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File No: CHE/18/00083/REM1
Plot No: 2/163

ITEM 1

CHE/18/00083/REM1 – Variation of conditions 3,5,8,14,18,24,25,33 and 45 of CHE/16/00183/REM1 - demolition of existing buildings and erection of a comprehensive mixed use regeneration scheme comprising residential (use class C3); retail (use class A1); financial/professional services (use class A2); restaurants, drinking establishments and hot food establishments (use classes A3, A4 and A5); offices (use class B1); doctors surgery and creche (use class D1); two hotels (use class C1); health and fitness (use class D2); nursing home (use class C2); ancillary creative uses including a possible arts centre, a new canal link, new open spaces including linear and eco parks, new public realm and car parking arrangements including two multi storey car parks at Land east of the A61 known as Chesterfield Waterside, Brimington Road, Tapton, Derbyshire for Chesterfield Waterside Ltd

Local Plan: Area of Major Change - Waterside and the Potteries.
Ward: Brimington South

1.0 CONSULTATIONS

Ward Members	No representations received
Strategy Planning Team	No comments received
Environmental Services	No objections
Design Services	No comments
Yorkshire Water	Comments received – see report
Lead Local Flood Authority	No objections
DCC Highways	No comments
Chesterfield Cycle Campaign	No comments
Conservation Officer	No comments

Derbyshire Wildlife Trust	No objections
Chesterfield Canal Trust	Comments received – see report
DCC Countryside Service	Comments received – see report
Representations	One letter of comment received

- 1.1 The proposals were publicised by site notices and in the local press.

2.0 SITE LOCATION AND DESCRIPTION

- 2.1 Waterside regeneration area is located to the north of the town centre sandwiched between the A61 to the west and Brimington Road to the east. The reserved matters application relates to part of the 'Basin Square' Character Area within the Waterside scheme, specifically the area between Brimington Road and Brewery Street and the junction of Holbeck Close and Brimington Road. The reserved matters application site currently contains a temporary surface car park, a canal basin, hard surfacing and sparse vegetation and currently ground remediation and bund provision is being undertaken.
- 2.2 The site is relatively low in terms of land levels compared to the majority of Chesterfield Town Centre and surrounding settlements, being next to the River Rother. To the west the Town Centres buildings are visibly higher than the site, with the Chesterfield College building and Grade I Listed St Mary and All Saints Church being the most obvious. Levels fall from the roundabout junction of Brimington Road and Brewery Street towards and through the site towards Holbeck Close.
- 2.3 Nearby buildings on Brimington Road opposite the site are predominantly two storey in scale with a complex of red bricked and stone detailed buildings (likely from the Victorian era) to the immediate south of the site and further down Brimington Road other two storey buildings, one vacant and one in use as an antiques shop with ancillary café. All the buildings to the east of the Basin Square site are to be demolished and redeveloped as part of the Station Approach component of the waterside scheme. Buildings on Holbeck Close are no more than two storeys in height. The nearest dwellings are to the east, consisting of a terraced row with curtilages on the opposite side of the River Rother to the reserved matters application site (Tapton Terrace). The reserved matters' application site is screened from these dwelling's

to a degree by a row of deciduous trees along the side of the River Rother.

3.0 **SITE HISTORY**

3.1 The following history of the site is relevant to the consideration of the proposal:

3.1.1 CHE/09/00662/OUT Outline planning application with all matters reserved except for means of access proposing the demolition of existing buildings and erection of a comprehensive mixed use regeneration scheme comprising residential (use class C3); retail (use class A1); financial/professional services (use class A2); restaurants, drinking establishments and hot food establishments (use classes A3, A4 and A5); offices (use class B1); doctors surgery and creche (use class D1); two hotels (use class C1); health and fitness (use class D2); nursing home (use class C2); ancillary creative uses including a possible arts centre, a new canal link, new open spaces including linear and eco parks, new public realm and car parking arrangements including two multi storey car parks at Chesterfield Waterside, A61 Corridor, Chesterfield, revised highways plans received 22nd January 2010, additional information received 1st February 2010. GRANTED 09.03.2011

3.1.2 CHE/16/00183/REM1 Variation of planning conditions 3,10,11,12,13,14,39 and 47 of CHE/09/00662/OUT - Outline planning application with all matters reserved except for means of access proposing the demolition of existing buildings and erection of a comprehensive mixed use regeneration scheme comprising residential (use class C3); retail (use class A1); financial/professional services (use class A2); restaurants, drinking establishments and hot food establishments (use classes A3, A4 and A5); offices (use class B1); doctors surgery and creche (use class D1); two hotels (use class C1); health and fitness (use class D2); nursing home (use class C2); ancillary creative uses including a possible arts centre, a new canal link, new open spaces including linear and eco parks, new public realm and car parking arrangements including two multi storey car parks at Chesterfield Waterside, A61 Corridor, Chesterfield, revised highways plans received 22nd January 2010, additional information received 1st February 2010 - Revised ES Addendum received 26/9/2016. Granted 12.12.2016

- 3.1.3 CHE/16/00529/FUL Dredging a section of the River Rother to reinstate a navigable channel for canal boats from the existing Chesterfield Canal to the recently constructed Canal Basin within the Chesterfield Waterside site to the north of Tapton Bridge. Retaining elements/bank stabilisation to be installed to the River Bank where dredging may undermine the existing Bank.- Section of the River Rother between Tapton Bridge and the Chesterfield Canal. Granted 10.10.2016.

4.0 **THE PROPOSAL**

- 4.1 An application has been made for the variation of conditions 3,5,8,14,18,24,25,33 and 45 of CHE/16/00183/REM1 - demolition of existing buildings and erection of a comprehensive mixed use regeneration scheme comprising residential (use class C3); retail (use class A1); financial/professional services (use class A2); restaurants, drinking establishments and hot food establishments (use classes A3, A4 and A5); offices (use class B1); doctors surgery and creche (use class D1); two hotels (use class C1); health and fitness (use class D2); nursing home (use class C2); ancillary creative uses including a possible arts centre, a new canal link, new open spaces including linear and eco parks, new public realm and car parking arrangements including two multi storey car parks.
- 4.2 The application seeks to vary the conditions under planning permission CHE/16/00183/REM1 to amend the approved plans to omit the canal arm from the scheme. As part of the outline planning permission, it was proposed to raise the water levels in the River Rother through construction of a new weir, which was intended to provide a navigable section of the river for canal boats via a new canal arm through the site. An alternative engineering method is now being proposed under this application to deliver a navigable section for canal boats along part of the River Rother without the need for a new canal arm. Application CHE/16/00529/FUL was approved for the dredging of a section of the River Rother to reinstate a navigable channel for canal boats from the existing Chesterfield Canal to the north of the newly constructed Canal Basin within the Chesterfield Waterside site to the north of Tapton Bridge. The approval also included necessary retaining elements/bank stabilisation to the River Bank where dredging may undermine the existing Bank.

4.3 In order to facilitate the proposed delivery of a navigable section for boats along part of the River Rother without the need for a new canal arm, the following changes to the approved Indicative Masterplan, Character Area Plan and Building Heights Parameters Plan are sought;

- Condition 3 (Indicative Masterplan reference (drawing no. CWD-BBA-ZO-ZZ-DR-01005 P02), reference to Design and Access Statement dated August 2009 and updated Design and Access Statement dated March 2016, and reference to Environmental Statement dated October 2009 and Environmental Statement Addendums dated March 2016 and February 2018 to be updated);
- Condition 5 (Indicative Masterplan reference (drawing no. CWD-BBA-ZO-ZZ-DR-01005 P02) and reference to Design and Access Statement dated August 2009 and updated Design and Access Statement dated March 2016 to be updated);
- Condition 8 (Reference to Design and Access Statement dated August 2009 and updated Design and Access Statement dated March 2016 to be updated)
- Condition 33 (Indicative Masterplan reference (drawing no. CWD-BBA-ZO-ZZ-DR-01005 P02) to be updated); and
- Condition 45 (Character Area Plan (drawing no. CWD-Z0-ZZ-DR-A-01008 P01) and Building Heights Parameters Plan (reference no. CWD-BBA-Z0-ZZ-DR-01006 P02) reference to be updated).

4.4 In order to facilitate the proposed plans, an update to the Environmental Statement is sought via the submission of the February 2018 ES Addendum report and via the variation of the following conditions:

- Condition 3 (reference to Environmental Statement dated October 2009 and Addendums dated March 2016 and February 2018 to be updated);
- Condition 14 (reference to Environmental Statement dated October 2009 and Environmental Statement Addendum dated February 2018 to be updated);
- Condition 18 (reference to Environmental Statement dated October 2009 and Flood Risk Assessment Statement contained in

Appendix 4A of the Environmental Statement Addendum dated February 2018 to be updated);

4.5 It is proposed that Condition 24 is removed in its entirety. The original condition 24 related to the mitigation management of water voles. Since the original ES was submitted in October 2009, the ecological baseline has altered. During an updated ecological walkover survey undertaken in November 2017 by Bowland Ecology, the absence of water vole was confirmed. It is therefore stated that there is no need for the provision of mitigation for water vole, as was initially proposed within the Original October 2009 ES.

4.6 The application seeks amendments to the wording of Condition 25 to reflect the update to the plans. It is currently worded as follows:

"Prior to the commencement of development in the following area, details of a scheme for the provision of fish passage around the weir at grid reference E438800 N372279 and the proposed rock riffle at Grid Reference E438779 N371960 shall be submitted to the Local Planning Authority for consideration. Only those details or any amended details approved by the Local Planning Authority shall be implemented onsite."

It is stated that reference to the 'rock riffle' will need to be removed from the condition as it will no longer apply once the Canal Arm has been omitted from the plans. The application therefore seeks to amend the wording of the condition to the following:

"Prior to the commencement of development in the following area, details of a scheme for the provision of fish passage around the weir at grid reference E438800 N372279 shall be submitted to the Local Planning Authority for consideration. Only those details or any amended details approved by the Local Planning Authority shall be implemented on site."

5.0 **Planning Policy**

The Development Plan

5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require 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

saved policies, allocations and designations of the Replacement Chesterfield Local Plan adopted June 2006 (RCLP) and the adopted Chesterfield Borough Local Plan: Core Strategy (2011-2031).

Replacement Chesterfield Borough Local Plan Policies ('RCBLP')

5.2 There are no Local Plan policies relevant to this decision.

Chesterfield Local Plan: Core Strategy 2011 -2031 ('Core Strategy')

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| 5.3 | CS1 | Spatial Strategy |
| | CS2 | Principles for Location of Development |
| | CS3 | Presumption in Favour of Sustainable Development |
| | CS4 | Infrastructure Delivery |
| | CS7 | Management of the Water Cycle |
| | CS8 | Environmental Quality |
| | CS9 | Green Infrastructure and Biodiversity |
| | CS11 | Range of Housing |
| | CS13 | Economic Growth |
| | CS15 | Vitality and Viability of Town Centres |
| | CS16 | Retail |
| | CS17 | Social Infrastructure |
| | CS18 | Design |
| | CS19 | Historic Environment |
| | CS20 | Influencing the Demand for Travel |
| | PS3 | Waterside and the Potteries |

6.0 Considerations

Local Plan Issues

6.1 The proposal in terms of land use mix, location and the amount of development would be unchanged and would fit within the original

outline permissions parameters. The permission is still extant due to the lawful start made with the construction of dwellings adjacent to Brimington Road in another character area and significant weight should be given to the presence of the outline permission. Furthermore the proposed matters would not materially conflict with national and local planning policies relating to the amount and location of development, having regard to the NPPF and Core Strategy policies CS1, CS2, CS4, CS7, CS15, CS16, CS17, CS20 and PS3.

- 6.2 It is considered that the proposed plans are acceptable in principle. The justification for the proposed amendments to the overall Waterside scheme are considered to be warranted, and the scheme would continue to provide a high quality mixed use scheme with a navigable boat link that would run through the development. The ability to deliver this alternative route along the River Rother has already been established via the approval of application CHE/16/00529/FUL for the dredging of a section of the river to reinstate a navigable channel for boats. It is not therefore considered that the ability of canal boats to navigate through the development would be jeopardised by these plans and which would provide a navigable link between the Chesterfield Canal and the basin area.

Drainage and the Water Environment

6.3 Lead Local Flood Authority

- 6.3.1 The Lead Local Flood Authority was consulted on this application and they have raised no objections.

6.4 Chesterfield Canal Trust

- 6.4.1 Chesterfield Canal Trust has raised concerns regarding the proposal. They confirm their severe reservations to removing the proposed canal arm from the Waterside development for the following reasons:

Removing part of the 'water' from a waterside development undermines the development's unique selling point. We are sure the developers are well aware that 'water adds value' and that they can expect a 15-20% premium on properties adjoining water. On site at the moment there are large billboards advertising 'The Island' which, it seems, will not be an island under the new proposals. To establish its attractiveness the development has to be able to offer a pleasing and unusual environment above and beyond the quality of its office and residential spaces. Rather

than taking out the canal arm, we believe the developers should be planning to capitalise on the feature that gave the development its name - Waterside.

The waterside environment needs to be maintained in an attractive and sustainable manner. To do this the successor custodians of the open spaces around the development will need a sustainable income stream - the canal arm offers a means of generating some of that revenue, offering the opportunity for residents' moorings. The basin in Basin Square, on its own, is not large enough to generate income and offer canal side facilities. Obviously moorings will not be possible on the river. We would suggest that Waterside needs to be seen in the context of the wider canal restoration, and that a moorings strategy would massively assist with the promotion of Waterside and the proposals for the Staveley Works Corridor.

We would suggest that there is a need to differentiate moorings by user and length of stay:

- Basin Square - 2 or 4 hour moorings available to visiting narrowboats and with the potential for a commercial tripboat operation.
- Canal Arm - Residents' moorings linked to residential properties on The Island and providing the development with a 'resident' boat presence, adding interest and colour to the development and a sustainable income stream for future maintenance.
- River Rother - No moorings for flood and safety reasons.
- Marmalade wharf northwards - 72/96 hour visitor moorings enabling visitors to walk into town.
- Tapton Lock - a mix of residential and visitor moorings up to 7 days.
- Proposed marina at Hollingwood and Staveley Town Basin - a mix of residential and visitor moorings, with the potential for hire boat operations.

If maintenance costs of the new canal arm are seen as a stumbling block, it should be noted that the dredging of the Rother to make it navigable is not a once in a lifetime task and future dredging will require funding. With the inclusion of the resident moorings on The Island, there would be an income stream to help cover these costs - without the Island moorings other sources of sustainable income will need to be found for periodic maintenance. Furthermore, the Rother is susceptible to flooding - the extension of the canal will surely help to manage the

flood risk to the new development. We are puzzled by the reference to the new canal arm as “an intrusive engineering solution”.

Since the Section 73 permission [CHE/16/00183/REM] granted in May, 2017, the finalised route of HS2 Phase 2b has been confirmed along with the HS2 station for Chesterfield - less than 200 m. from Basin Square in Waterside. This massively changes the significance of the Waterside project for it is now very close to one of the very few stations on Phase 2b [along with Leeds, Sheffield and Toton]. It is therefore anticipated that Chesterfield will experience the projected benefits of localities its an HS2 station - property value uplift, economic regeneration and fiscal growth. Recent press coverage suggests that Waterside is now being marketed internationally together with the £1 billion investment coming to Chesterfield over the coming years. See <https://www.eastmidlandsbusinesslink.co.uk/mag/featured/chesterfield-takes-seat-worldwide-investment-event/>

It is now well established in the UK that restored canals and a vibrant ‘blue economy’ have massive positive impacts on individual health and well-being; on local job creation and regional economies, and on the nation’s ability to broaden and strengthen its tourism offering. The addition of the HS2 station will mean that there will be a fast reliable access point for people wishing to hire narrowboats, and is likely to attract interest to place hire boats on the restored canal.

Currently, the Canal Partnership and the Canal & River Trust has commissioned Peter Brett Associates to undertake a study of the economic and community benefits of the development of a Rother Valley Link to connect the restored Chesterfield Canal with the South Yorkshire Navigation canal.

This would have several major benefits for Chesterfield and the region.

- Such a link would turn the Chesterfield Canal from a ‘dead end’ navigation into part of the national network, enabling boats from Chesterfield to travel north eastward towards the Yorkshire canal network, or to follow the Chesterfield Canal down to the River Trent and south towards the Midlands.
- It would enable boaters to access Chesterfield from the north and increase the tourism reach for the town;
- It would create a walking, cycling and boating ring of approx 170 kms and create a wholly new tourism attraction for N Derbyshire and the Sheffield City Region.

6.4.2 In response to the comments from Chesterfield Canal Trust, the justification for the proposed amendments to the overall Waterside scheme are considered to be warranted. The scheme would continue to provide a high quality mixed use scheme with a navigable boat link that would run through the development. The ability to deliver this alternative route along the River Rother has already been established via the approval of application CHE/16/00529/FUL for the dredging of a section of the river to reinstate a navigable channel for boats. It is not therefore considered that the ability of canal boats to navigate through the development would be jeopardised by these plans. It is accepted that the scheme would be different to that originally approved, however it is not considered that the development's unique selling point would be lost. It is not considered that the proposed plans would necessarily result in the potential needs of the custodians of the open spaces around the development to generate a sustainable income being affected. Although opportunities for mooring may be impacted upon by these plans, it is not considered that the level of change would be significant enough to jeopardise the scheme or result in a refusal being issued. It is considered that the claim that moorings will not be possible on the river is not necessarily the case. Whilst accepting that the river environment will change at times of flood for example, and which will be an issue for moorings, there are many rivers around which are navigable and which include mooring facilities and opportunities. and it is not considered reasonable to impose a condition requiring the submission of a moorings strategy.

6.5 **DCC Countryside Service**

6.5.1 DCC Countryside Service has also been consulted on the application and they have raised concerns. The following comments have been made:

Derbyshire County Council Countryside Service cannot support the proposed variation as the good functioning of the proposed canal link is dependent on a number of factors which are at this time unclear:

- The Chesterfield Canal Partnership has not been informed of a plan to appoint an appropriate body to undertake the duties of a Navigation Authority. These duties would include controlling access into and out of the river navigation and basin, inspection, maintenance and control of structures required to allow navigation, maintain user and public safety and on-going maintenance of the river channel including periodic dredging and bank maintenance.

- Also not clear at this time is how access to and from the river navigation to the section of canal currently managed and maintained by Derbyshire County Council will be controlled and how liabilities by the section owner will be managed.
- The addition of a river navigation instead of the canal link as originally proposed in the development is a complicating factor. A river navigation in itself is uncommon and there is the additional need to lift and transfer water from the river to the basin now requiring complex structural additions to the scheme.

I would also like to take this opportunity to draw your attention to the imposition of new regulation by the Environment Agency requiring the licencing of all water transfers to canals (which were previously exempt) which took effect on 1st January 2018 and to which this scheme will be subject to.

6.5.2 In response to these comments from DCC Countryside Service, it is not considered that the duties of a navigation authority are a material planning consideration. It is accepted that there may remain uncertainties with regards to various matters, such as the control of access to and from the river, any licences which may be required or the need for the introduction of structural additions to the scheme. It is not considered however that these matters constitute planning considerations.

6.6 **Yorkshire Water**

6.6.1 Yorkshire Water was consulted on this application and they have raised no objections. They recommend conditions should be attached to any consent granted in order to protect the local aquatic environment and YW infrastructure:

- 1) No building or other obstruction including landscape features shall be located over or within:
 - a) 6.5 metres at each side of the sewer centre -line of the 1300mm diameter public surface water sewer i.e. a protected strip width of 13 metres; and
 - b) 5 metres at each side of the sewer centre -lines of the 1300mm

diameter public combined sewer, the 1275mm diameter public surface water sewer, the 1200mm diameter public combined sewer, the 1050mm diameter public combined sewer and the 975mm diameter public combined sewer i.e. protected strip widths of 10 metres per sewer; and

- c) 4 metres at each side of the sewer centre -lines of the 675mm diameter public surface water sewer i.e. a protected strip width of 8 metres; and
 - d) 3.5 metres at each side of the sewer centre -line of the 450mm diameter public combined sewer i.e. a protected strip width of 7 metres.
- 2) No development shall take place until details of the proposed means of disposal of surface water drainage, including but not exclusive to :-
- a) evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical ;
 - b) evidence of existing positive drainage to public sewer and the current points of connection; and
 - c) the means of restricting the discharge to public sewer to the existing rate less a minimum 30% reduction, based on the existing peak discharge rate during a 1 in 1 year storm event, to allow for climate change have been submitted to and approved by the Local Planning Authority. Furthermore, unless otherwise approved in writing by the Local Planning Authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works.

In response to these comments from Yorkshire Water, it is considered that the suggested conditions are required in order to protect the local aquatic environment and YW infrastructure and to ensure that no surface water discharges take place until proper provision has been made for its disposal and in the interest of sustainable drainage.

- 6.6.2 The suggested conditions are not really of relevance to the current submission which proposes removal of the canal arm through the site. No buildings are proposed as part of the current consideration and in this respect there are already relevant conditions imposed as part of the outline planning permission granted. It is suggested that the matters raised can be drawn to the applicants attention via notes on any permission granted.

6.7 **Derbyshire Wildlife Trust**

6.7.1 Derbyshire Wildlife Trust has raised no objections. It was stated that the revised Masterplan does not include the proposed canal arm that was proposed to the west of 'the island' character area. The ES Addendum (2018) addresses the removal of the canal arm. It also confirms the absence of water vole (most recent survey in 2017). The Trust have confirmed that they have no further comments on the new Masterplan (Condition 3) and consider that a water vole mitigation strategy is no longer required (Condition 24). Given that the new canal arm will no longer be included, such additional habitat creation will no longer result from the development. They do however advise that opportunities should be taken to improve the habitat along the existing length of canal and surrounding habitats to achieve measurable improvements in the habitat corridor for wildlife.

6.7.2 This has been considered as part of the consent which has been granted for the dredging of the river.

7.0 **Representations**

7.1 One letter of comment has been received from a Chesterfield resident in relation to the application. The author of the letter states that they agree with the Canal Trust advisory comments with regards to the need for a Mooring Strategy and the removal of the canal arm.

7.2 In response to these comments, these matters have been considered in paragraph 6.23.

8.0 **Conclusions**

8.1 This application is considered to be appropriate and the justification for the proposed amendments to the overall Waterside scheme is considered to be warranted. The scheme would continue to provide a high quality mixed use scheme with a navigable boat link that would run through the development linking the canal to the basin area. The ability to deliver this alternative route along the River Rother has already been established via the approval of application CHE/16/00529/FUL for the dredging of a section of the river to reinstate a navigable channel for boats and that this permission deals with the consequential changes which would be required to the river channel and environs. It is not therefore considered that the ability of boats to navigate through the

development would be jeopardised by these plans. It is accepted that the scheme would be different to that originally approved, however it is not considered that the development's unique selling point would be lost. Although opportunities for mooring may be impacted upon by these plans, it is not considered that the level of change would be significant enough to jeopardise the scheme or result in a refusal being issued.

8.2 The proposals are considered to be appropriate in principle, would be in keeping with the character of the surrounding area and would not have any adverse impact on the amenities of neighbouring residents or highway safety. It is accepted that there may remain uncertainties with regards to various matters, such as the control of access to and from the river or the need for the introduction of structural additions to the scheme however this is not a matter for the local planning authority. There is no reason to suggest that such matters could not be overcome.

8.3 Overall it is considered that the revised plans accord with the requirements of the Core Strategy and the wider National Planning Policy Framework.

9.0 **Statement of Positive and Proactive Working With Applicants**

9.1 The Government (since the 1st December 2012) requires LPA's to include a statement on every decision letter stating how they have worked with the applicant in a positive and proactive way, in line with the requirements in paragraphs 186 and 187 of the NPPF.

9.2 The LPA has engaged in pre-application discussions and has also provided advice at all stages of the planning application process in a collaborative manner on this proposal.

10.0 **HUMAN RIGHTS ACT 1998**

10.1 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

- 10.2 The action in considering the application is in accordance with clearly established Planning law and the Council's Delegation scheme. The objective of arriving at a decision is sufficiently important to justify the action taken over the period of the life of the application. The decision taken is objective, based on all planning considerations and is, therefore, not irrational or arbitrary. The methods used are no more than are necessary and required to accomplish the legitimate objective of determining an application.
- 10.3 The interference caused by a refusal based solely on planning merits, impairs as little as possible with the qualified rights or freedoms of the applicant, objectors or consideration of the wider Public Interest.
- 10.4 The applicant has a right of appeal against any conditions imposed.

11.0 **RECOMMENDATION**

- 11.1 That the conditions be varied as follows:

Variation of Conditions

03. Outline consent is approved on the basis of the principles set out in the approved Indicative Masterplan reference (drawing no. CWD-BBA-ZO-ZZ-DR-01005 P02), Design and Access Statement dated August 2009, updated Design and Access Statement dated March 2016, Environmental Statement dated October 2009 and Environmental Statement Addendums dated March 2016 and February 2018.
05. Before the development hereby permitted is commenced, a phasing plan shall be submitted to the Local Planning Authority for consideration, identifying the individual Character Areas and the location and programme for the provision of any infrastructure related to each Character Area. This shall include details of any infrastructure works to the Canal Basin and River Rother and the programme for the improvement of pedestrian/cycle routes through the site and how this will be addressed within the context of the requirements of the Indicative Masterplan reference (drawing no. CWD-BBA-ZO-ZZ-DR-01005 P02), Design and Access Statement dated August 2009 and updated Design and Access Statement dated March 2016.

08. Prior to the commencement of development in any Character Area details of a public realm strategy detailing the approach to the design treatment/ materials, hard and soft landscaping and the management of the public areas of the development shall be submitted to the Local Planning Authority for consideration. The public realm strategy shall have regard to the principles in the approved Design and Access Statement dated August 2009 and updated Design and Access Statement dated March 2016.
14. No development shall take place within a Character Area or part thereof, until the developer has secured the implementation of a strategy of building recording for that development and if required based on the findings of the approved Environmental Statement dated October 2009 and Environmental Statement Addendum dated February 2018 a programme of archaeological watching brief to be carried out in accordance with a written scheme of investigation (WSI), details of which shall be submitted to the Local Planning Authority for consideration. This scheme shall include on-site work, and off-site work such as the analysis, publication and archiving of the results. Only those details or amended details approved by the Local Planning Authority shall be implemented on site
18. The development permitted by this planning permission shall only be carried out in accordance with the approved Environmental Statement dated October 2009 and Flood Risk Assessment Statement contained in Appendix 4A of the Environmental Statement Addendum dated February 2018. The finished floor level of new buildings shall be set no lower than the 'Minimum Ground Floor Levels' as detailed in Appendix 11.2 in the submitted Environmental Statement
24. ~~CONDITION DELETED~~
25. Prior to the commencement of development in the following area, details of a scheme for the provision of fish passage around the weir at grid reference E438800 N372279 shall be submitted to the Local Planning Authority for consideration. Only those details or any amended details approved by the Local Planning Authority shall be implemented on site.
33. Prior to the commencement of development within a Character Area or part thereof, a highway and access infrastructure staging plan highlighting the phasing of highways infrastructure for that Character Area or part thereof, shall be submitted to the Local Planning Authority

for consideration in consultation with the Highway Authority and approval in writing . This plan will also highlight indicatively how the infrastructure relates to wider development as shown on the Indicative Masterplan reference (drawing no. CWD-BBA-ZO-ZZ-DR-01005 P02).

45. The development hereby permitted shall be carried out in accordance with the following approved plans, unless otherwise approved in writing by the Local Planning Authority:
- Site Plan Edged Red (MM001 Rev C)
 - Building Heights Parameters Plan (reference no. CWD-BBA-ZO-ZZ-DR-01006 P02)
 - Character Area Plan (drawing no. CWD-ZO-ZZ-DR-A-01008 P01)
 - 3P6240/SK200/B Proposed Staging Master Plan

Informatives

- 1) Although the application is for outline permission only and therefore subject to change at reserved matters stage the details submitted on drawing CWD-BBA-ZO-ZZ-DR-A-01005 (revision P02) dated 18/01/2018 prepared by Bond Bryan Architects are NOT acceptable to Yorkshire Water. It appears that buildings will be located over the line of the sewers and this could jeopardise Yorkshire Water's ability to maintain the sewerage network. It is essential that the presence of this infrastructure is taken into account in the design of the scheme and the developer is advised to amend the layout prior to submission of reserved matters. The following points should be addressed on a re submitted drawing.
- a) the submitted drawing should show the site-surveyed position of the public sewers crossing the site
 - b) the submitted drawing should show the required building stand-off from public sewers, or an agreed alternative scheme such as diversion of the pipes.

For further information , the developer should contact our Developer Services Team : telephone 0345 120 84 82 or email technical.sewerage@yorkshirewater.co.uk

There is an outfall to watercourse, under the control of Yorkshire Water, located near to the site. Vehicular access, including with large tankers, could be required at any time. The proximity of the existing

outfall to the site may mean a loss of amenity for future residents / workers. In order to minimise the risk of odour, noise and nuisance, industry standards recommend that habitable buildings should not be located within 15 (fifteen) metres of the existing outfall. To reduce the visible impact of the installation, the erection (by the developer) of suitable screening is advised.

- 2) Foul water from kitchens and/or food preparation areas of any restaurants and/or canteens etc. must pass through a fat and grease trap of adequate design before any discharge to the public sewer network.
- 3) The developer is proposing to discharge surface water to public sewer however, sustainable development requires appropriate surface water disposal.

Yorkshire Water promote the surface water disposal hierarchy. The developer must provide evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical before considering disposal to public sewer.

The River Rother is adjacent to the site. This is the obvious place for surface water disposal.

The developer and LPA are strongly advised to seek comments on surface water disposal from other drainage bodies as further restrictions may be imposed.

As a last resort, and upon receipt of satisfactory evidence to confirm the reasons for rejection of other methods of surface water disposal, curtilage surface water may discharge to public surface water sewer. Surface water discharges to the public sewer must have a minimum of 30% reduction based on the existing peak discharge rate during a 1 in 1 year storm event.

The developer will be required to provide evidence of existing positive drainage to a public sewer from the site to the satisfaction of YWS/the LPA by means of physical investigation. On-site attenuation, taking into account climate change, will be required before any discharge to the public sewer network is permitted.

- 4) Surface water run-off from communal parking (greater than 800 sq metres or more than 50 car parking spaces) and hardstanding must pass through an oil, petrol and grit interceptor/separator of adequate design before any discharge to the public sewer network. Roof water should not pass through the traditional 'stage' or full retention type of

interceptor/separator. It is good drainage practice for any interceptor/separator to be located upstream of any on-site balancing, storage or other means of flow attenuation that may be required.

- 5) Yorkshire Water services advise that:
No building or other obstruction including landscape features shall be located over or within:
- a) 6.5 metres at each side of the sewer centre -line of the 1300mm diameter public surface water sewer i.e. a protected strip width of 13 metres; and
 - b) 5 metres at each side of the sewer centre -lines of the 1300mm diameter public combined sewer, the 1275mm diameter public surface water sewer, the 1200mm diameter public combined sewer, the 1050mm diameter public combined sewer and the 975mm diameter public combined sewer i.e. protected strip widths of 10 metres per sewer; and
 - c) 4 metres at each side of the sewer centre -lines of the 675mm diameter public surface water sewer i.e. a protected strip width of 8 metres; and
 - d) 3.5 metres at each side of the sewer centre -line of the 450mm diameter public combined sewer i.e. a protected strip width of 7 metres.

No development shall take place until details of the proposed means of disposal of surface water drainage, including but not exclusive to :-

- a) evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical ;
- b) evidence of existing positive drainage to public sewer and the current points of connection; and
- c) the means of restricting the discharge to public sewer to the existing rate less a minimum 30% reduction, based on the existing peak discharge rate during a 1 in 1 year storm event, to allow for climate change have been submitted to and approved by the Local Planning Authority. Furthermore, unless otherwise approved in writing by the Local Planning Authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works.