stop provision or provide the incentives set out in the Travel Plan.
- 16.7 It is clear that the planning process promotes walking and cycling as a central planning objective which has obvious health and

wellbeing benefits as well as encouraging a sustainable means of travel.

- 16.8 The development will not achieve, as the Applicant/Appellant suggests, “*high quality bespoke residential accommodation in a high-quality urban environment with green infrastructure, improve access to the site and enhance footpaths / cycle routes, provide links to the wider Trans Pennine Trail and railway station, whilst effectively managing flood risk.*” The development as proposed does not address any infrastructure needs outside of the application site and therefore is not contributing to the policy requirements.
- 16.9 The most effective measure that the development could provide to encourage walking and cycling would be integration with the wider network and without such integration it is considered on balance that the proposed development does not deliver on the regeneration requirements arising from the site and thereby conflicts with the requirements of policy CLP22 and SS3 of the adopted Local Plan.

Contributions and Commuted Sums

- 16.10 It is considered that the development should not need to contribute to the provision of local healthcare facilities at local GP surgeries or at the hospital and it is accepted that the affordable housing component should not be provided. The scheme does not however include the provision of a commuted sum towards walking, cycling, public transport and highway improvements which are considered necessary to cater for the cumulative impacts arising from traffic across the wider Waterside site. Failure to deliver on these matters, or to contribute a fair share, including the opportunity to explore how the funding may be arranged such as use of Exceptional Circumstances Relief policy regarding CIL will result in a poorly designed scheme which is not comprehensive and which fails to integrate appropriately into the local area. It is not agreed that the development can make no contributions at all.

Viability

16.11 The applicant has provided a Viability Appraisal which confirms there is no headroom and creates a deficit however the Applicant/Appellant confirms an intention to deliver the scheme. The Applicant has already removed its offer of affordable housing in an attempt to make the scheme more viable but maintains a profit level return of 18.23% which is around £7.6m. The opportunity to explore with the Applicant/Appellant a reduced profit margin or to redesigning a part of the site to achieve higher value units in an attempt to increase funding for infrastructure could assist in providing funds in the scheme to deliver on the key infrastructure requirements arising out of the development.

Technical Details

16.12 In general terms the proposals are considered to be appropriately designed having regard to the character of the surrounding area, the on site highway standards and the impact on neighbours and heritage assets and which take account of the constraints of the site having regard to ground conditions, drainage and flooding. Whilst a number of concerns have been expressed regarding the design of the nodal point area for example, it is considered, on balance, that this design issue is not sufficiently harmful to justify a refusal of planning permission in its own right. It is considered that all technical matters arising from consultees have been satisfactorily addressed and which can be dealt with where necessary through the imposition of conditions.

17.0 **RECOMMENDATION**

17.1 That Planning Committee would have refused planning permission for the development on the basis of the following reason for refusal:

The development is contrary to Policy SS3 of the adopted Chesterfield Local Plan 2018-35 which requires that the area “will be comprehensively redeveloped in accordance with an approved masterplan”. The conflict with Policy SS3 arises from the failure to

incorporate and deliver improvements to access routes adjacent to the Site, and to address land integral to delivering the green infrastructure corridor, thereby to ensure that this area is redeveloped in a comprehensive manner, as required by Policy SS3 and the Masterplan. The scheme fails to incorporate or address two parcels of unregistered land adjacent to the site, and therefore fails to provide a connected scheme in a comprehensive manner, fails to address wider connectivity, the need for active travel and the requirements of Local Plan policies CLP15, CLP20 and CLP22, and thereby fails to deliver effective regeneration of a key strategic site. The development is considered to be in conflict with paragraphs 92, 97, 100, 104-106, 110, and 130 of the National Planning Policy Framework and the National Design Guide.

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