

Case Officer: Eleanor Casper  
Telephone No: 01246 345785  
Committee Date: 25.06.2018

File No: CHE/17/00647/FUL  
Plot No: 2/60

### ITEM 3

#### ADDENDUM /UPDATE REPORT

#### PROPOSED VEHICLE SALES AND SERVICE CENTRES FOR THE SALE, SERVICE AND M.O.T OF MOTOR VEHICLES (REVISED DRAWING RECEIVED 14.05.2018) AT LAND OFF EASTSIDE PARK, EASTSIDE ROAD, CHESTERFIELD, S41 9BU FOR PENDRAGON PLC

Local Plan: Unallocated  
Ward: Old Whittington

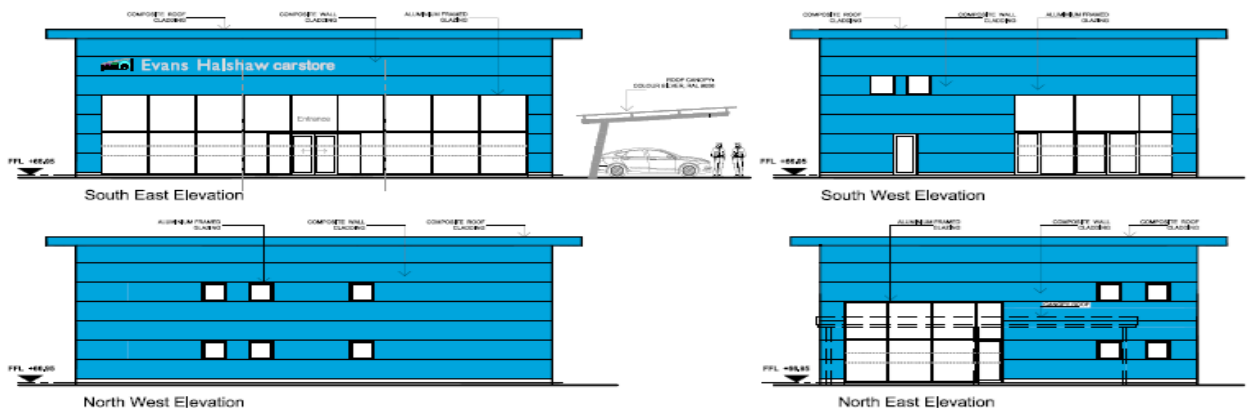
#### **1.0 BACKGROUND**

- 1.1 On 8<sup>th</sup> January 2017 Planning Committee resolved to approve a planning application (subject to S106 agreement) under application reference **CHE/17/00647/FUL** for the following development: *'Proposed Vehicle Sales and Service Centres for the Sale, Service and M.O.T of Motor Vehicles (CHE/17/00647/FUL) at Land Off Eastside Park, Eastside Road, Chesterfield, S41 9BU For Pendragon Plc'*. The application was considered in conjunction with applications **CHE/17/00569/FUL** for *'Proposed earthworks on development land'* and **CHE/17/00645/FUL** for *'Proposed bodyshop, wash and valet buildings'*.
- 1.2 The original report for the above applications is attached as **Appendix A** below.
- 1.3 Following the Planning Committee meeting negotiations have taken place to progress the S106 agreement; however on 14<sup>th</sup> May 2018 the applicant submitted a set of revised drawings which they have asked to be considered as part of the ongoing application process.
- 1.4 The purpose of this report is to update the committee on the revised drawings submitted and to consider the planning merits of the changes made to the scheme as follows:  
- 'Plans and Elevations as proposed' drawing number 2878/23A
- 1.5 The revised drawings seek to increase the height of the vehicle sales building to incorporate a mezzanine 'first floor level' of the building creating approximately 80 sqm of additional floorspace.

## Elevations considered by Planning Committee



## Proposed Revised Elevations



### 2.0

### CONSIDERATIONS

#### 2.1

In the original officer report material considerations in respect of principle of development, design and appearance, impact on amenity

of adjoining occupiers and public safety, highway safety and cycle provision, biodiversity and ecology, flood risk and drainage, archaeological potential, land contamination and stability and other considerations (S106 Negotiations / Local Labour) were considered.

2.2 Having regard to the changes being proposed matters of design and appearance should be reconsidered.

### 2.3 Design and Appearance of the Sales Centre

2.3.1 The main alteration to the scheme is the increase in height of the building by 2.5m, from 5.1m in height to 7.6m overall. Minor alterations are also proposed with respect to the fenestration arrangement within the north west, south west and north east elevations (see images above).

2.3.2 Overall it is considered that the design and appearance of the revised drawings are acceptable, having regard to the provisions of policies CS2 and CS18 of the Core Strategy in relation to design and amenity. Furthermore in respect of neighbouring amenity it is considered that the siting, scale and massing of the proposal is acceptable.

### 3.0 **RECOMMENDATION**

3.1 That the revisions to the scheme as detailed are accepted and the revisions should be incorporated into the decision issued subject to the satisfactory completion of the S106 agreement. Negotiations and the list of conditions as previously recommended (in Appendix A) shall be imposed with the exception of condition 2 which should be revised as follows:

02. All external dimensions and elevational treatments shall be as shown on the approved plans (listed below) with the exception of any approved non material amendment.

- Location plan 2878/01
- Block site plan existing 2878/10
- Block site plan proposed 2878/20
- Revised site plan 2878/21/A Revision A
- Revised site plan 2878/22/A Revision A

- Revised Plans and elevations as proposed 2878/23A
- Revised plans and elevations 2878/24/A Revision A
- Valet bay proposed 2878/25
- Site details proposed 2878/26

- Lighting lux contour plan D32410/JM/A
- Landscape details 2878/20A
- Proposed landscaping UJPPCH-WW-01-A

*Reason - In order to clarify the extent of the planning permission in the light of guidance set out in "Greater Flexibility for planning permissions" by CLG November 2009.*

## **APPENDIX A – PREVIOUS COMMITTEE REPORT**

Case Officer:	Eleanor Casper	File No: CHE/17/00569/FUL (A)
Telephone No:	01246 345785	CHE/17/00645/FUL (B)
Report Date:	18.12.2017	CHE/17/00647/FUL (C)
Committee Date:	08.01.2018	Plot No: 2/60

### **ITEM 4**

#### **(A) PROPOSED EARTHWORKS ON DEVELOPMENT LAND (CHE/17/00569/FUL) AND (B) PROPOSED BODYSHOP, WASH AND VALET BUILDINGS (CHE/17/00645/FUL) AND (C) PROPOSED VEHICLE SALES AND SERVICE CENTRES FOR THE SALE, SERVICE AND M.O.T OF MOTOR VEHICLES (CHE/17/00647/FUL) AT LAND OFF EASTSIDE PARK, EASTSIDE ROAD, CHESTERFIELD, S41 9BU FOR PENDRAGON PLC**

Local Plan: Unallocated  
Ward: Old Whittington

#### **1.0 CONSULTATIONS FOR CHE/17/00569/FUL**

Coal Authority	Comments received – see report
DCC Archaeology	Comments received – see report
DCC Highways	Comments received – see report
Derbyshire Wildlife Trust	Comments received – see report
Design Services Drainage	Comments received – see report
Environment Agency	Comments received – see report
Environmental Services	Comments received – see report

Lead Local Flood Team	Comments received – see report
Site Notice/Advert	No representation received
Ward Members	No comments received
Yorkshire Water	Comments received – see report

## 1.1 **CONSULTATIONS FOR CHE/17/00645/FUL and CHE/17/00647/FUL**

Coal Authority	Comments received – see report
Cycle Campaign	Comments received – see report
DCC Archaeology	Comments received – see report
DCC Highways	Comments received – see report
Derbyshire Constabulary	Comments received – see report
Derbyshire Wildlife Trust	Comments received – see report
Design Services Drainage	Comments received – see report
Economic Development	Comments received – see report
Environment Agency	Comments received – see report
Environmental Services	Comments received – see report
Forward Planning	Comments received – see report
Lead Local Flood Team	Comments received – see report
Network Rail	Comments received – see report
Site Notice/Advert	No representations received
Urban Design Officer	No comments received
Ward Members	No comments received
Yorkshire Water	Comments received – see report

## 2.0 **DEVELOPMENT SITE**

- 2.1 The site subject of these application consists of two parcels of land, covering approximately 2.3 hectares in area overall. Historically the site was previously occupied by 'Pearsons Pottery'.
- 2.2 Pottery Lane East forms the northern boundary of the site. A new distributor/ access road runs centrally through the site (from north to south) and also serves the existing BMW/Mini dealership situated adjacent to the south western/western corner of the site. The A61 bypass is situated to the west of the site and forms the western boundary of the site.
- 2.3 The eastern boundary of the site is formed of a railway line, situated on a raised embankment and the southern boundary of the site is bound by the River Rother watercourse. The site is located within the highest risk flood zone (flood zone 3) as defined by the Environment Agency.
- 2.4 The plots of land subject of this application predominately consists of vacant land, covered with low level vegetation/scrub. A parcel of the site is hard surfaced and used for car parking in connection with the BMW / Mini dealership adjacent. The parcels of land cover approximately 2.3 hectares in area.
- 2.5 The surrounding steetscene is predominately industrial in character with some commercial units. There are some residential dwellings located approximately 100m to the east of the site on Pottery Lane East and 100m north of the site on Eastside Close.



### 3.0 **SITE HISTORY**

- 3.1 CHE/14/00475/FUL - Proposed construction of new car dealership and associated parking – **CONDITIONAL PERMISSION (01.06.2016) PENDING S106 AGREEMENT – NOT SIGNED, APPLICATION FINALLY DISPOSED OF**
- 3.2 CHE/14/00476/FUL - proposed construction of new access road from the A61 – **REFUSED (03.02.2015)**
- 3.3 CHE/09/00556/FUL - Proposed motor vehicle dealership on Plot 4 – **CONDITIONAL PERMISSION (09.03.2010) SUBJECT TO LEGAL AGREEMENT COVERING PERCENT FOR ART AND HIGHWAY IMPROVEMENT CONTRIBUTIONS.**
- 3.4 CHE/08/00699/FUL - Proposed amendment to CHE/07/00081/OUT to realign route of site access road – **CONDITIONAL PERMISSION (08.01.2009)**
- 3.5 CHE/08/00629/FUL - Amendments to Mini building design – **CONDITIONAL PERMISSION (20.11.2008)**



- 3.6 CHE/07/00081/OUT - Redevelopment of site to accommodate car showroom and access/ egress arrangements (for detailed approval) and B1/B2 uses and further showroom with associated parking (for outline approval) – resubmission of CHE/06/00580/OUT – **CONDITIONAL PERMISSION (29.06.2007) SUBJECT TO A LEGAL AGREEMENT COVERING PERCENT FOR ART AND HIGHWAY IMPROVEMENT CONTRIBUTIONS**
- 3.7 CHE/06/00580/OUT - Re-development of site to accommodate car showroom and revised access/egress arrangements (for detailed approval) and B1/B2 uses and further car showroom with associated parking (for outline approval) – **REFUSED (24.10.2006)**
- 3.8 CHE/05/00108/FUL - Erection of control kiosk – **CONDITIONAL PERMISSION (18.04.2005)**
- 3.9 CHE/1188/0922 - Permission for retail superstore on land at the rear of the Pottery, Pottery Lane, Whittington Moor, Chesterfield for Pearsons of Chesterfield Ltd – **CONDITIONAL PERMISSION (15.03.1989)**
- 3.10 CHE/0284/0099 - Permission for change of use of site into multiple units for office/light industry/general industry/ warehouse uses together with unit one as cafe at Pottery Lane, Whittington Moor, Chesterfield for Pearsons of Chesterfield Limited – **CONDITIONAL PERMISSION (18.04.1984)**

#### **4.0 THE PROPOSAL**

##### **4.1 (A) CHE/17/00569/FUL - Proposed Earthworks on Development Land**

4.1.1 The proposal subject of this application consists of earthworks to raise the existing ground levels in accordance with the requirements of the flood risk assessment and to enable the development associated with applications CHE/17/00645/FUL and CHE/17/00647/FUL.

4.1.2 The nature of the proposed earthworks is detailed within the updated design and access statement, cut and fill specification and schedule of works, this is supported by site section drawings (Drawing No: 2656/21, dated August 2017). The proposed earthworks will raise land

levels by a maximum of 1.15m (adjacent to the cycle footway). The existing landscaping to the western boundary of the site will be retained.

- 4.1.3 The application proposes striping and removing topsoil and other soft or unsuitable material of approximately 1000m<sup>3</sup> in volume. The application proposes the importation of 4600m<sup>3</sup> of granular fill material. A minimum of 150mm of granular material shall form the top layer. The raising of levels shall be in layers, initially using existing material on site. Each layer and thickness will be dependent upon the type of material and recommended method of compaction will be undertaken in accordance with the Highways Agency Specification for Highways Works.

## 4.2 (B) CHE/17/00645/FUL

- 4.2.1 The application proposes the erection of a bodyshop with a wash and valet building, to be located in the south eastern corner of the site.



**Bodyshop**

- 4.2.2 The proposed bodyshop measures 36.5m in width and a maximum of 26m in depth. The unit is formed of an asymmetrical dual pitched roof, measuring 6.7m to the ridge. The roof of the unit features 20 roof lights to serve the bodyshop. The proposal incorporates 4 paint booth extraction chimneys measuring 3m in height (projecting above the ridge of the unit by 1.5m).
- 4.2.3 The proposed unit will be faced in 'goosewing grey' composite cladding on the walls and roof. The internal layout of the bodyshop consists of 6 'smart repair' bays, 4 'pre-delivery inspection' bays and 6 bays for paintwork with associated extraction facilities. Employee facilities include of lockers, toilets, canteen and a control room. Vehicular access to the unit will be gained by two large sectional overhead doors, situated within the north and south elevations.

### **Wash and Valet Building**

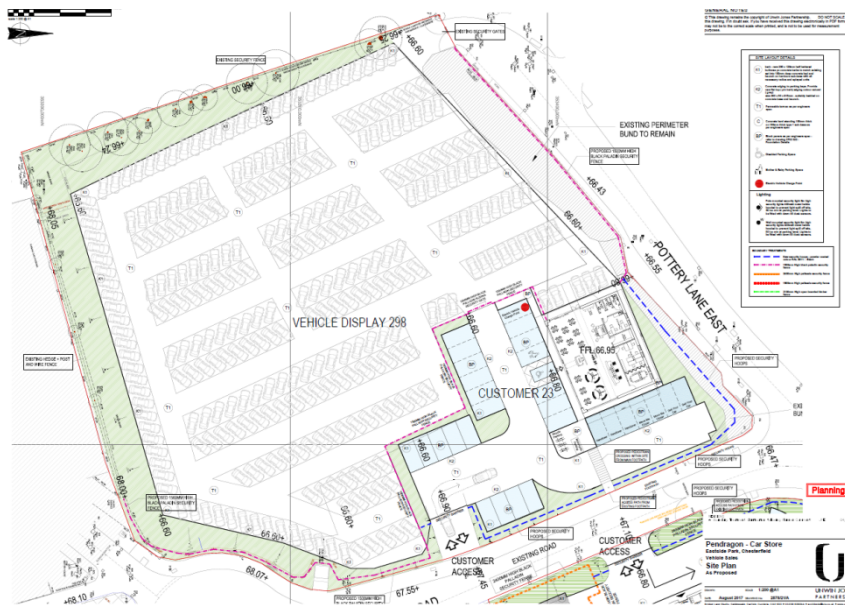
- 4.2.4 The proposed wash/valet building is situated to the south of the proposed bodyshop. The proposed unit measures 9m depth and 33.5m in width. The proposal is formed of a monopitch roof, measuring 4m in height at the principle (west) elevation and increasing to 4.8m in height at the rear (east) elevation adjacent to the railway bund.
- 4.2.5 The proposed unit will be faced in 'goosewing grey' composite cladding on the walls and roof. The unit consists of 6 bays for valeting and 2 for vehicle washing. Vehicular access to the unit is by 4 access doors located within the west elevation.
- 4.2.6 The application site will be enclosed by a vehicle compound to the south and west, providing parking for 120 vehicles and 42 staff parking spaces.

### **4.3 (C) CHE/17/00647/FUL**

- 4.3.1 The application proposes the erection of a vehicle sales centre and service/MOT centre with associated valet building. The Sale Centre is situated within the western parcel of land, to the north of the existing BMW/Mini dealership and to the east of the A61 bypass. The Service/MOT centre is located on the opposite side of the new access road, adjacent to the eastern boundary of the site and the railway bund.

### **Sales Centre**

4.3.2 The proposed sales centre measures 19.3m x 15.3m in footprint and is formed of a flat with overhanging feature. The site/block plan shows that the unit will be located in the north eastern corner of the site (see image below). The sales centre will incorporate customer parking for 23 vehicles and a vehicle display compound providing parking for approximately 298 vehicles. The proposal also includes cycle parking for 3 bicycles and an electric vehicle charging point.



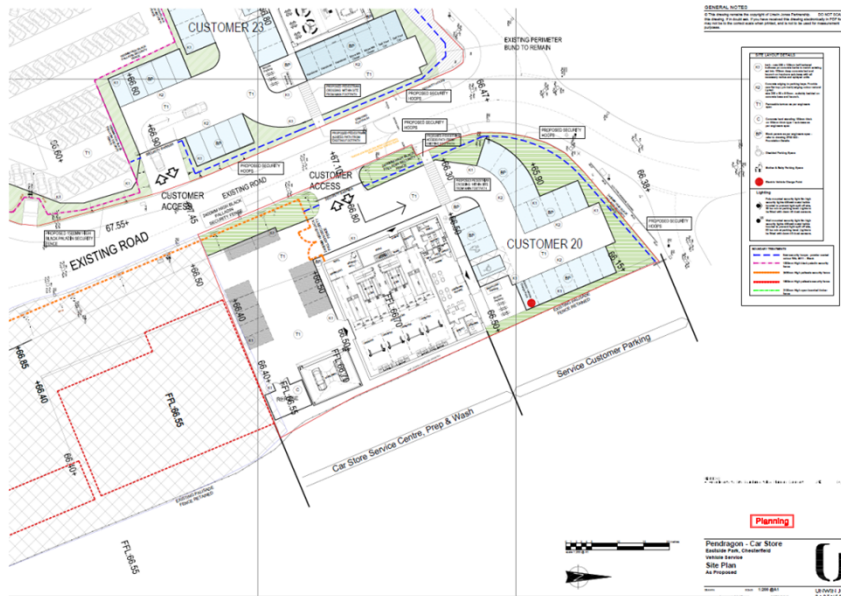
4.3.3 The internal layout of the unit is orientated towards the south east (principle elevation) and comprises of a large sales area with customer toilets, canteen, team room and meeting room. The proposal features 6 small windows within the north west elevation of the unit, facing towards pottery lane east.

4.3.4 The proposed unit measures 5m in height overall and will be faced in 'azure blue' composite cladding. The south east elevation of the unit will constitute the principle elevation and customer entrance, this will be denoted by aluminium framed glazing encompassing most of the elevation. Additional panels of glazing will be incorporated within the south west and north east elevations.

### Service/MOT Centre

4.3.5 The proposed Service/MOT Centre measures 24.5m x 24.5m in footprint and is formed of a shallow dual pitched roof measuring 5m to the eaves and 7m to the ridge. The proposed unit will be faced in 'goosewing grey' composite cladding on the walls and roof.

- 4.3.6 The proposed unit is situated adjacent to the railway bund which forms the eastern boundary of the site. The principle elevation of the unit is orientated towards Pottery Lane East to the north. The principle (north west) elevation features a customer entrance door with glazing feature and porch structure. The MOT centre will be served by customer parking for 20 vehicles, with an enclosed compound to the south of the unit for the storage of 11 vehicles. The proposal also incorporates cycle parking for 3 bicycles and an electric vehicle charging point.



- 4.3.7 The internal layout of the unit consists of 4 work bays, 2 MOT bays a service reception with managers office and control room. Employee facilities include a canteen, toilet and locker room, tool room and a Parts room with mezzanine level for additional storage.
- 4.3.8 The proposal incorporates 20 roof lights within the roof plane of the unit and two small windows within the north west elevation. Vehicular access to the unit is gained by a large sectional overhead door within the south east elevation and a smaller sectional door within the south west elevation
- 4.3.9 A small valet building is also proposed in association with the MOT centre. The proposed unit measures 10.2m in width and 8.8m in depth with space for two vehicles. The unit is formed of a monopitch style roof, measuring a maximum of 5m in height overall. The unit will be faced in 'goosewing grey' composite cladding. The proposal is the same style and design to the valet building incorporated within application CHE/17/00645/FUL.

## 5.0 **CONSIDERATIONS**

## **5.1 Planning Policy**

5.1.1 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 of the Replacement Chesterfield Local Plan adopted June 2006 (RCLP) and the adopted Chesterfield Borough Local Plan: Core Strategy (2011-2031).

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

- CS1 Spatial Strategy
- CS2 Principles for Location of Development
- CS3 Presumption in Favour of Sustainable Development
- CS7 Management of the Water Cycle
- CS8 Environmental Quality
- CS9 Green Infrastructure and Biodiversity
- CS13 Economic Growth
- CS16 Retail
- CS18 Design
- CS19 Historic Environment
- CS20 Influencing the Demand for Travel
- PS3 Chesterfield Waterside and the Potteries

## **5.3 Other Relevant Policy and Documents**

- National Planning Policy Framework (NPPF)

## **5.4 Key Issues**

1. Principle of Development (see section 5.5)
2. Design and Appearance of the Proposal (see section 5.6)
3. Impact on the Amenity of the Adjoining Occupiers and Public Safety (see section 5.7)
4. Highway Safety and Cycle Provision (see section 5.8)
5. Biodiversity and Ecology (see section 5.9)
6. Flood Risk and Drainage (see section 5.10)
7. Archaeological Potential (see section 5.11)
8. Land Contamination and Stability (see section 5.12)
9. Other Considerations
  - Impact on Adjacent Railway Line (see section 5.13)
  - Percent for art contribution (see section 5.14)

- Employment and Training (see section 5.15)

## 5.5 Principle of Development

### Relevant Policies

- 5.5.1 The site (albeit unallocated) is situated within the industrial settlement off Brimington Road North located between Old Whittington and Brimington to the east of the A61 corridor in an area predominantly commercial in nature. Having regard to the nature of the application proposals policies CS1, CS2, CS7, CS13, CS16, CS18, CS19, CS20 and PS3 of the Core Strategy and the wider National Planning Policy Framework (NPPF) apply.
- 5.5.2 Policy CS1 states that *‘The overall approach to growth will be to concentrate new development within walking and cycling distance of centres.*
- 5.5.3 Policy CS2 states that when *‘assessing planning applications for new development not allocated in a DPD, proposals must meet the following criteria / requirements:*
- a) adhere to policy CS1*
  - b) are on previously developed land*
  - c) are not on agricultural land*
  - d) deliver wider regeneration and sustainability benefits*
  - e) utilise existing capacity in social infrastructure*
  - f) maximise walking / cycling and the use of public transport*
  - g) meet sequential test requirements of other national / local policies’*
- ‘All development will be required to have an acceptable impact on the amenity of users or adjoining occupiers taking into account noise, odour, air quality, traffic, appearance, overlooking, shading or other environmental, social or economic impacts.’*
- 5.5.4 Policy CS18 (Design) states that *‘all development should identify, respond to and integrate with the character of the site and its surroundings and respect the local distinctiveness of its context’* and development should have *‘an acceptable impact on the amenity of users and neighbours.’*
- 5.5.5 The NPPF places emphasis on the importance of good design stating: *‘In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area. Planning permission should be refused for development of poor design that fails to take the*



*opportunities available for improving the character and quality of an area and the way it functions.'*

- 5.5.5 Policy CS7 (Managing the Water Cycle) *requires all new development commensurate with scale and impact to consider and address issues of flood risk. In addition the policy states that's new development connections to the drainage network will need to address issues surrounding sustainable drainage and a reduction in surface water run off rates.*
- 5.5.6 Policy CS13 (Economic Growth) states that *new development should deliver sustainable economic growth by supporting existing jobs and business and delivering inward investments. For major developments the Council will seek to negotiate agreements with developers to secure local labour, recruitment and training that benefits the local community.*
- 5.5.7 Policy CS16 (Retail) states that *'Across the borough, a sequential approach will be used to assess sites for retail and other town centre uses, to focus such development on town, district, local service centres and local centres to meet the requirements of national planning policy'... 'Specific forms of retail use outside Use Class A1 that require large premises such as showrooms, trade counters and wholesale premises, may be permitted in edge or out of centre locations if, due to reasons such as scale and servicing, the use would be unsuitable within a centre. In such cases, conditions will be applied where appropriate to define permissible changes of use and the range and type of goods or services sold'*
- 5.5.8 Policy CS19 (Historic Environment) states that *'The council will protect the historic environment and heritage assets throughout the borough and seek to enhance them wherever possible. All new development must preserve or enhance the local character and distinctiveness of the area in which it would be situated.*  
*The council will do this through:*  
*d) the identification and, where appropriate, protection of important archaeological sites and historic environment features;'*
- 5.5.9 Policy CS20 (Demand for Travel) states that *'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'. The policy also seeks to ensure new*



development has an acceptable impact on the functioning and safety of the highway network.

5.5.10 Policy PS3 (Chesterfield Waterside and the Potteries) states *'Planning permission will only be granted for development that contributes 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, office, employment and leisure*
- *Improving access to the site including enhancing the footpath and cycle network*
- *A high quality urban environment including eco-park and green infrastructure corridor*
- *Managing flood risk*

### **Principle of Development**

5.5.7 The Strategy Planning Team (Forward Planning Team) were consulted on the scheme and provided the following comments;

5.5.7.1 *The site is reasonably well located for walking, cycling and proximity to Whittington Moor District Centre (including via underpass under A61), in accordance with policy CS1 – Spatial Strategy. Although the site itself is not allocated in the Core Strategy for Economic Growth and therefore the proposed uses must be tested under the criteria set out in Local Plan policy CS13, the Local Plan strategy provides for economic activity and employment opportunities to be focussed in areas with an established industrial character where the regeneration benefits can be maximised, including along the A61 Corridor. The site also lies within the area defined under Policy PS3 'Chesterfield Waterside and the Potteries', where planning permission will only be granted for development that contributes 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, office, employment and leisure*
- *Improving access to the site including enhancing the footpath and cycle network*
- *A high quality urban environment including eco-park and green infrastructure corridor*

- *Managing flood risk*

*The proposed development should broadly accord with the criteria set out in Policy PS3, and with policy CS13 which supports proposals for new employment development where they accord with the overall spatial strategy, including B2 uses within established business areas.*

- 5.5.7.2 *The site falls outside flood zone 1. Policy CS7 of the Local Plan sets out that, outside of flood zone 1, development will be permitted where it meets a specific set of criteria. The application is accompanied by a Flood Risk Assessment which aims to demonstrate compliance with Policy CS7.*

#### ***Application of the Sequential approach:***

- 5.5.7.3 *Car Showroom uses are covered by policy CS16 'Retail'. This policy allows for showrooms to be permitted in out of centre locations if they would be unsuitable for a town centre. It is accepted that Car Showrooms would not normally be suitable within a town centre and this area is established for uses of a similar and compatible type to that now proposed. Therefore this element of the application is acceptable in principle, subject to the detailed considerations set out below.*

#### ***Economic Growth***

- 5.5.7.4 *The site is not allocated as employment land on the adopted proposals map. As the proposed use does not fall within the B1, B2 or B8 use classes they must be considered under CS2, their suitability for location and employment generation, as required by policy CS13.*
- 5.5.7.5 *The proposed use is suitable for the location, well located with good transport connections, road frontage and would be unlikely to cause conflict with any existing uses. It is unlikely that the current proposal would generate same level of jobs as most alternative B uses, however this must be off-set against the tests set out in policy CS2. The proposed development would meet the criteria a) to g) set out in CS2.*

#### ***Flood Risk***

- 5.5.7.6 *The Environment Agency flood map shows that the wider site is located largely within Flood Zone 3, with a small area of the site to the south-west, located within Flood Zone 2, at high risk of fluvial flooding*

*sourced from the Rother. Flood mapping produced as part of the SFRA (2009) demonstrates that the flood zone in which the site is located is entirely Flood Zone 3a, outside the extent of Flood Zone 3b ('Functional Floodplain'). The site access to the north (Pottery Lane East) is located within Flood Zones 2 and 3, which could present access issues.*

5.5.7.7 *The Environment Agency is best placed to advise whether the submitted Flood Risk Assessment is able to successfully demonstrate compliance with the criteria set out in Policy CS7, and the measures necessary to be implemented to achieve this.*

### **Other issues**

5.5.7.8 *Policy CS6 of the adopted Local Plan requires that all new commercial premises be built to BREEAM Excellent standard, and that evidence of this be provided through a pre-assessment. Although the council cannot insist on a certain standard, a sufficient level of evidence should be provided as to why a higher standard of sustainable design cannot be met for any of the reasons set out in policy CS6.*

5.5.7.9 *The Highway Authority should be in a position to assess whether proposed car parking provision would accord with the parking standards in the Core Strategy. In addition however, adequate secure and covered cycle storage should be provided, secured by condition, in accordance with CS20. The provision of shower facilities should also be secured via condition.*

5.5.7.10 *A Local Labour Agreement should be sought in accordance with policy CS13, in consultation with the EDU which would encourage local employment, training and supply chain opportunities to increase economic opportunities for local people and businesses.*

5.5.8 *Consideration of the principle of development in respect of the design/appearance of the proposal and potential impacts on the amenity of the adjoin occupiers neighbours (CS18 and CS2) will be covered in the following sections (5.6 and 5.7).*

5.5.9 *Comments received from the Strategy/Forward Planning Team reference policy CS6 and suggest that the applicant must set out how the premises will be constructed to a BREEAM Excellent standard. Further to the Deregulation Act, this is no longer a requirement that can be applied and is cover under different legislation (predominately Building Regulations). It is therefore not considered reasonable to require the applicant to submit further information to satisfy policy CS6*

to the proposal. It is also considered necessary to clarify comments made by the Strategy/Forward Planning Team with respect to flood risk. The entire site lies within flood zone 3 (the highest risk zone for flooding).

- 5.5.10 The proposal is considered to be acceptable in principle and accords with policies CS1, CS2, CS13, CS16 and PS3 of the Core Strategy, subject to policies CS7, CS18, CS19 and CS20.

## **5.6 Design and Appearance of the Proposal**

- 5.6.1 Core Strategy Policy CS18 states that *'all development should 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.'*

### **CHE/17/00569/FUL**

- 5.6.2 Solely having regard to the design / appearance of the proposed earthworks it is not considered the development presents any adverse issues in this respect. The works required to raise the land levels will involve the removal of the existing shrub/vegetation and the importation of inert granular material. To mitigate the loss of the existing vegetation, a scheme of soft landscaping will be required. No landscaping scheme has been submitted with the applications, therefore it is considered necessary to control this by condition attached to the permission (if approved) to ensure that an appropriate scheme is secured which provides a suitable mix of trees and low level shrubs to enhance the overall visual appearance of the site.

### **CHE/17/00645/FUL and CHE/17/00647/FUL**

- 5.6.3 The proposals are considered to be appropriately sited and designed having regard to the context and character of the surrounding area. Revised drawings have been submitted with amendments made to the proposed boundary treatments in accordance with Case Officer and Consultee recommendations.
- 5.6.4 Policies CS2 and CS13 support the principle of new business / industrial development in existing allocated areas and whilst this site is no longer allocated, the principle of redevelopment of the site to create for vehicle sales, servicing and bodywork accords with the principles established by the existing BMW/Mini dealership and the wider aspirations for the site as an area allocated for major change shaped by policy PS3 of the Core Strategy.

5.6.5 Having consideration for the observations above the proposal is considered to be appropriately designed and would not cause adverse impacts on the visual amenity and character of the area. The proposals achieve an appropriate development design which responds to the site parameters and spatial constraints. The proposal are therefore considered to accord with the design provisions of policy CS18 of the Core Strategy.

## **5.7 Impact on the Amenity of the Adjoining Occupiers and Public Safety**

5.7.1 Core Strategy Policy CS18 states that all development will be expected to *'have an acceptable impact on the amenity of users and neighbours'*

5.7.2 Core Strategy Policy CS2 also states that *'All developments will be required to have an acceptable impact on the amenity of users or adjoining occupiers, taking into account things such as noise, odour, air quality, traffic, appearance, overlooking, shading or other environmental, social or economic impacts.'*

### **Impact on the Amenity of the Adjoining Occupiers**

5.7.2 The application site is not immediately adjoined by any residential boundary sharing neighbours. Commercial units face the site to the north on the opposite side of Pottery Lane East Highway and the existing BMW/Mini dealership bounds the site to the south. The closest residential dwellings are located approximately 100m to the east of the site on Pottery Lane East and 100m north of the site on Eastside Close.

5.7.3 Viewed in the context of the surrounding streetscene which is predominately commercial/industrial in character the proposed re-development of site is not considered to adversely impact upon any of the neighbouring premises.

### **Public safety**

5.7.4 As major applications the Derbyshire Constabulary 'Designing Our Crime' Officer was consulted on the proposals and provided the following comments;

CHE/17/00645/FUL

- 5.7.4.1 *'At present the site boundary is indicated with 2.4m high welded mesh fencing to roadside boundaries and the existing palisade fence to the railway embankment, but it isn't clear from plans what will form the boundary on the southern river side. Can this be clarified as 2.4m high welded mesh please. Gate detail needs adding at the roundabout compound access route.'*
- 5.7.4.2 *'The supporting design and access statement includes mention of CCTV provision and lighting provision for the split site. On site plans there is an indication on legends of metal halide lighting, both column and building mounted (in contradiction to the d&a which states LED lighting) but there is nothing on plans to show position of any lighting or CCTV for the site. I appreciate that this might be fleshed out by way of condition.'*

CHE/17/00647/FUL

*Service/M.O.T Building*

- 5.7.4.3 *'The site is enclosed by a 2.4m high welded mesh security fence which I think is appropriate in context of use and location. The legend colour for this type of fencing is orange, whilst the position on plans is black (only mentioned for clarity). There is no gate detail shown where it's indicated that customers access the site, so this probably needs adding to approved plans.'*

*Sales building*

- 5.7.4.4 *The enclosure for this part of the site is an existing open bund to the road edge of Pottery Lane East, building with 450mm high security hoops wrapping the outer facing two elevations, and 1500mm high welded mesh fence/gates for the initial section of large vehicle display area. It's assumed that the remainder of the sales parking area would be enclosed by the existing embankment to the south and chain link fence to the A61 boundary.'*
- 5.7.4.5 *I don't consider this to be appropriate for the location and use proposed, particularly on the Pottery Lane side which is adjacent to a poorly supervised public footpath and A61 underpass. My advice is to enclose the whole site behind the public face of the sales building with a 2.4m high welded mesh fence (as used on the site opposite) or enclose the pottery Lane boundary and provide the remainder of the*

*site with an active monitored perimeter intruder detection system (PIDS), as used at the existing open site of the neighbouring car dealership. Given the size of the car sales area and likely value of content an internal PIDS would be advisable irrespective of boundary.*

- 5.7.4.6 *The supporting design and access statement includes mention of CCTV provision and lighting provision for the split site. On site plans there is an indication on legends of metal halide lighting, both column and building mounted (in contradiction to the d&a which states LED lighting) but there is nothing on plans to show position of any lighting or CCTV for either site. I appreciate that this might be fleshed out by way of condition, but ties in with some points above.*
- 5.7.5 The above comments have been noted and amendments were subsequently made to the scheme to accord with the recommendations. The Environmental Health Officer also requested the submission of lighting details (lux contour map) and details of proposed lighting columns and locations of fixed/mounted lights. A lux contour map was provided to the LPA on 12.12.2017 and at the time of writing this report no further responses had been received from the relevant consultees. It is therefore considered necessary to control this by condition attached to the permission (if approved) to ensure that scheme for CCTV and lighting is installed and considered by the necessary consultees and approved in writing by the LPA.
- 5.7.6 Having consideration for the observations above the proposal is considered to be appropriately designed and is not considered to cause significant adverse impacts on safety or residential amenity of the adjoining occupiers. In addition no letters of representation have been received. The proposal will therefore accord with the provisions of policy CS2 and CS18 of the Core Strategy.

## **5.8 Highway Safety and Cycle Provision**

- 5.8.1 Policy CS20 (Demand for Travel) states that *'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'*.

### **Highway Safety**

- 5.8.2 DCC Highways were consulted on the proposal and provided the following comments;

## **CHE/17/00569/FUL**

- 5.8.2.1 *'The applicant should be advised that the site may be close to or affected by the initial preferred route of the Birmingham to Leeds section of HS2. Further information may be obtained from the Department of Transport's website; <https://www.gov.uk/hs2-phase-two-initial-preferred-route-plan-and-profilemaps>*
- 5.8.2.2 *It is understood from the Design and Access Statement that the land is likely to be used for future development and that whilst the submitted drawings indicate new buildings etc. this application is just for the earthworks which are required to satisfy a Flood Risk Assessment. This Authority would comment on any further development on the site as and when proposals are formally submitted in the usual manner.*
- 5.8.2.3 *The earthworks will raise ground levels within the site which is 2.3 Hectares in size. I would have expected to see details of the volume material to be imported and associated traffic movements to have accompanied the submission. Once volume details are received no doubt your Authority will assess whether the formal planning application should be made to the County's Waste and Minerals Planning Authority rather than the Local Planning Authority. Please ask the applicant for the details relating to the proposed volumes of material to be imported and associated traffic movements and upon receipt I would comment further.*
- 5.8.2.4 *From a highway point of view given the location in the highway network it is unlikely that the objections would be raised to the proposed earthworks subject to an appropriate Construction Method Plan being provided and adhered to during the construction phase and I would recommend the following condition to cover this;*
- 5.8.2.5 **1) Construction Management Plan**  
*No development shall take place until a construction management plan has been submitted to and been approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the construction period. The plan shall provide for:*
- *parking of vehicles of site operatives and visitors*
  - *routes for construction traffic, including abnormal loads/cranes etc.*
  - *hours of operation*
  - *wheel wash facilities/method of prevention of debris being carried onto highway*



- *pedestrian and cyclist protection*
- *proposed temporary traffic restrictions*
- *arrangements for turning vehicles*

5.8.3 Further comments were provided by DCC Highways with respect to applications CHE/17/00645/FUL and CHE/17/00647/FUL

**CHE/17/00645/FUL and CHE/17/00647/FUL**

5.8.3.1 *'Eastside Park is an industrial area and the plot is currently vacant. The proposals are not dissimilar to other vehicles sales premises in the vicinity. The applicant as shown an acceptable access to the public highway. Parking and turning would appear suitable for the proposed uses on the site. Given the number of proposed staff I would recommend that the applicant considers a Travel Plan. The proposed cycle parking area is noted.*

5.8.3.2 *The applicant will need to consult with the relevant refuse collection department to ascertain details of what will be acceptable to them in terms of number and location of bins and means of access including the removal of specialist waste. Bin storage should not obstruct the private drive access, parking or turning provision. Additionally a bin dwell area should be provided clear of the public highway, private access, parking and turning for use on refuse collection days. The applicant will need to consult with the relevant refuse collection department to ascertain details of what will be acceptable to them in terms of number and location of bins. Bin storage should not obstruct the private drive access, parking or turning provision. Additionally a bin dwell area should be provided clear of the public highway, private access, parking and turning for use on refuse collection days I note that there will be external lighting and that it will be static and shielded to prevent distraction to passing motorists and unnecessary light spillage outside the site.*

5.8.3.3 *I note that it is proposed that the two sites are to work in tandem and I would welcome your comments as to any conditions that may be relevant. In this instance the Highway Authority is not aware of any existing highway safety issues that would justify a reason for refusal that could be substantiated at appeal. If your Authority is minded to approve then I would ask for conditions to cover the following are included;*

5.8.3.4 *1. No development shall take place including any works of demolition until a construction management plan or construction method statement has been submitted to and been approved in writing by the*

*Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for:*

- *parking of vehicles of site operatives and visitors*
- *routes for construction traffic, including abnormal loads/cranes etc*
- *hours of operation*
- *method of prevention of debris being carried onto highway*
- *pedestrian and cyclist protection*
- *proposed temporary traffic restrictions*
- *arrangements for turning vehicles*

*2. No building or use hereby permitted shall be occupied or use commenced until the vehicular and pedestrian accesses and facilities for loading, unloading, circulation and manoeuvring have been completed in accordance with the approved drawings. Thereafter, these areas shall be kept free of obstruction and available for these uses.*

*3. There shall be no gates or other barriers within 5m of the nearside highway boundary and any gates shall open inwards only, unless otherwise agreed in writing by the Local Planning Authority.*

*4. No part of the development shall be occupied until details of arrangements for storage of bins and collection of waste (including specialist waste) have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and the facilities retained for the designated purposes at all times thereafter.*

*5. No building or use hereby permitted shall be occupied or the use commenced until a Travel Plan comprising immediate, continuing and long-term measures to promote and encourage alternatives to single-occupancy car use has been prepared, submitted to and been approved in writing by the Local Planning Authority. The approved Travel Plan shall then be implemented, monitored and reviewed in accordance with the agreed travel Plan Targets.*

*6. The source of any external illumination or illuminated signage shall static and shielded to prevent distraction to passing motorists and avoid unnecessary light spillage outside the site.*

5.8.4

**Officer Comments –The comments from the Highways Officers have been noted. Both Officers recommend that a condition be attached requiring the submission of Construction Management**

**Plans, in conjunction with the standard in formatives. One of the Highways Officers also referenced HS2, the site is not considered to be located within a defined consultation zone. The proposed HS2 branch running from Sheffield to Chesterfield train station will utilise existing railway infrastructure. It is currently proposed that there will be one train per hour using the existing infrastructure. Network Rail have been consulted on the proposal and have provided detailed comments with conditions required to safeguard the existing railway line (see section 5.13 for further details). It is also necessary to note that condition 3 (recommended in section 5.8.3.4) states that shall be no gates of other barriers within 5m of the highway, existing gates are already located across the access road serving the site and the BMW/Mini dealership. It is considered that any gates serving the units will be shut when the buildings are closed in order to maintain a secure compound for the storage of vehicles. It is not expected that members of the public will visit the site when the units are closed and as such it is not considered that the installation of gates may pose a risk to highway safety. Overall, no adverse highway safety concerns arise as a result of the development.**

### **Cycle provision**

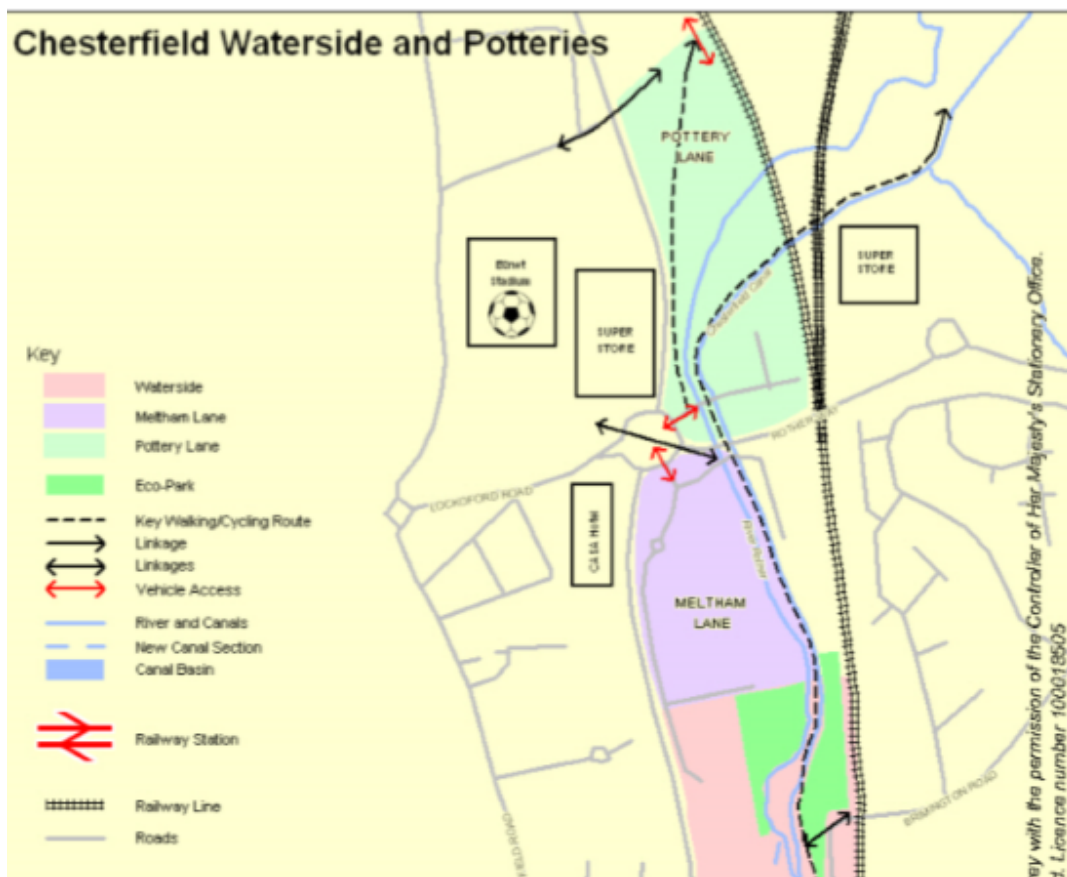
- 5.8.5 The Core Strategy identifies part of the application site as a component of the Chesterfield Cycle Network, a shared 3m cycle/footway was installed in conjunction with the BMW/Mini dealership application which runs centrally through the site (from north to south) and terminates at the banks of the River.
- 5.8.6 The Chesterfield Cycle Campaign were consulted on the proposal and provided the following comments;
- 5.8.6.1 *‘The access road leading off Pottery Lane East to the BMW/Mini dealership has a shared path alongside on the west side. This shared path then continues along the side of the car dealership until it reaches the bank of the river.*
- 5.8.6.2 *The line of this route was identified during the cycle audit in 2010 and subsequently adopted by CBC as part of the Chesterfield Cycle Network. The intention being that at some point in the future either a bridge would be built over the river to connect to the Trans Pennine Trail or a shared path be built on the bank of the river to Lockoford Lane. Unfortunately due to the path leading nowhere at the moment*

*the car dealership have taken to parking their vehicles on the path often completely blocking it.*

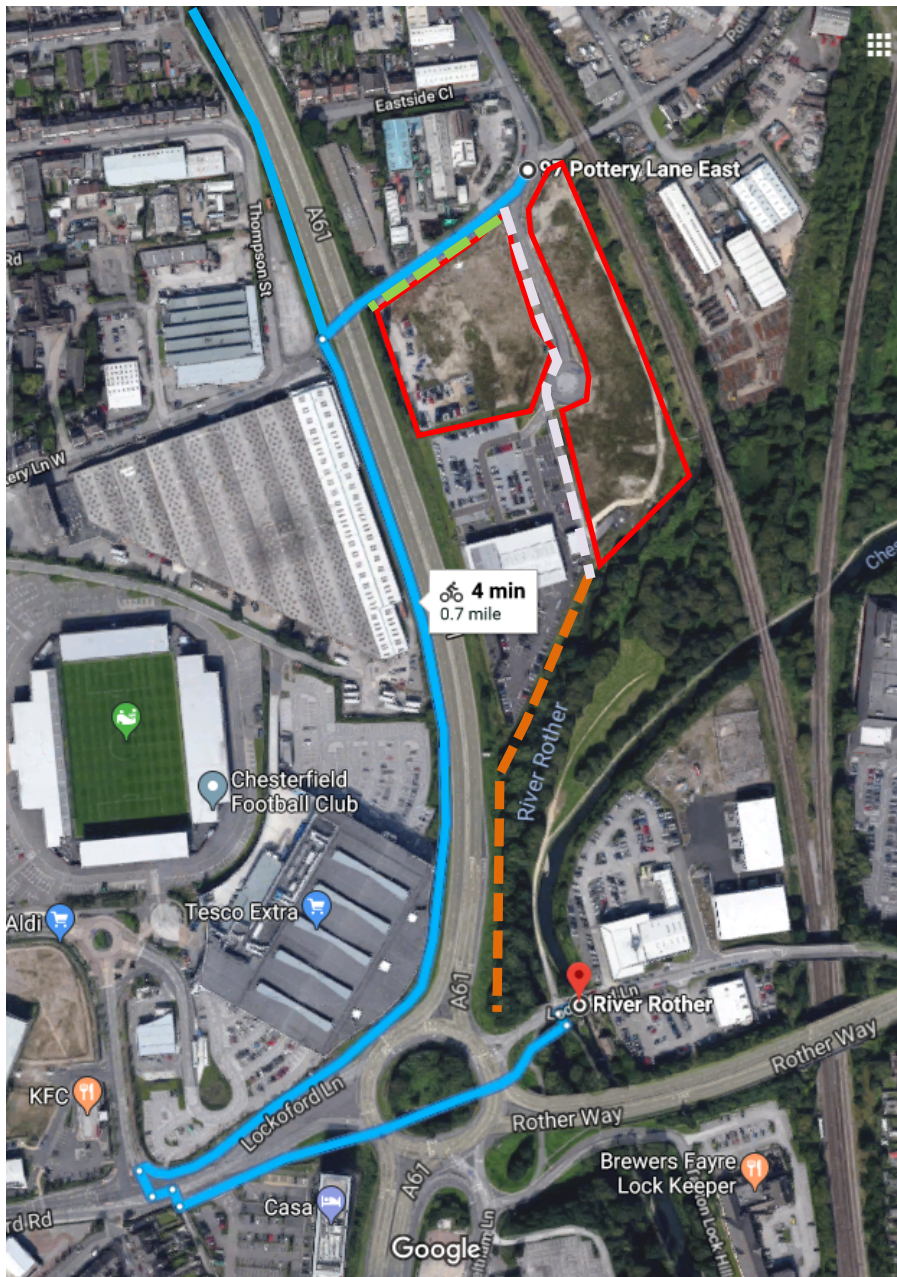
5.8.6.3 *The Campaign is keen that this path is retained and it is protected if this development goes ahead. We hope that CBC agrees with that principle and consider section 106 or CIL money to develop this route further. Completion of this route would enable easy car free access from Staveley, Brimington, Tapton and the town centre.*

**5.8.7 Officer Comments – The comments from the Chesterfield Cycle Campaign have been noted. The reference made to the Chesterfield Cycle Network can be found in the Core Strategy under policy PS3 (Diagram 10: Chesterfield Waterside and the Potteries, see below)**

**Diagram 10: Chesterfield Waterside and the Potteries**



**5.8.8 Diagram 10 illustrates a potential key walking/cycling route through the application site and would require a cycle/pedestrian path to be constructed through the bank of trees adjacent to the River Rother or a bridge across the river (see diagram below).**



### Key

- Application Site
- Existing Cycle Route/Network
- Existing 3m wide shared/cycle path running through the application site
- Potential Key Cycling/Walking Route
- Potential area of road enhancement to widen the existing footpath to create a shared cycle path



**5.8.9** Since the Core Strategy was formally adopted in 2013 a new off-road cycle path has been constructed along the west side of the A61 bypass (shown in blue on the above diagram). Direct access to the new cycle path can be gained along Pottery Lane East and through the existing underpass. The cycle path enables access to the Chesterfield Canal and town centre (see photographs below). Pottery Lane East highway has a restricted footway and it is therefore considered necessary to require the applicant to undertake additional measures to ensure the existing pavement be extended and enlarged to enable access to the underpass and cycle network beyond.



## **5.9** Biodiversity and Ecology

5.9.1 Core Strategy Policy CS9 'Green Infrastructure and Biodiversity' states that *'Development proposals will be expected to demonstrate that they will not adversely affect, or result in the loss of, features of recognised importance...The council will require the submission with the planning application of ecological surveys and assessments of the biodiversity and geological value of sites as set out in a list of local requirements'*

5.9.2 The Derbyshire Wildlife Trust were consulted on the proposal and initially raised concerns due to the lack of an appropriate ecological appraisal. An Ecological Constraints Appraisal was undertaken by REC (dated September 2017) and submitted to the LPA for consideration on 22.09.2017.

5.9.3 The Derbyshire Wildlife Trust were re-consulted on the proposal and provided the following comments;

5.9.3.1 *'The application is accompanied by an Ecological Constraints Appraisal, which provides information on the existing habitats present and any potential ecological constraints. Our comments are as follows:*

### 5.9.3.2 **Further Survey**

#### Reptiles

We support the recommendation in the Ecological Constraints Report that reptile presence/absence survey should be undertaken. Paragraph 99 of Circular 06/2005 states "it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted, otherwise all material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances". If reptiles are found, an appropriate mitigation strategy should be produced.

### 5.9.3.3 Recommended Conditions

Notwithstanding the recommendation for reptile survey above, should the Council be minded to grant permission for the proposed works, we recommend that the following conditions are attached:

#### **Construction Environmental Management Plan**

No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) *The times during construction when specialist ecologists need to be present on site to oversee works*
- f) *Responsible persons and lines of communication.*
- g) *The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.*
- h) *Use of protective fences, exclusion barriers and warning signs.*

5.9.3.4 *The CEMP should particularly consider safeguarding local designated sites, linear corridors such as the adjacent railway line and species including common amphibians and reptiles. A stand of Japanese knotweed is present in the north-west of the site and appropriate measures to deal with this invasive plant species should also be included within the CEMP. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.*

5.9.3.5 **Biodiversity Enhancement Strategy**

*Prior to the commencement of development, a Biodiversity Enhancement Strategy shall be submitted to and approved in writing by the Council. The following planning policies are considered pertinent to this document:*

*Paragraph 118 of the National Planning Policy Framework (NPPF) states that “opportunities to incorporate biodiversity in and around developments should be encouraged”.*

*Paragraph 125 of the NPPF states that “by encouraging good design, planning policies and decisions should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation”.*

*This should include the recommendations within section 4.2 of the Ecological Constraints Appraisal that meadow grassland should be incorporated around the development, to strengthen existing corridors and replace the habitat to be lost. Species enhancements including bat boxes, bird boxes and insect blocks should also be included, as per the Ecological Constraints Appraisal. Consideration should be given to green and brown walls and roofs to compensate for the loss of habitat on site. Lighting should be designed to avoid lightspill onto the adjacent railway line or nearby watercourses. Such approved measures should be implemented in full and maintained thereafter.*

5.9.4 **Officer Comments – On the basis of the comments listed above it is considered necessary to require the applicant to undertake a reptile survey and to submit a Construction Environmental Management Plan with Biodiversity Enhancement Strategy prior to the commencement of the development.**



- 5.9.5 Having consideration for the observations listed above and responses received from consultees and the requirement to provide a Construction Environmental Management Plan, Biodiversity Enhancement Strategy, the proposal is considered to accord with policy CS9 of the Core Strategy.
- 5.10 **Flood Risk and Drainage**
- 5.10.1 Core Strategy Policy CS7 'Managing the Water Cycle' states that *'Within areas of functional floodplain, development is expected to preserve or enhance the contribution of the area to water management reducing flood risk... The council will seek opportunities to increase the capacity of the floodplain safely, make space for water across the whole borough, and to remove problems from the drainage network, particularly in connection with new development... Sustainable Drainage Systems (SuDS) should be incorporated into all development, unless it can be demonstrated that this is not appropriate in a specific location. The council will seek the maximum possible reduction in surface water run-off rates based on the SFRA or most recent national guidance.'*
- 5.10.2 The majority of the site is located within a high risk zone for flooding (defined as flood zone 3 by the Environment Agency). Due to the nature and scale of the developments and the location of the the application site, it was necessary to consult the Environment Agency, Lead Local Flood Authority, Yorkshire Water and the Design Services Drainage Team.
- 5.10.3 The Environment Agency provided the following comments;
- 5.10.3.1 *'The Agency has no objections, in principle, to the proposed development but recommends that if planning permission is granted the following planning conditions are imposed. The proposed development will only meet the requirements of the National Planning Policy Framework if the following measure as detailed in the Flood Risk Assessment submitted with this application is implemented and secured by way of a planning condition on any planning permission.'*
- 5.10.3.2 **Flood risk**  
**Condition** - *The development permitted by this planning permission shall be carried out in accordance with the submitted Flood Risk Assessment (FRA) November 2014 completed by RES Environmental LTD for Pottery Lane East Chesterfield and the following mitigation measures detailed within the FRA: Finished floor levels (FFL) are set no lower than 67.15m Above Ordnance Datum (AOD) as outlined in*

*Table 4.3.5 of the FRA. The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.*

**Reason** - *To reduce the risk of flooding to the proposed development and future occupants.*

5.10.3.3 **Flood resilience measures**

*We support the suggestion outlined in table 4.3.20 of the FRA that flood resilient construction techniques are used and flood sensitive equipment is to be positioned at a minimum of 600mm above FFL. We support the suggestion in the FRA that future occupants sign up to Floodline Warnings Direct to receive advance warning of flooding. This can be done online at <https://www.gov.uk/sign-up-for-flood-warnings> or by phoning Floodline Warnings Direct on 0345 988 1188.*

5.10.3.4 **Access and egress**

*The NPPF places responsibilities on local authorities to consult their Emergency Planners and the Emergency Services with regard to specific emergency planning issues relating to new development. It is not our role to comment on or approve the adequacy of these plans and we would expect local planning authorities, through their Emergency Planners, to formally consider the implication of this in making their decision. Please note that the Local Planning Authority must be satisfied with regard to the safety of people (including those with restricted mobility), the ability of such people to reach places of safety including safe refuges within buildings and the ability of the emergency services to access such buildings to rescue and evacuate those people.*

5.10.3.5 **Pollution control**

**Condition**

*Surface water draining from areas of hardstanding shall be passed through an oil separator or series of oil separators, prior to being discharged into any watercourse, soakaway or surface water sewer. The separator(s) shall be designed and constructed to have a capacity compatible with the area being drained, shall be installed prior to the occupation of the development and shall thereafter be retained and maintained throughout the lifetime of the development. Clean roof water or vehicle washdowns and detergents shall not pass through the separator(s) and should be drained instead to foul sewer or sealed system.*

**Reason**

*To reduce the risk of pollution to the water environment.*

- 5.10.3.6 *Effluent discharged from any premises carrying on a trade or industry and effluent generated by a commercial enterprise where the effluent is different to that which would arise from domestic activities in a normal home is described as trade effluent. If you are not able to discharge effluent it will be classed as waste and you must then comply with your duty of care responsibilities.*
- 5.10.3.7 *Proposing to discharge to mains -  
A trade effluent consent or a trade effluent agreement with your water and sewerage company must be obtained before you discharge trade effluent to a public foul sewer or a private sewer that connects to a public foul sewer.*
- 5.10.4 The Design Services Drainage Team also provided the following comments;
- 5.10.4.1 *'As highlighted in the Flood Risk Assessment, the site is located in Flood Zone 3 and is therefore a risk from flooding. As stated in the FRA, this commercial development may be classed as less vulnerable under the NPPF and may be suitable for this location.*
- 5.10.4.2 *The FRA states that the proposed floor levels will be a minimum of 300mm above the anticipated 100year flood level in order to reduce risk. The FRA also proposes the use of flood resilient construction and subscribing to Flood Warnings Direct.*
- 5.10.4.3 *It is also noted that the site surface water drainage is proposed to discharge via the pumping station and attenuation tank that was installed as phase 1 of the development. The runoff from the car parking and any vehicle wash areas should pass through an oil separator prior to discharge to the surface water drainage system.'*
- 5.10.5 **Officer Comments – On the basis of the comments listed above it is considered necessary to incorporate a condition requiring the development be in accordance with the submitted flood risk assessment and for an oil separator to be installed to prevent pollutants being discharged into the adjacent watercourse.**
- 5.10.6 The Lead Local Flood Authority provided the following comments;

5.10.6.1

**CHE/17/00645/FUL**

*Due to the nature of the proposed plans and the site parameters the Lead LFFA have no comments to make in relation to CHE/17/00645/FUL*

5.10.6.2

**CHE/17/00647/FUL**

*Due to the site parameters of planning application CHE/17/00647/FUL the LLFA are recommending a holding objection on the proposed development as it is not possible to provide an informed comment until such a time that the applicant has submitted further information. As a statutory consultee for surface water the minimum details required on all major planning applications are as follows:*

- *Site plan and impermeable area*
- *Topographic survey of the site*
- *Appropriate evidence to support how the site will drain (photographs / maps / a confirmation letter from a water company)*
- *Basic calculations of the greenfield/brownfield runoff and discharge rates, in l/s/Ha, for the site*
- *A quick storage estimate to show the required storage volume of surface water on site and an indication of the likely location*
- *Calculations should include allowances for the current Environment Agency guidance for climate change and urban creep*
- *Basic ground investigation (desktop survey as a minimum)*
- *Evidence of consideration of a variety of SuDS methods*

*These details are required at the early planning stage to demonstrate that the proposed site is able to drain and that due consideration has been given to the space required on site for surface water storage. Please note the level of detail submitted should be proportionate to the size and scale of the development.*

5.10.7

*Yorkshire Water were also consulted on the proposal and provided the following comments;*

5.10.7.1

*Waste Water - If planning permission is to be granted, the following conditions should be attached in order to protect the local aquatic environment and YW infrastructure:*

- *No building or other obstruction including landscape features shall be located over or within 5 (five) metres either side of the centre line of the public sewer i .e. a protected strip width of 10 (ten) metres, that crosses the site. If the required stand -off distance is to be achieved via diversion of the sewer, the developer shall submit evidence to the Local Planning Authority that the diversion or closure has been agreed with the relevant*

*statutory undertaker and that prior to construction in the affected area, the approved works have been undertaken. (In order to allow sufficient access for maintenance and repair work at all times )*

- *No development shall take place until details of the proposed means of disposal of surface water drainage, including details of any balancing works and off -site works, 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. (To ensure that no surface water discharges take place until proper provision has been made for its disposal)*
- *Surface water run-off from the forecourt of petrol stations , areas used for the delivery of fuel , areas used for and immediately adjacent to vehicle washing facilities and /or other similar areas where detergent is likely to be used shall not discharge to any public surface water sewer network . Surface water from such areas must pass through an oil , petrol and grit interceptor /separator of adequate design that has been submitted to and approved by the Local Planning Authority , before discharge to the public foul or combined sewer network (To prevent pollution of the aquatic environment and protect the public sewer network).*

#### 5.10.7.2 Observations:

- 1) *The Flood Risk Assessment (prepared by RES Environmental - Report dated 2013) is not acceptable. In summary, the report states that surface water will discharge to an unrecorded 225mm surface water sewer with an unrestricted discharge - This is not acceptable. Evidence is required that soakaways are not viable before consideration is given to the sewer. As the FRA refers to a previously submitted drainage strategy for the wider site, the developer should submit this in order to provide an understanding of how this parcel contributes to the wider strategy. The means of surface water management has not been properly considered within the FRA/drainage report\*. Yorkshire Water requires further information regarding the means of draining surface water from the development.*
- 2) *On the Statutory Sewer Map, there is a 900mm diameter public surface water sewer recorded to cross the site along the northern boundary. It is essential that the presence of this infrastructure is taken into account in the design of the scheme. In this instance, a*

*stand-off distance of 5 (five) metres is required at each side of the sewer centre-line.*

- 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.*

**5.10.7.3** *The developer and LPA are strongly advised to seek comments on surface water disposal 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.*

**5.10.7.4** *Surface water run-off from areas of vehicular parking and/or hardstanding etc. 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 imperative, however that surface water run-off from the forecourt of petrol stations, areas used for the delivery of fuel, areas used for and immediately adjacent to vehicle washing facilities and/or other similar areas where detergent is likely to be used is not discharged to any public surface water sewer network. Surface water from such areas must pass through an oil, petrol and grit interceptor/separator of adequate design before discharge to the public foul or combined sewer network. 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*

**5.10.8** **Officer Comments – The comments received from the Lead Local Flood Authority and Yorkshire Water appear to contradict the responses from the Environment Agency and the Design Services Drainage Team. The proposed earthworks application (A) involves raising the existing land level which will impact the**

**amount of water which can be stored on site but is required in order to accord with the findings of the flood risk assessment. The Lead Local Flood Authority stated that they had no comments to make on application CHE/17/00569/FUL. The proposal will therefore safeguard the development against flooding but provides no compensatory flood storage area. The applications will re-develop a brownfield site which was previously authorised for development. The strategic location of the site is considered to be sustainable and development has already been undertaken on the site for the BMW/Mini dealership. On balance the development of the site and regeneration benefits suggest that the scheme should be approved. On the basis of the comments listed above it is considered necessary to control surface water drainage on site by a condition attached to the permission (if approved) to ensure that an appropriate scheme is secured which meets the requirements of Yorkshire Water**

5.9.10 Having consideration for the observations listed above and responses received from consultees, it is considered that the proposal has partially addressed the necessary requirements for building on a floodplain by the submission of a flood risk assessment. Due to the location of the site and nature of the development (with limited built form proposed), the main proportion of the site is hardsurfacing for vehicles providing a large area for potential surface water attention methods to be undertaken in accordance with the requirements of the relevant consultees. The submission of a detailed drainage strategy prior to the commencement of the development can be controlled by condition and require the approval of the relevant consultees. The proposal is therefore considered to accord with the recommendations of policies CS7 pending the submission of a detailed drainage strategy.

## 5.11 **Archaeological Potential**

5.11.1 Policy CS19 (Historic Environment) states that '*The council will protect the historic environment and heritage assets throughout the borough and seek to enhance them wherever possible. All new development must preserve or enhance the local character and distinctiveness of the area in which it would be situated. The council will do this through: d) the identification and, where appropriate, protection of important archaeological sites and historic environment features;*'

- 5.11.2 The proposed development is situated in an area considered to have historical environment features and as such it was necessary to consult DCC Archaeology for comments on the proposal. Initially concerns were raised regarding the lack of a desk based archaeological assessment, required to be submitted prior to determination.
- 5.11.3 The applicant submitted a desk based archaeological assessment. DCC Archaeology were re-consulted on the proposals and provided the following comments;
- 5.11.3.1 *'As recommended, an archaeological desk-based assessment has been prepared for the proposed development site and its environs. This has confirmed the extent of the buildings complex of the Pearson's Pottery (Derbyshire Historic Environment Record no.31503) which occupied the site until recently. This had its origins in the mid-19<sup>th</sup> century (or earlier) and had grown to occupy almost the whole of the current site by the mid-1960s. The desk-based assessment has confirmed that below ground remains of the earliest phases of the pottery may survive as subsurface evidence. Such remains, which would be considered to be non-designated heritage assets, may provide an insight in to early industrial techniques which were used in pottery production at this time.*
- 5.11.3.2 *Further work is needed here to characterise and understand the significance of these features. We would advise that a programme of archaeological investigation should be undertaken as a pre-commencement condition of any grant of planning permission for this scheme. This requirement is in line with paragraph 141 of NPPF which requires that developers should record and advance understanding of the significance of any heritage assets to be lost. This work may involve more than one stage, depending upon the nature and extent of any archaeological remains which are encountered. It should be undertaken in advance of **any** ground preparation works on site, including ecological mitigation works.*
- 5.11.3.3 *In order that this requirement can be can be addressed we would recommend that the following condition be attached to CHE/17/00569/FUL, CHE/17/00645/FUL and CHE/17/00647/FUL:*
- a) No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the local planning authority in writing, and until any pre-start element of the approved scheme has been completed to the*



*written satisfaction of the local planning authority. The scheme shall include an assessment of significance and research questions; and*

- 1. The programme and methodology of site investigation and recording*
- 2. The programme for post investigation assessment*
- 3. Provision to be made for analysis of the site investigation and recording*
- 4. Provision to be made for publication and dissemination of the analysis and records of the site investigation*
- 5. Provision to be made for archive deposition of the analysis and records of the site investigation*
- 6. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation"*

*b) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition (a).*

*c) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under condition (a) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.*

5.11.3.4 *The archaeological evaluation is to be undertaken, by a suitably experienced and qualified archaeological contractor (ClfA registered organisation), to a Written Scheme of Investigation which is to be agreed with ourselves.*

5.11.4 **Officer Comments – On the basis of the comments listed above it is considered necessary attached to the permission (if approved) the conditions recommended above to ensure that an appropriate scheme is secured which meets the requirements of the DCC Archaeology.**

5.11.5 Having consideration for the observations listed above and pending the submission and approval of a written scheme of investigation, the proposal is considered to accord with policy CS19 of the Core Strategy.

## 5.12 Land Contamination and Stability

- 5.12.1 Policy CS8 (Environmental Quality) of the Core Strategy states that *'The quality of the environment will be recognised at all levels of the planning and development process with the aim of protecting and enhancing environmental quality...Unstable and Contaminated Land: Proposals for development on land that is, or is suspected as being, contaminated or unstable will only be permitted if the land is capable of remediation and fit for the proposed use and shall include: a) a desk top survey with the planning application b) a phase II study and strategy for remediation and final validation where the desk top survey (a) indicates remediation may be necessary, on any full or reserved matters planning applications'*
- 5.12.2 The development site is situated within an area defined as High Risk by The Coal Authority, as such it was necessary to consultee The Coal Authority as a statutory consultee. The Environmental Service (Health) team were also consulted regarding potential land contamination arising as a result of previous land uses.

### **Land Stability and Coal Mining Risk**

- 5.12.2 The Coal Authority provided the following comments;
- 5.12.2.1 *'The Coal Authority considers the content and conclusions of the Report on Site Investigation and the Additional Site Investigation letter report to be sufficient for the purposes of the planning system and meet the requirements of the NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development. The Coal Authority therefore has **no objection** to the proposal'*

### **Land Contamination**

- 5.12.3 The Environmental Health Officer provided the following comments;
- 5.12.3.1 'The application is supported with a site investigation report (dated 2005) and an additional site investigation report covering land that was previously occupied by buildings. I have no concerns about the reports.
- 5.12.4 Having consideration for the observations listed above, the proposal is considered to accord with policy CS8 of the Core Strategy.

## **5.13 Other Considerations**

### **Impact on Adjacent Railway Line**

5.13.1 The application sites are bound by a railway line to the east. Network Rail were consulted on the proposal and provided the following comments;

#### **5.13.1.1 Drainage**

All surface and foul water arising from the proposed works must be collected and diverted away from Network Rail property. All soakaways must be located so as to discharge away from the railway infrastructure. The following points need to be addressed:

1. There should be no increase to average or peak flows of surface water run off leading towards Network Rail assets, including earthworks, bridges and culverts.
2. All surface water run off and sewage effluent should be handled in accordance with Local Council and Water Company regulations.

#### **5.13.1.2 Fail Safe Use of Crane and Plant**

All operations, including the use of cranes or other mechanical plant working adjacent to Network Rails property, must at all times be carried out in a 'fail safe' manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.

#### **5.13.1.3 Excavations/Earthworks**

All excavations/ earthworks carried out in the vicinity of Network Rail property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Project Manager should be undertaken. Network Rail will not accept any liability for any settlement, disturbance or damage caused to any development by failure of the railway infrastructure nor for any noise or vibration arising from the normal use and/or maintenance of the operational railway. No

right of support is given or can be claimed from Network Rails infrastructure or railway land.

#### 5.13.1.4 **Security of Mutual Boundary**

Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rails Asset Protection Project Manager.

#### 5.13.1.5 **Armco Safety Barriers**

An Armco or similar barrier should be located in positions where vehicles may be in a position to drive into or roll onto the railway or damage the lineside fencing. Network Rails existing fencing / wall must not be removed or damaged. Given the considerable number of vehicle movements likely provision should be made at each turning area/roadway/car parking area adjacent to the railway. This is in accord with the new guidance for road/rail vehicle incursion NR/LV/CIV/00012 following on from DfT advice issued in 2003, now updated to include risk of incursion from private land/roadways.

#### 5.13.1.6 **Method Statements/Fail Safe/Possessions**

Method statements may require to be submitted to Network Rails Asset Protection Project Manager at the below address for approval prior to works commencing on site. This should include an outline of the proposed method of construction, risk assessment in relation to the railway and construction traffic management plan. Where appropriate an asset protection agreement will have to be entered into. Where any works cannot be carried out in a 'fail-safe' manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. possession which must be booked via Network Rails Asset Protection Project Manager and are subject to a minimum prior notice period for booking of 20 weeks. **Generally if excavations/piling/buildings are to be located within 10m of the railway boundary a method statement should be submitted for NR approval.**

#### 5.13.1.7 **OPE**

Once planning permission has been granted and at least six weeks prior to works commencing on site the Asset Protection Project Manager (OPE) MUST be contacted, contact details as below. The OPE will require to see any method statements/drawings relating to any excavation, drainage, demolition, lighting and building work or any works to be carried out on site that may affect the safety, operation, integrity and access to the railway. (Asset Protection Project Manager,

Network Rail (London North Eastern), Floor 3B, George Stephenson House, Toft Green, York, Y01 6JT)

5.13.1.8 **Vibro-impact Machinery**

Where vibro-compaction machinery is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement

5.13.1.9 **Scaffolding**

Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed.

5.13.1.10 **ENCROACHMENT**

The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail and its infrastructure or undermine or damage or adversely affect any railway land and structures. There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land and soil. There must be no physical encroachment of any foundations onto Network Rail land. Any future maintenance must be conducted solely within the applicant's land ownership. Should the applicant require access to Network Rail land then must seek approval from the Network Rail Asset Protection Team. Any unauthorised access to Network Rail land or air-space is an act of trespass and we would remind the council that this is a criminal offence (**s55 British Transport Commission Act 1949**). Should the applicant be granted access to Network Rail land then they will be liable for all costs incurred in facilitating the proposal.

5.13.1.11 **Trees/Shrubs/Landscaping**

Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. We would wish to be involved in the approval of any landscaping scheme adjacent to the railway. Where landscaping is proposed as part of an application adjacent to the railway it will be necessary for details of the landscaping to be known and approved to

ensure it does not impact upon the railway infrastructure. Any hedge planted adjacent to Network Rails boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. Lists of trees that are permitted and those that are not permitted are provided below and these should be added to any tree planting conditions:

Acceptable: Birch (Betula), Crab Apple (Malus Sylvestris), Field Maple (Acer Campestre), Bird Cherry (Prunus Padus), Wild Pear (Pyrus Communis), Fir Trees Pines (Pinus), Hawthorne (Cretaegus), Mountain Ash. Whitebeams (Sorbus), False Acacia (Robinia), Willow Shrubs (Shrubby Salix), Thuja Plicatata Zebrina

Not Acceptable: Acer (Acer pseudoplatanus), Aspen Poplar (Populus), Small-leaved Lime (Tilia Cordata), Sycamore, Norway Maple (Acer), Horse Chestnut (Aesculus Hippocastanum), Sweet Chestnut (Castanea Sativa), Ash (Fraxinus excelsior), Black poplar (Populus nigra var, betulifolia), Lombardy Poplar (Populus nigra var, italica), Large-leaved lime (Tilia platyphyllos), Common lime (Tilia x europea)

A comprehensive list of permitted tree species is available upon request.

#### 5.13.1.12 **Lighting**

Where new lighting is to be erected adjacent to the operational railway the potential for train drivers to be dazzled must be eliminated. In addition the location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. Detail of any external lighting should be provided as a condition if not already indicated on the application.

Standard lighting condition: For the first three months following the installation and operation of the new lighting an assessment will be made to check the effect of the lighting on the nearby railway line. If it is found that there is a problem with driver visibility additional screening/cowling or light adjustment will be employed as appropriate to alleviate the problem, to the satisfaction of the local planning authority in association with Network Rail and the train operating companies

#### 5.13.1.13 **Access to Railway**

All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development. Network Rail is required to recover all reasonable costs associated with facilitating these works.

5.13.1.14 I would advise that in particular the **drainage, Armco barriers, method statements/OPE, lighting and landscaping** should be the subject of conditions, the reasons for which can include the safety, operational needs and integrity of the railway. For the other matters we would be pleased if an informative could be attached to the decision notice.

**5.13.2 Officer comments – The conditions requested by Network Rail are considered to be in the interests of public safety. The LPA considers it necessary to secure this by condition.**

### **Percent for Art Contribution**

5.13.3 In respect of Policy CS18 of the Core Strategy, the Council's policy requires all major development proposals to contribute to the Percent for Art scheme promoted within the Borough, it is appropriate to require plot by plot development to contribute to this initiative.

5.13.4 When the BMW / Mini dealership was approved on plot 4 the S106 agreement secured a contribution of £10,000 or 1% of the development costs (whichever is greater) towards the Percent for Art initiative and it is therefore considered that this mechanism would reasonable apply to this particular development given that are comparable in nature and scale. Accordingly it is considered that a S106 agreement should be sought from the applicant for a Percent for Art contribution on this basis.

### **Training and Employment**

5.14 The Economic Development Team were consulted on the proposals and provided the following comments;

5.14.1 *'The EDU is supportive of the proposal. Given the scale nature of the proposal there will be significant employment, training and supply chain opportunities created during the construction phase and operational phase.*

*It is recommended that a local labour/ supply chain clause is negotiated and secured with the developer and end user via either a s106 agreement or planning condition which would encourage local employment, training and supply chain opportunities during the construction and operational phase to promote the opportunities to local businesses and local people.*

*We would also encourage the end user to work with the council and its partners to ensure that local people are able to benefit from any additional jobs created by the development.*

*The procedure of securing benefits for local communities from development activity meets the objectives of the Chesterfield Borough Council Corporate Plan and the Chesterfield Local Plan Core Strategy 2011 – 2031.'*

**5.15 Officer Comments - It is recommended that a standard condition be attached to the decision notices requiring the submission of an employment and training scheme prior to the commencement of development.**

## **6.0 REPRESENTATIONS**

6.1 The applications have been publicised by site notices displayed on 13.10.2017, deadline for responses 03.11.2017 and 17.11.2017, deadline for responses 08.12.2017. Advertisements were also placed in the Derbyshire Times on 24.08.2017, deadline for responses 14.09.2017 and 21.09.2017, deadline for responses 12.10.2017. No letters of representation have been received as a result.

## **7.0 HUMAN RIGHTS ACT 1998**

- 7.1 Under the Human Rights Act 1998, which came into force on 2<sup>nd</sup> 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
- 7.2 It is considered that the recommendation is objective and in accordance with clearly established law.
- 7.3 The recommended conditions are considered to be no more than necessary to control details of the development in the interests of amenity and public safety and which interfere as little as possible with the rights of the applicant.



## **8.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT**

8.1 The following is a statement on how the Local Planning Authority (LPA) has adhered to the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 in respect of decision making in line with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF).

8.2 Given that the proposed development does not conflict with the NPPF or with 'up-to-date' Development Plan policies, it is considered to be 'sustainable development' and there is a presumption on the LPA to seek to approve the application. The LPA has used conditions to deal with outstanding issues with the development and has been sufficiently proactive and positive in proportion to the nature and scale of the development applied for.

8.3 The applicant / agent and any objector will be provided with copy of this report informing them of the application considerations and recommendation / conclusion.

## **9.0 CONCLUSIONS**

9.1 The proposals are considered to be acceptable in principle having regard to the provisions of policies CS2 and CS13 of the Chesterfield Local Plan: Core Strategy 2011 – 2031. The development site is served by the existing highway network and the proposals will not adversely impact the amenity of the adjoining occupiers. The proposals, subject to appropriate conditions being imposed, is considered to demonstrate compliance with policies CS7, CS9, CS18, CS19 and CS20 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 and the wider National Planning Policy Framework.

## **10.0 ADDITIONAL RECOMMENDATION**

10.1 That a s106 legal agreement be negotiated in respect of % for Art for the scheme

## **11.0 RECOMMENDATION**

11.1 That the applications CHE/17/00569/FUL, CHE/17/00645/FUL and CHE/17/00647/FUL be **GRANTED** subject to the following conditions:

**(A) CHE/17/00647/FUL**

**Three years from date of permission**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

*Reason - The condition is imposed in accordance with section 51 of the Planning and Compensation Act 2004*

**Development in accordance with approved plans**

2. All external dimensions and elevational treatments shall be as shown on the approved plan/s with the exception of any approved non material amendment.

*Reason - In order to clarify the extent of the planning permission in the light of guidance set out in "Greater Flexibility for planning permissions" by CLG November 2009.*

**Submission of Lighting/Lux Contour Plan**

3. Prior to the commencement of development, details of proposed lighting with appropriate adjustments to maintain public safety (on the highway and railway line) and a lux contour map shall be submitted to the Local Planning Authority for consideration. The submitted details shall include the lux levels at various distances on the ground in relation to lighting. Only those details approved in writing by the Local Planning Authority shall be implemented as part of the development and shall be retained thereafter in throughout the life of the development.

*Reason - In the interests of highway safety and surrounding visual amenity.*

**Construction Management Plan**

4. *No development shall take place until a construction management plan has been submitted to and been approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the construction period. The plan shall provide for:*
  - *parking of vehicles of site operatives and visitors*
  - *routes for construction traffic, including abnormal loads/cranes etc.*
  - *hours of operation*
  - *wheel wash facilities/method of prevention of debris being carried onto highway*
  - *pedestrian and cyclist protection*
  - *proposed temporary traffic restrictions*
  - *arrangements for turning vehicles*

**Reason - *In the interests of highway safety.***

**Construction Environmental Management Plan**

5. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.
- i) Methods for the safe removal of Japanese knotweed within the site

**Reason - *To identify and ensure the survival and protection of important species and those protected by legislation that could be adversely affected by the development***

**Biodiversity Enhancement Strategy**

6. Prior to the commencement of development, a Biodiversity Enhancement Strategy shall be submitted to and approved in writing by the Council.

**Reason – *to mitigate against adverse impacts on biodiversity and ecology arising as a result of this development***

**Development in accordance with flood risk assessment**

7. The development permitted by this planning permission shall be carried out in accordance with the submitted Flood Risk Assessment (FRA) November 2014 completed by RES Environmental LTD for Pottery Lane East Chesterfield and the following mitigation measures detailed within the FRA: Finished floor levels (FFL) are set no lower than 67.15m Above Ordnance Datum (AOD) as outlined in Table 4.3.5

of the FRA. The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

**Reason** - *To reduce the risk of flooding to the proposed development and future occupants.*

#### **Submission of surface water drainage details**

8. No development approved by this permission shall be commenced until a scheme for the provision and implementation of surface water run-off limitation has been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be completed in accordance with the details and timetable agreed.

**Reason** – *To prevent the increased risk of flooding and to ensure the site benefits from adequate and sustainable drainage.*

#### **Means of surface water pollution control**

9. Surface water draining from areas of hardstanding shall be passed through an oil separator or series of oil separators, prior to being discharged into any watercourse, soakaway or surface water sewer. The separator(s) shall be designed and constructed to have a capacity compatible with the area being drained, shall be installed prior to the occupation of the development and shall thereafter be retained and maintained throughout the lifetime of the development. Clean roof water or vehicle washdowns and detergents shall not pass through the separator(s) and should be drained instead to foul sewer or sealed system.

**Reason** - *To reduce the risk of pollution to the water environment. To prevent pollution of the water environment.*

#### **Site storage and accommodation**

10. No development shall take place until space is provided within the site curtilage, for site accommodation, storage of plant and materials, parking and manoeuvring of site operative's and visitor's vehicles together with the loading/unloading and manoeuvring of goods vehicles. The space shall be constructed and laid out to enable vehicles to enter and leave the site in a forward gear, in surface materials suitable for use in inclement weather and maintained free from impediment throughout the duration of construction works.

**Reason** - *In the interests of highway safety.*

### **Car/cycle provision**

11. Prior to the occupation of the development hereby approved, space shall be laid out within the plot in accordance with the approved plan for cars/ cycles to be parked, for the loading and unloading of vehicles. The parking spaces including cycle parking spaces and manoeuvring space shall be maintained as such thereafter, unless otherwise agreed in writing by the Local Planning Authority.

**Reason** - *In the interests of highway safety.*

### **Materials**

12. Before construction works commence on any plot or ordering of external materials takes place, precise specifications or samples of the walling and roofing materials (including details of the glazing and lookalike panels) to be used on the buildings shall be submitted to the Local Planning Authority for consideration. Only those materials approved in writing by the Local Planning Authority shall be used as part of the development unless otherwise agreed by the Local Planning Authority in writing.

**Reason** - *The condition is imposed in order to enhance the appearance of the development*

### **Soft landscaping**

13. Within 2 months of commencement of development full details of a soft landscaping scheme for the approved development on the application site shall be submitted to the Local Planning Authority for consideration. The required soft landscape scheme shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers; densities where appropriate, an implementation programme and a schedule of landscape maintenance for a minimum period of five years. Those details, or any approved amendments to those details shall be carried out in accordance with the implementation programme.

**Reason** - *The condition is imposed in order to enhance the appearance of the development and in the interests of the area as a whole.*

### **Hard landscaping**

14. Within 2 months of the commencement of development full details of hard landscape works for the approved development on the application site and access road shall be submitted to the Local

Planning Authority for consideration. Hard landscaping includes proposed finished land levels or contours; means of enclosure; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.) retained historic landscape features and proposals for restoration, where relevant. These works shall be carried out on the particular plot and access road, as approved, prior to the occupation of the buildings hereby approved.

**Reason** - *The condition is imposed in order to enhance the appearance of the development and ensure appropriate surface water drainage.*

### **Employment and Training Scheme**

15. Prior to development commencing an Employment and Training Scheme shall be submitted to the Local Planning Authority for consideration and written approval. The Scheme shall include a strategy to promote local supply chain, employment and training opportunities throughout the construction of the development.

**Reason** – *In order to support the regeneration and prosperity of the Borough, in accordance with the provisions of Policy CS13 of the Core Strategy.*

### **Bin Store and Waste Collection**

16. No part of the development shall be occupied until details of arrangements for storage of bins and collection of waste (including specialist waste) have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and the facilities retained for the designated purposes at all times thereafter.

### **Travel Plan**

17. Within 2 months of commencement of development, unless otherwise agreed in writing by the Local Planning Authority, details of a Green Travel Plan proposal shall be submitted to the Local Planning Authority for consideration. The proposal shall include details of its implementation and a monitoring programme. The Green Travel Plan approved in writing by the Local Planning Authority shall be implemented as approved, monitored and maintained as such thereafter unless otherwise agreed in writing by the Local Planning Authority.

**Reason** - *To encourage the wider use of more sustainable methods of transport*

### **Railway conditions specified by National Rail/Highways**

18. Prior to commencement of any development on site, full details of excavations and earthworks and any structural works to be carried out near the railway undertaker's boundary fence or the adjacent public highways should be submitted to the Local Planning Authority acting in consultation with the railway undertaker and Highway Authority for consideration. Only those works subsequently agreed in writing by the Local Planning Authority shall be carried out in accordance with the approved details.

**Reason** – *in the interests of public safety*

### **Railway conditions specified by National Rail**

19. Where vibro-compaction machinery is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement

**Reason** – *in the interests of public safety*

### **CCTV/Security**

20. Prior to the commencement of development details of proposed CCTV and security system shall be submitted to and approved by the Local Planning Authority. The approved scheme shall then be installed in full prior to the occupation of the development and shall be retained as such thereafter.

**Reason** – *in the interests of public safety*

### **Shared cycle path**

21. Prior to the commencement of development details of improvements to the existing pedestrian footway on the Pottery Lane East frontage of the site to create a shared cycle/footway, linking the development site to the wider cycle network accessed on Pottery Lane West (through the existing A61 underpass) shall be submitted to the Local Planning Authority for consideration. Only the proposed scheme approved in writing shall be installed on site and maintained free from impediment to its intended use unless otherwise agreed in writing by the local planning authority. The agreed scheme shall be available for its intended use concurrent with the occupation of the development.

**Reason** - *To encourage the wider use of more sustainable methods of transport*

## **Informatives for application (C) CHE/17/00647/FUL**

1. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.
2. This approval contains condition/s which make requirements prior to development commencing. Failure to comply with such conditions will render the development unauthorised in its entirety, liable to enforcement action and will require the submission of a further application for planning permission in full.
3. Attention is drawn to the fact that, this permission is granted in conjunction with the completion of a separate planning obligation under Section 106 of the Town and Country Planning Act 1990 to which any developer should also refer.
4. The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from coal mining. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological fissures; mine gas and previous surface mining sites. Although such hazards are often not readily visible, they can often be present and problems can occur as a result of development taking place, or can occur at some time in the future. It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required, be submitted alongside any subsequent application for Building Regulations approval. Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)
5. Under Section 151, Highways Act 1980, the applicant must take all steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all



reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.'

6. Under Section 50 (Schedule 3), New Roads and Street Works Act 1991, before any excavation works are commenced within the limits of the existing highway, at least 6 weeks prior notification shall be given to the County Highway Authority (contact the Streetworks Co-ordinator - tel.no. 01629 538516).
7. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy Transport & Communities at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via email [highways.hub@derbyshire.gov.uk](mailto:highways.hub@derbyshire.gov.uk) or telephone Call Derbyshire on 01629 533190 or via the County Councils website [http://www.derbyshire.gov.uk/transport\\_roads/roads\\_traffic/development\\_control/vehicular\\_access/default.asp](http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp).
8. Where development has been approved subject to the preparation and implementation of a Travel Plan, the applicant is obliged to submit the appropriate documentation to the Local Planning Authority well in advance of the development being taken into use. Advice regarding the content of Travel Plans may be obtained from the Director of Environmental Services at County Hall, Matlock (tel: 01629 580000 and ask for the Transportation Section).
9. The Environment Agency recommended that future occupants sign up to Floodline Warnings Direct to receive advance warning of flooding. This can be done online at <https://www.gov.uk/sign-up-for-flood-warnings> or by phoning Floodline Warnings Direct on 0345 988 1188.
10. If planning permission is granted and at least six weeks prior to works commencing on site the Asset Protection Project Manager (OPE) MUST be contacted, contact details as below. The OPE will require to see any method statements/drawings relating to any excavation, drainage, demolition, lighting and building work or any works to be carried out on site that may affect the safety, operation, integrity and access to the railway. (Asset Protection Project Manager, Network Rail (London North Eastern), Floor 3B, George Stephenson House, Toft Green, York, Y01 6JT)

11. Method statements may require to be submitted to Network Rails Asset Protection Project Manager at the below address for approval prior to works commencing on site. This should include an outline of the proposed method of construction, risk assessment in relation to the railway and construction traffic management plan. Where appropriate an asset protection agreement will have to be entered into. Where any works cannot be carried out in a 'fail-safe' manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. possession which must be booked via Network Rails Asset Protection Project Manager and are subject to a minimum prior notice period for booking of 20 weeks. **Generally if excavations/piling/buildings are to be located within 10m of the railway boundary a method statement should be submitted for NR approval.** (Asset Protection Project Manager, Network Rail (London North Eastern), Floor 3B, George Stephenson House, Toft Green, York, Y01 6JT)
  
12. For the first three months following the installation and operation of the new lighting an assessment will be made to check the effect of the lighting on the nearby railway line. If it is found that there is a problem with driver visibility additional screening/cowling or light adjustment will be employed as appropriate to alleviate the problem, to the satisfaction of the local planning authority in association with Network Rail and the train operating companies