

**ITEM 2**

**ERECTION OF A MIXED USE DEVELOPMENT (CLASS E(a), (b), (g), (i))  
TOGETHER WITH CAR PARKING, LANDSCAPING AND ASSOCIATED  
INFRASTRUCTURE WORKS AT STAVELEY BASIN DEVELOPMENT, HALL  
LANE, STAVELEY, CHESTERFIELD FOR DERBYSHIRE COUNTY  
COUNCIL.**

Local Plan: Housing site 21

Ward: Lowgates and Woodthorpe

**1.0 CONSULTATIONS**

Ward Members	No comments received.
Staveley Town Council	No comments received
Local Highways Authority	Comment received - No objections – see report.
The Coal Authority	No objection.
Derbyshire Wildlife Trust	Comments received – see report.
Lead Local Flood Authority	Comments received – see report.
Yorkshire Water	Comment received – no objection and conditions recommended
Environment Agency	No comments received
Derbyshire Constabulary	No objection to make.
Economic Development Unit	Comments received – see report

CBC Design Services	Comments received – see report.
CBC Leisure Services	No comments received
DCC Strategic Planning	Comments received – see report.
CBC Environmental Health	No comments received.
Climate Change Officer	No comments received
Chesterfield Cycle Campaign	No comments received
Trans Pennine Trail Officer	Comments received – see report
British Horse Society	Comment received – see report
DCC Rights of Way Officer	Comments received – see report
Chesterfield Canal Trust	Welcomes application – see report
Chesterfield Civic Society	No comments received
Conservation Officer	No comments received
County Archaeologist	Comments received – no objection
Representations/ Site Notice/ Advert	1 representation received – see report.

## 2.0

### **THE SITE**

#### 2.1

The site extends to a total of 2.4233 hectares in area and comprises the Staveley Town Basin development area. The Basin has been created as a hub on the Chesterfield Canal adjacent to Staveley Town Centre and includes a new lock which will provide ongoing

canal boat access to the future restored canal length to the north of the town. Permission has recently been granted for the ongoing restoration of the canal through to the CBC Borough Boundary towards Renishaw to the north.

- 2.2 The basin area is located just to the north west of Staveley Town Centre on Hall Lane and is situated between the properties on Eckington Road and the new Ireland Close slip road which links through to Markham Vale and the M1 junction 29a. A vehicle access route is provided to the Basin area from Eckington Road.
- 2.3 The route of Staveley Footpath 1 runs alongside the canal route and the Trans Pennine Trail walking, cycling and horse riding route which is also National Cycle Route (NCN) 67 run around the perimeter of the Basin area alongside Ireland Close and Hall Lane.
- 2.4 The site was previously the subject of opencast coal workings and has been formed as a result of the works to link Markham Vale to Chesterfield.
- 2.5 Apart from the Canal and Basin the land within the application site is generally unused. The Canal Festival in June was the last time the land was used.







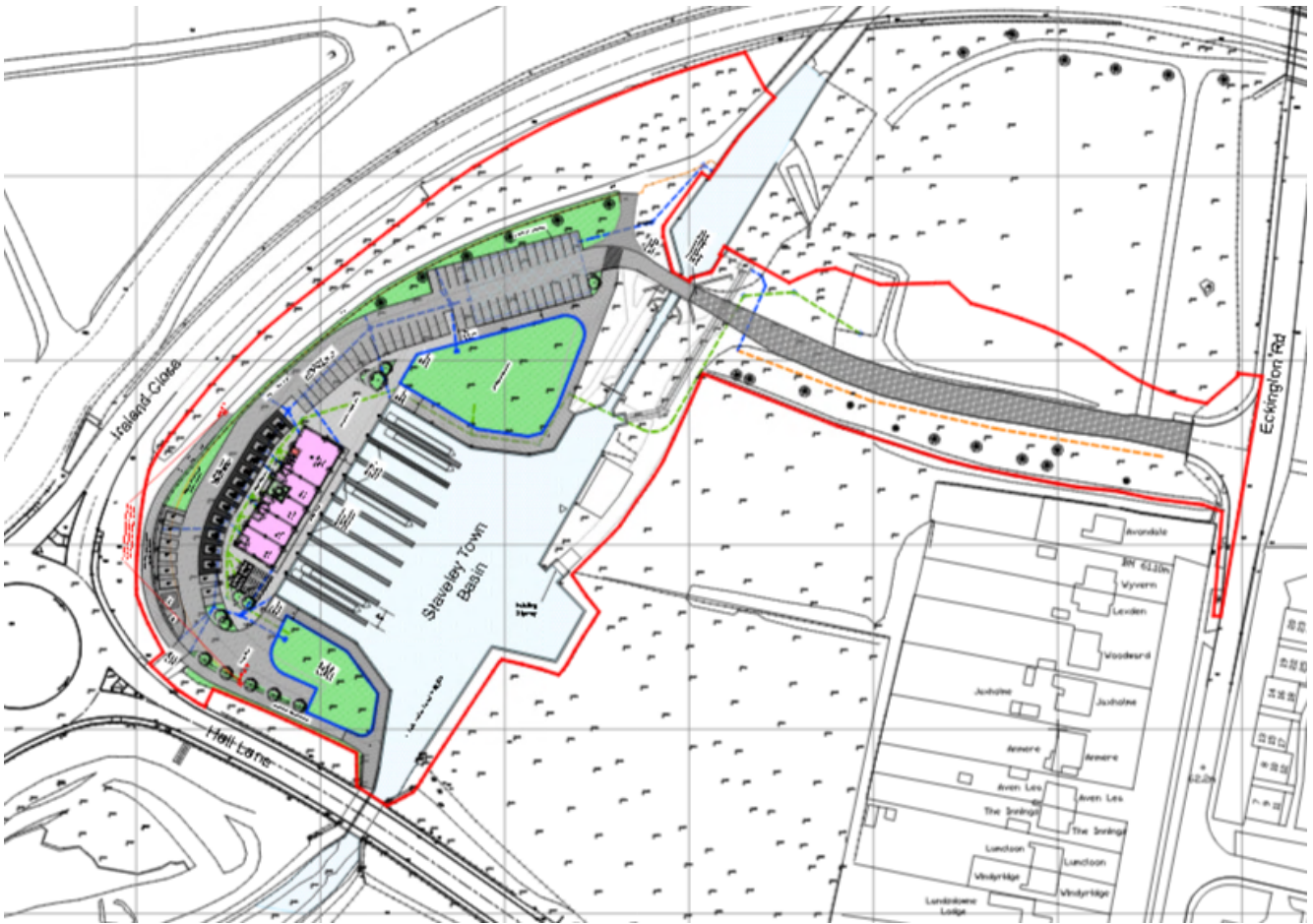
### **3.0 SITE HISTORY**

- 3.1 CHE/09/00769/FUL – Construction of canal basin and associated infra structure including access road, slipway, canal lock and accommodation bridge for DCC – Approved 24/02/2010
- 3.2 CHE/11/00077/DOC – Discharge of Conditions Nos. 2, 3, 11 and 12 - Planning Application CHE/09/00769/FUL – Approved 07/04/2011
- 3.3 CHE/20/00420/FUL – Restoration of Canal from Eckington Road to Hague Lane – Approved 20/04/2021

### **4.0 THE PROPOSAL**

- 4.1 The full application proposes the development of a two storey building comprising of a mix of flexible office, workshop and commercial units for small business and restaurant/café unit totalling 855 square metres. A total of 11 units are proposed each with kitchen and toilet facilities. The proposed uses are:
- E(a) retail sale of goods to visiting members of public,
  - E(b) sale of food and drink to visiting members of the public where mostly consumed on the premises,
  - E (g)(i) office.

- 4.2 The building includes 5 No units at ground floor including a designated café unit which is dual aspect and which benefits from an outdoor seating area to the north elevation and the side between the building and the basin.
- 4.3 The building has a white/grey brick base with black metal vertical and horizontal cladding above and which is to be punctuated with windows on all sides. A projecting stepped canopy is proposed on the side of the building fronting the basin and above the entrance area on the opposite side of the building.
- 4.4 A new section of footway 40 metres in length is proposed alongside Hall Lane to provide connectivity of the site to the existing pedestrian pavement on Hall Lane.
- 4.5 The scheme proposes a car park area over the canal lock bridge and which would accommodate 50 spaces. There would be an additional 6 parent and child spaces, 6 disabled spaces and 8 EV Charging spaces. 36 covered cycle racks are also proposed to the south side of the proposed building. Access would be from Eckington Road over the lock bridge. The existing rolled stone surfaced access track is shown to be widened to between 7 and 8 metres and finished with a two layer tarmac surface from the Eckington Road gates to the canal lock bridge where it becomes single width.
- 4.6 The scheme necessitates a minor diversion of the Trans Pennine Trail towards the Hall Lane roundabout to be able to accommodate the parking and vehicle access proposals.
- 4.7 The scheme also proposes the installation of 9 no mooring walkways in front of the building set 5 metres apart and which each have water and electricity supply hook up points.





4.4

The application is accompanied by the following supporting documents:

- Design and Access Statement by Jefferson Sheard Architects dated Feb 23
- Air Quality Assessment by BWB Consulting dated Jan 23
- Arboricultural Impact Assessment by BWB Consulting dated Feb 23
- Arboricultural Survey by BWB Consulting dated Feb 23
- BREEAM Framework Travel Plan by BWB Consulting dated Jan 23



- Ecological Impact Assessment by BWB Consulting dated Feb 23
- Flood Risk Assessment by BWB Consulting dated Jan 23
- Heritage Assessment by BWB Consulting dated Jan 23
- Noise Assessment by BWB Consulting dated Jan 23
- Surface Water Drainage Statement by BWB Consulting dated Jan 23
- Sustainable Drainage Statement by BWB Consulting dated Jan 23
- Transport Statement by BWB Consulting dated Jan 23
- Utilities Statement by BWB Consulting dated Jan 23
- Coal Mining Risk Assessment by BWB Consulting dated Feb 23
- Phase 1 Geo-Environmental Assessment by BWB Consulting dated Feb 23
- Phase 2 Geo-Environmental Assessment by BWB Consulting dated Feb 23

## **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 Chesterfield Borough Local Plan 2018 – 2035.

### **5.2 Chesterfield Borough Local Plan 2018 – 2035**

- CLP1 Spatial Strategy (Strategic Policy)
- CLP6 Economic Growth
- CLP7 Tourism and Visitor Economy
- CLP9 Retail
- CLP13 Managing the Water Cycle
- CLP14 A Healthy Environment
- CLP15 Green Infrastructure
- CLP16 Biodiversity, Geodiversity and the Ecological Network

- CLP18 Chesterfield Canal
- CLP20 Design
- CLP21 Heritage
- CLP22 Influencing the Demand for Travel

### 5.3 **National Planning Policy Framework**

- Part 2. Achieving sustainable development
- Part 6. Building a strong, competitive economy
- Part 8. Promoting healthy and safe communities
- Part 9. Promoting Sustainable Transport
- Part 12. Achieving well-designed places
- Part 14. Meeting the challenge of climate change, flooding and coastal change
- Part 15. Conserving and enhancing the natural environment
- Part 16. Conserving and Enhancing the historic environment.

### 5.4 **Principle of Development**

#### **Relevant Policies**

- 5.4.1 The main policies referred to under paragraph 5.2 above are CLP1 and CLP18 which relates directly to the Chesterfield Canal environment.
- 5.4.2 Policy CLP1 states that *'The overall approach to growth will be to concentrate new development within walking distance of a range of Key Services as set out in policy CLP2, and to focus on areas that need regenerating, including the 'place shaping' areas set out in policies SS1 to SS6 and Regeneration Priority Areas.'* Under Regeneration Priority Areas the policy states that *'The council will maximise regeneration benefits to existing communities offered by development opportunities in the following areas:*
- *Staveley and Rother Valley Corridor'*
- The policy also states under Economic Growth that *'To maintain economic growth and quality of provision, the council will make provision for 50 hectares of new employment land (B1, B2 and B8 uses) over the period 2018 to 2035. The key areas for employment*

*land are at the already committed Markham Vale development, and at Staveley and Rother Valley Corridor.'*

- 5.4.3 Policy CLP18 in relation to the Chesterfield Canal covers the application site and states that:  
*"On land at Staveley Basin, as shown on the Policies Map, and subject to an approved masterplan for the whole site, the council will support planning applications that assist in the delivery of:*
- an events area adjacent to the canal; and*
  - moorings and facilities for visiting boats; and*
  - a mix of uses including residential (C3) (as set out in policy CLP3, site H21), food and drink uses (A3 and A5), and/or business and light industrial use (B1(a) and B1(b))."*

### **Considerations**

- 5.4.4 The principle of the development is assessed through consideration of Local Plan Policies CLP1 and CLP18 (see extracts above) which broadly supports this proposal.
- 5.4.5 Policy CLP18 referred to above was written in the context of the Use Classes Order that existed at the time. Use classes A3, A5 and B1 have subsequently been subsumed into Use Class E. Use Class E includes a wide range of other uses to those being sought and to which a change could be made without the need for planning permission and so it is necessary to consider a restriction by condition on any planning permission to only the uses applied for.
- 5.4.6 Assuming that this is done, Uses E(b) and Eg(i) are covered under the range of uses referred to in policy CLP18. In addition, the policy specifically references light industrial use – therefore it would be appropriate for such a condition to also allow for uses within class E (ii) and (iii), even though these are not referenced in the application description.
- 5.4.7 Use Class E includes a range of other use that would be described as 'Main Town Centre Uses'. The location of the site would be considered 'Out of Centre' and therefore such uses would normally be subject to the need for a sequential assessment and potentially

an impact assessment. As food and drink (E(b)) and office use (Eg(i)) are specifically referenced in policy CLP18 there is no need however for these to be assessed. Similarly, if other main town centre uses are to be excluded by condition these can also be excluded from the need to test, and this would be a justification for such a condition (as they would otherwise need to be assessed in order to accord with the requirements of the NPPF and policy CLP9). However, this leaves the proposed retail uses (use class E(a)) which are not covered by policy CLP18. This aspect of the proposal therefore requires the submission of a sequential test by the applicant, as required by paragraph 87 of the NPPF as this location is considered 'out of centre'. Failure to meet the sequential test requirement (including not submitting one) can be a reason for refusal of an application itself (NPPF para 91).

5.4.8 Policy CLP9 of the Local Plan however allows an exception for small shops serving day to day needs (ie, convenience retail) of up to 280 sqm in this location. In addition, it requires that retail development over this floorspace threshold should be accompanied by an impact assessment. As the application is for 855sqm in total it exceeds this threshold. The primary consideration would be the impact on Staveley Town Centre in terms of trade diversion.

5.4.9 The application does not have either assessment and the principle of this part of the proposed use is therefore in conflict with national and local planning policy. The Basin location is unlikely to serve the needs in the foreseeable future of any specific residential community. However, it is expected to be a hub of activity for user of Chesterfield Canal and the Trans Pennine Trail/Cuckoo Way, including boat users once the canal is restored to full use. It would therefore be appropriate for some greater flexibility to be allowed to reflect the use of the basin as a destination in itself and apply a looser definition of 'day to day needs' than would normally be the case. On this basis it is considered that a limitation on the total floorspace used for retail (280m<sup>2</sup>) (to keep it under the local impact test threshold), would be sufficient in this case to satisfy the requirements of policy CLP9. This issue can be resolved through imposition of a condition limiting the maximum extent of floorspace under class E(a) to 280 square metres.

- 5.4.10 Policy CLP18 also requires that development be “*subject to an approved masterplan for the whole site*”. The applicant’s Design and Access Statement refers to a “*Master plan dated March 2020 ref 007 previously submitted to and discussed with Chesterfield Borough Councils Planning Officers*” and reproduces part of this masterplan on page 20-22 of the DAS. This masterplan has not been the subject of any wider consultation, either individually or as part of a planning application and therefore does not meet the requirement of policy CLP18 to have an ‘approved masterplan’.
- 5.4.11 However this application has been submitted in connection with a project to be funded from the Staveley Town Deal, which is a time limited funding opportunity. Furthermore, the particular application site is on the west side of the basin, which is isolated from the majority of the site, and the access arrangements are of a ‘temporary’ form that would not appear to restrict the ability to masterplan the larger area to the east of the basin. It is also correct that the broad location of the building and uses is in accordance with the emerging masterplan. Policy CLP18 requires development to assist in the delivery of an ‘events area adjacent to the canal’ – although this is not included in the application there is no reason to consider that it would prevent the delivery of this in a later phase, as it has been assumed that this would be on the other side of the basin from the application site. For this reason, it is considered that in this particular case, if permission is granted for this application in advance of an approved masterplan being in place, the benefit of securing regeneration funded through the Town Deal, combined with the minimal impact on future master planning, means that an exception would be appropriate in this case.
- 5.4.12 The scheme includes provision of mooring walkways and associated water and electricity points, which would meet the requirement of policy CLP18 to include ‘moorings and facilities for visiting boats’ however these are not explicitly referred to in the application description and a condition to secure their delivery is therefore considered necessary. This point is also made by Chesterfield Canal Trust.

- 5.4.13 The proposed development will be liable for the Community Infrastructure Levy (CIL) due to the inclusion of uses previously falling in to Use Classes A1 to A5, subject to any exemptions that may be applied for.
- 5.4.14 The County Council Policy team confirm that the development accords with the aims and objectives of the local plan and its long term vision to improve the local landscape by removing derelict industrial features, creating employment generating uses and green infrastructure. They also make reference to the central government funding which has been provided as part of the Staveley Town Deal programme and the compliance with the Preliminary Masterplan for the site.
- 5.4.15 The Economic Development Unit has commented that given the nature of the proposal there will be significant employment, training and supply chain opportunities created during the construction of the development. It is recommended that a local labour/ supply chain clause is negotiated and secured via a planning condition which would encourage local employment, training and supply chain opportunities during the construction phase to promote these opportunities to local businesses and local people. In particular, it is recommended that consideration is given to how skills and employment opportunities levered will align with other Staveley Town Deal Projects including the Construction Skills Hub project. The procedure of securing such benefits for local communities from development activity meets the objectives of the Chesterfield Borough Council Corporate Plan and Local Plan policy CLP6.
- 5.4.16 Overall with the conditions referred to above the proposal is considered to respond in a positive way to the requirements of policy CLP18 and would not be inappropriate in its context in policy terms.

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

### **Relevant Policies**

- 5.5.1 Local Plan policy CLP20 states *'all development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context 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.'*

## **Considerations**

- 5.5.2 The building is to have a high quality, contemporary feel with durable materials which are suitable for the intended use. The materials add a contrast which help break the mass and height of the building. There are generous areas of glazing which are aligned to provide symmetry and flexibility and which can be adapted for future tenants.
- 5.5.3 The scale and appearance of the building is appropriate for the context and which accords with the aspirations of the masterplan.
- 5.5.4 The applicant indicates that the development will be sustainable and low carbon based on a fabric first approach combined with innovative technologies and renewables to reduce energy and carbon emissions. The scheme includes:
- Good building thermal performance and low air permeability;
  - Thermal and acoustically efficient glazing, cladding and insulation;
  - Underground SUDs drainage attenuation to car park
  - PV panels to roof
  - Energy efficient lighting with PIR sensors
  - Car charging points
- 5.5.5 The Chesterfield Canal Trust welcomes this application and is very pleased that the development of the basin will shortly begin. Whilst the proposed building is distinctly modern and functional in style, it will be appropriate in a newly created waterway setting. We have no concerns about the design of the building.
- 5.5.6 Derbyshire Constabulary comment that they are represented on the Staveley Town Deal project board and they have had broad input on all of the various strands. In respect of this application, they have met with the project team to talk over the crime and disorder implications of the proposal and as a result there are no objections

to the principle of development, and no comments which need to be made at this stage in respect of the detail.

- 5.5.3 It is considered that the scheme is appropriately designed and would not cause adverse impacts on the visual amenity and character of the area and the proposal will therefore accord with the provisions of policy Local Plan policy CLP20.

## **5.6 Impact on Neighbouring Residential Amenity**

### **Relevant Policies**

- 5.6.1 Local Plan policy CLP14 states that '*All developments will be required to have an acceptable impact on the amenity of users and adjoining occupiers, taking into account noise and disturbance, dust, odour, air quality, traffic, outlook, overlooking, shading (daylight and sunlight and glare and other environmental impacts*'
- 5.6.2 Local Plan policy CLP20 expects development to '*k) have an acceptable impact on the amenity of users and neighbours;*'

### **Considerations**

- 5.6.3 The nearest dwellings to the site are on Eckington Road and which back onto the basin area. No representations have been received from these residents as a result of consultation and publicity and it is considered that the proposal does not have an adverse impact on the amenity of any residential neighbours due to the significant separation and does not therefore conflict with the provisions of policies CLP14 and CLP20 of the Local Plan.

## **5.7 Highways Safety, Parking Provision and Air Quality**

### **Relevant Policies**

- 5.7.1 Local Plan policy CLP20 expects development to '*g) provide adequate and safe vehicle access and parking*'

### **Considerations**



5.7.2 The Highway Authority confirms that there are no major highway concerns commenting that the previously approved application for this site under ref: CHE/09/00769/FUL was assessed by the County Council and no information related to trip generation associated with the site was provided, but the County Council agreed that the access was considered to be acceptable based on the levels of emerging visibility being commensurate with the speed of the road (30mph). The County Highway Officer considers the trip numbers demonstrated in peak times for this current application for the restaurants, café and office seem reasonable, so based on the access being of acceptable geometry and emerging visibility, there are no objections as the existing access appears to be in accordance with that approved as part of the previous application.

5.7.3 The County Highway Authority does refer to the following three issues:

1. The extent of Highway Maintainable at Public Expense does not include the access bellmouth so:
  - a) How is the applicant proposing to catch the highway surface water from the gullies to the gate?
  - b) Is the applicant prepared to dedicate the rest of the access (up to the gates) to demonstrate all aspects of discharging the surface water? The applicant must indicate the extent of the land that is currently under the developer's ownership and control or if they are prepared to dedicate their land for highway purposes under a Highways Act 1980 Section 38 or 72 agreement, prior to the commencement of any works?
2. The proposed plan shows pedestrian/cycle access from Eckington Road (footway and Cycle Gate), but this is where it stops on the proposed plan, so as Sustainable Transport modes are mentioned in the NPPF (No's 92, 104 and 106) as well in the Local Transport Note 1/20, the Council and Highway Authority should be pursuing an efficient, safe and accessible means of transport with overall low impact on the environment, including walking and cycling should be provided.
3. The proposed plan (01202 P2) shows the new access road is only being improved by providing a 'Two-layer basic temp Tarmac Road', so what does the applicant mean by 'temp'?

#### 5.7.4

In response the applicant confirms:

1. The application site includes within the red line area land up to the existing adopted public highway and this includes the bell mouth area. The applicant also intends on no changes in this area which remains as existing but comments that they have no objection to dedicating the land between the access gate and the adopted highway area as additional highway controlled land. This is not considered necessary as part of the current development and could be pursued at any time between the applicant (County Council) and the Highways arm of the County Council.



2. There will be access to the site from the Eckington Road access by foot and cycle as existing. It is accepted that the drawing does not show how cyclists and pedestrians would link from Eckington Road to the basin area and suggests there would be a shared surface route using the widened access. The Cycle Campaign has not commented however, it is considered appropriate to include in the scheme a marked out route for pedestrians and cyclists linking the Eckington Road access with the walking and cycling routes which pass through the site along the canal corridor and it is considered that this can be secured via a condition of any approval granted.

3. The applicant comments that the use of the word 'temporary' was an error and that the proposed works shown on the drawing are not intended to be changed as part of this development.

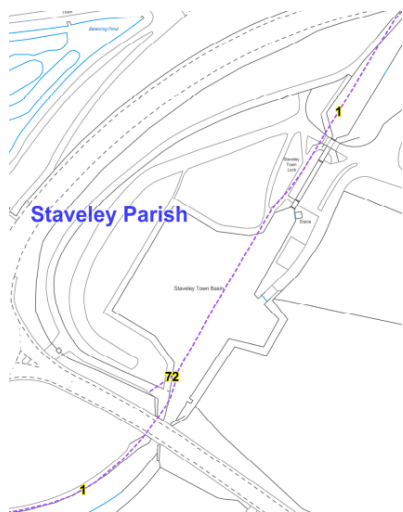
- 5.7.5 The scheme proposes to connect the current Hall Lane pavement along the north side of Hall Lane towards the Staveley library building. There is currently no footpath on this side as shown in the image below which shows the current situation where the pavement stops and reverts to a grass verge. This work is all within highway limits and would be secured under a s278 agreement with the Highway Authority. The provision of the path will assist in the integration of the site into the Staveley centre.



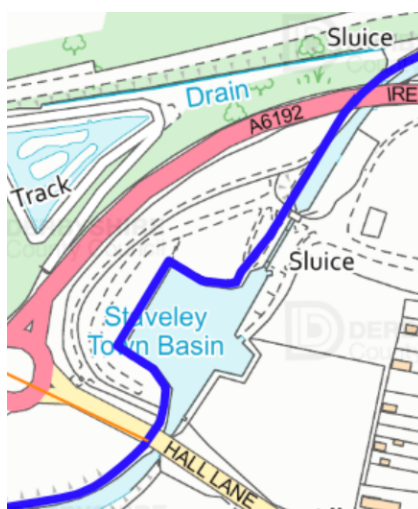
- 5.7.6 The Councils spatial strategy as expressed in policies CLP1 and CLP2 and policy CLP22 on transport emphasis maximising walking and cycling opportunities as part of any development. The application site is located close to Staveley Town Centre but also on a key part of the Strategic Walking and Cycling network through the Borough. This is to the benefit of the application and the applicant accepts the need to deliver a significant number (38) covered cycle parking spaces in the scheme which can be accessed without the need for cyclists to cross the car parking or dismount short of their destination. Whilst this will cater for the walking and cycling use along the canal corridor and is considered to be acceptable, this is subject to a condition which details how the walking and cycling routes will be connected back to Eckington Road via the site access.
- 5.7.7 The scheme includes a Travel Plan and reference has been made by DCC Travel Plan team to the principle advocated by the applicant that it does not apply unless the respective unit employs more than 10 staff. This requires amendment such that the target audience will be all staff on site in addition to site visitors. This can be covered by a condition on any approval granted.

## 5.7.8

It is the case however that a number of comments have been received regarding the walking, cycling and horse riding routes as follows.



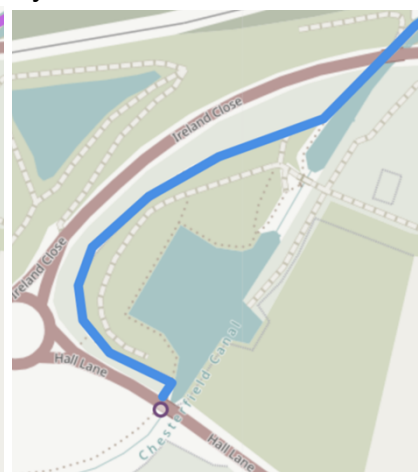
Walking routes



Cycle route NCN67



TPT Walking / cycle

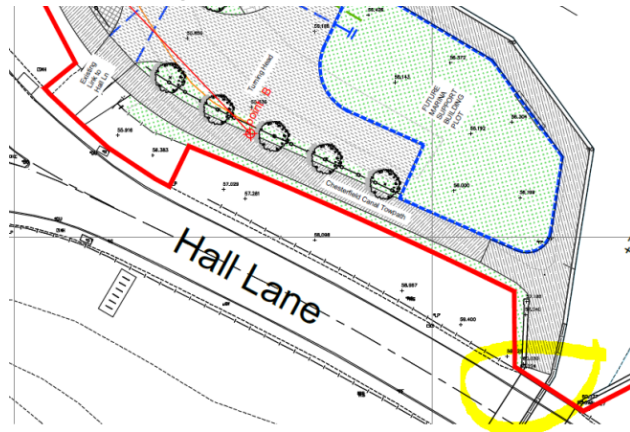


TPT Horse riding

### 5.7.8.1 Trans Pennine Trail Office

They consider it would have been advisable for colleagues within Derbyshire to have held meetings with the TPT national office, Sustrans and Chesterfield colleagues prior to the submission of this application to enable some of the issues to have been resolved during design. They comment that it is disappointing that there is little reference to the Trans Pennine Trail and its national context in relation to Chesterfield within the Transport Statement. There is no reference to equestrians which must be provided for. From Staveley the TPT route splits into two, forming the 'Chesterfield loop'. The northern section is also part of the National Cycle Network (NCN 67) with equestrian access to the roundabout at the junction of Ireland Close and Hall Lane. It is

an aspiration of the TPT partnership to extend the equestrian access along the northern loop and the image below highlights the current alignment at Hall Lane to continue along the TPT/NCN:



The alignment travels under Hall Road. The access control on the Trail at the location should be upgraded to enable equestrian access and the revised design should be LTN1/20 compliant.

The drawing also shows an existing link to Hall Lane. This crossing point enables vehicles accessing / egressing the site to cross over the TPT/NCN to get to Hall Lane. What facilities are planned to ensure that TPT users have priority over vehicles to continue their journey? Whilst this is not the main TPT/NCN crossing point, the crossing facility should be safe for all uses and LTN1/20 compliant. Current Google images indicate a central refuge point with a surfaced route along Hall Lane less than 3m, with an A frame access control back onto the TPT/NCN.

It noted the intention to realign the TPT/NCN from the brown line to the dashed area. Improvements should include improving the quality both in terms of quality of route and quality of the visitor experience. At present TPT/NCN users enjoy uninterrupted views of Staveley Basin. Design should be LTN1/20 compliant with a minimum of 5m and refer to access for all users of all abilities. For TPT/NCN users, this is the only access to the site via the southern TPT entrance. Will access be provided at the northern section?

It is noted that cycle provision is accommodated – this should be useable for all cycle types.

Horse hitching rails/corral should be provided to enable horse riders to use the facilities as easily as walkers and cyclists. This will enable

these users to also contribute to the economic impact of the development.

Regarding locations indicated for electric charging points in relation to the TPT, there are concerns over interactions between vehicles and horses and the risk of spooking the horses. The separation between the recharging bays and the Trail is only a knee high fence and due to the location of the bays it may appear to a horse that a car is driving at it. The area provided for the Trail needs to be re-visited in close detail to ensure we have as much width as possible to accommodate all users safely.

Hall Lane bridge will need mounting blocks providing at either side to enable riders to dismount and lead their horse, should they so wish. It is suggested that a corral area could be provided with mounting blocks within to ensure there is space to either turn round or dismount safely.

The comments of the DCC Sustainable Travel Project Officer support the TPT comments suggesting that if it is the ambition to extend the horse riding offer on the western side of the Chesterfield Loop then it seems logical to design in the capability at the Staveley Basin destination in advance.

#### 5.7.8.2 DCC Rights of Way Officer

Comments that Staveley Public Footpaths No. 1 and No. 72 run through the application site.

The County RoW Officer asks that the applicant be advised as follows: -

- The footpaths must remain open, unobstructed and on their legal alignments.
- There should be no disturbance to the path surfaces without prior authorisation from the Rights of Way Section.
- Consideration should be given to the safety of members of the public using the paths during the works. A temporary closure of paths will be permitted on application to DCC where the path(s) remain unaffected on completion of the development.
- There should be no encroachment of the paths, and no fencing should be installed without consulting the Rights of Way Section.

### 5.7.8.3

#### British Horse Society

Equestrians should be equally represented, particularly in relation to the multi-user Trans Pennine Trail/National Cycle Network, yet there is no reference within the document about access for Trail users. This is very disappointing, especially as horse riding is recognised by DCC as Active Travel and provides exercise and mental/physical well-being for many older (mainly) female riders with mobility issues who wouldn't otherwise partake in other forms of exercise.

From the design document, it is also surprising that there is seemingly no provision being made to accommodate horses throughout the Staveley Waterside site when DCC made specific attempts to include and facilitate their access by the design of the box culvert, canal and lock where it intersects with the HS2 (now shelved) alignments.

In image 10 of the Walking Audit photographs, a 'horse hop' is clearly seen alongside a motorbike barrier, at the access point to Staveley Waterside from Hall Lane, showing DCC's intention to include horse riders in the scheme.

1. **Hall Lane bridge** – The canopy is too low (2.65 metres) for the safe passage of ridden horses (the BHS recommends a minimum height of 3.4 metres) and mounting blocks together with signage advising dismounting will need to be sited either side of the bridge where space allows.
2. **Electric vehicles charging/parking area** - These parking bays are very close to the TPT and horses may be spooked as it might appear that parking vehicles are driving directly at them. The knee high rail fence should be replaced with post and rail fencing at 1.25 metres height (BHS recommendation) with infill at the electric charging bays. If underground electric cables are to pass beneath the Trail surface, the minimum depth required where shod horses are passing is; 500mm for low voltage cables < 10 kV and 900 mm for high voltage cables, > 10 kV.
3. **Horse corral and hitching rail** – In order for riders to be able to use the proposed café and other facilities, a corral should be sited where there is 'green space' shown on the plan, with a bridleway gate giving direct access to the Trail. The dimensions should measure approximately 14 metres by 5 metres in order to accommodate up to four horses at any one time. As well as the

provision of a hitching rail, a mounting block will be needed too. A watering point would also be a good consideration.

#### 5.7.8.4 Chesterfield Canal Trust

It is always awkward when a mooring basin (especially an open basin like this one) is located on the towpath side of a canal, and the original towpath route beside the water is lost. That issue is inherent in the design of the new basin at Staveley. The trust's concern now is that the pedestrian route through the site will not be along the front of the building, alongside the moorings, but around the back, via the car park and access road. Casual towpath walkers (the majority of towpath users) who are directed that way are likely to feel excluded from the basin. That impression is reinforced by the proposals for the area in front of the building, which is described as "waterfront outdoor seating and amenity". Obviously, boaters using the mooring berths will have access to this area, but the implication is that others will not be welcome. We regard this as unsatisfactory. In particular, crews of boats leaving and approaching Town Lock should be able to pass freely on foot through this waterside area, rather than having to walk around the back of the building. This is important for the efficient working of the lock, as is the provision of a direct footpath from this area to the lock which is not shown on the submitted plans. These are basic requirements for a properly functioning canal.

Overall, we feel that the scheme is designed around the needs of the businesses that will occupy the building, and that the needs of boaters and the general public will be secondary. Clearly, the project has to work in economic terms, but it must also pay proper heed to the practicalities of a working waterway and a visitor attraction.

#### 5.7.8.5 DCC Countryside Service

Ask 3 questions as follows:

- What is the long term vision for the site and will it be functional to moor boats?
- Management of the site on completion of the development?
- There needs to be further consultation with stakeholders to ensure route safety on site for all users and the interaction between horses and vehicles.



- 5.7.9 There is no intention to deter those wishing to visit the facility, or pass through, either on foot, cycle or horse. Indeed, the attraction of visitors to the facility is part of the applicants economic plan. Apart from the minor diversion of the TPT route around the outer edge of the site there is no intention to change any of the routes which are shown above. Notwithstanding the comments of the DCC Right of Way Officer, the definitive route of FP1 is already no longer possible to walk as its route is across the basin water however this proposed development does not impact on this route in any way and does not change the current ability for walkers to use the alternative route around the basin edge or along the TPT. Diversion of FP1 from its current route across the water does not arise as a result of this proposal and could not therefore be pursued under s257 of the Planning Act. This is a separate matter which would need to be dealt with by the County Council under the Highway Act.
- 5.7.10 The applicant confirms that no one will be deterred from using the facility and with this in mind accepts that a hitching rail and mounting block can be provided. This would need to be dealt with by condition on any permission granted. Furthermore, the applicant accepts that the knee high rail should be 1.2 metres high and which can also be supplemented by a new hedge which will provide the necessary and appropriate segregation between horse use of the TPT and the vehicle parking areas as well as the visual improvements. The applicant also confirms that they will comply with the necessary requirements regarding coverage of any electric cables beneath the TPT however this goes beyond planning control.
- 5.7.11 The minor realignment of the TPT would be necessary to achieve the access road and EV charging points in the scheme. It deflects the existing route by a maximum of approximately 6 metres towards the Ireland Close/Hall Lane boundary and affects a length of approximately 75 metres and this would be pursued separately should planning consent be granted. As the TPT is an unrecorded route it appears there would be no formal diversion order required.
- 5.7.12 The realignment of the TPT and the access road and parking area on site will impact on the existing link to Hall Lane where there is

currently a 5 bar gate, horse hop and cycle restrictor as shown below. The applicant confirms that there is no intention to change this arrangement which provides the link to the site from Hall Lane for pedestrian, cyclists and horse riders.



- 5.7.13 The TPT Office and BHS may have an aspiration to extend the horse riding route along the north link along the canal route south of Hall Lane however this is not affected in any way by the current planning application. The Hall Lane bridge is too low for passage and requires dismount and this is where the legitimate horse riding opportunity currently ends. It is considered appropriate to add a horse dismount sign and mounting block at this point but only on the north Staveley Basin side of the bridge as horse riding is not currently permitted on the south of Hall Lane. On the basis that the development has the potential to increase activity at the site, including those with horses, the applicant accepts that it is reasonable to require the addition of a dismount sign and mounting block at the Hall Lane bridge and this can be secured by condition.
- 5.7.14 The applicant confirms that there will be no residential moorings at Staveley Basin and whilst the plans show 9 No pontoons the intention will be to start by providing one with the remainder being provided as and when demand and finances allow. The development would not provide direct facilities for boaters and the applicant indicates that this would be provided in a separate Marina support building which could be provided in the future on the plot to the south side of the basin area. Future Management of the site will be a matter for DCC to consider and make arrangements for.

5.7.15 On the basis of the above considerations it is considered that the proposal satisfies the requirements of policy CLP20 of the Local Plan.

## 5.8 **Heritage**

### **Relevant Policies**

5.8.1 Policy CLP21 states “In assessing the impact of a proposed development on the significance of a designated heritage asset, the council will give great weight to the conservation of designated heritage assets and their setting and seek to enhance them wherever possible.”

5.8.2 The development will enhance the current visual outlook for the canal basin and provide both social and working environments in keeping with the historical land use of the site as a working canal. There are limited views of any listed buildings within Staveley Conservation Area from the site however glimpses of Staveley Hall and its walls, the stables and the Church are available. The enhancements and public benefits delivered as part of the proposal are considered to be beneficial with a neutral impact on the significance on the setting of the listed buildings referred to or the conservation area.

5.8.3 From an archaeology perspective the applicant’s heritage statement indicates that the entire site has been subject to opencast coal extraction during the 1980s. The County Council records for opencast for consent and extraction confirm the claim. The site, including the line of the historic Chesterfield Canal subsequently reconstructed across the site, therefore retains no archaeological potential and no objection is therefore raised regarding the proposals.

5.8.4 The proposal the subject of the planning application does not therefore conflict with the provisions of policies CLP21 of the Local Plan.

## 5.9 **Flood Risk, Drainage and Water Efficiency**

## **Relevant Policies**

- 5.9.1 Local Plan policy CLP13 states that *‘The council will require flood risk to be managed for all development commensurate with the scale and impact of the proposed development so that developments are made safe for their lifetime without increasing flood risk elsewhere.*
- Development proposals and site allocations will:*
- a) be directed to locations with the lowest probability of flooding as required by the flood risk sequential test;*
  - b) be directed to locations with the lowest impact on water resources;*
  - c) be assessed for their contribution to reducing overall flood risk, taking into account climate change.*

## **Considerations**

- 5.9.2 The Flood Risk assessment demonstrates that the proposal is at an acceptable level of flood.
- 5.9.3 The River Rother is located to the west and the Environment Agency flood map suggests the site is within flood zones 2 and 3 however this appears to be based on data from before the new Ireland Close was constructed which is situated between the site and river and which raised the site above the 1 in 1000 year flood level. The EA flood mapping is therefore out of date and the fluvial sources (River Rother) is therefore considered to pose a low level of risk of flooding the site.
- 5.9.4 Flood risk from the canal is concluded as being minimal to the development and the development will not increase the risk of flooding to the wider catchment area subject to suitable management of surface water run off discharges being dealt with as proposed.
- 5.9.5 Yorkshire Water sewer records show a 450-525mm foul sewer with 6 metre easement within the site however this is on the opposite side of the basin area to the proposed building and will not therefore be affected by the proposal.

- 5.9.6 The drainage design will comply with relevant local and national design standards and will include a 535m<sup>3</sup> storage volume beneath the car park to ensure that surface water run off/discharge is accommodated for including for an additional 40% volume to take account of climate change. The surface water out fall into the canal previously constructed and currently not in use is to be utilised for this development.
- 5.9.7 The Councils Design Services Engineer confirms that the finished floor levels of the office units are at suitable level to mitigate possible flooding and that the on-site surface water design along with fuel separator and the attenuation tank are acceptable.
- 5.9.8 Yorkshire Water Services comment that if planning permission is to be granted, the following conditions should be attached in order to protect the local aquatic environment and Yorkshire Water infrastructure:
1. The development shall be carried out in accordance with the details shown on the submitted plan, "Proposed Drainage Layout' SCB-BWB-DDG-XX-DR-D-0500 (revision P01) dated 03/02/23 that has been prepared by BWB", unless otherwise agreed in writing with the Local Planning Authority.
- Yorkshire Water also confirm that they have no objection in principle to the drainage details submitted on drawing 'Proposed Drainage Layout' SCB-BWB-DDG-XX-DR-D-0500 (revision P01) dated 03/02/23 that has been prepared by BWB. namely: -
- a.) The proposed separate systems of drainage on site and off site
  - b.) The proposed amount of domestic foul water to be discharged to the public combined water sewer
  - c.) The proposed amount of curtilage surface water to be discharged to watercourse
  - d.) The proposed point(s) of discharge of foul and surface water to the respective public sewers and watercourse.
- 5.9.9 The Lead Local Flood Authority (LLFA) confirms they have no objection subject to the conditions below.

1. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:

- a. BWB, (6/2/23), Sustainable Drainage Statement, ref: SCB-BWB-ZZ-XX-RP-CD-0001\_SDS, rev-P02; BWB, (30/1/23), Flood Risk Assessment, ref: SCB-BWB-ZZ-XXRP-YE-0001\_FRA, rev-P03, including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team.
- b. And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015), have been submitted to and approved in writing by the Local Planning Authority.

2. No development shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 80 reference ID: 7-080-20150323 of the planning practice guidance.

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

4. Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

5.9.11 Subject to these conditions it is considered that the development complies with the requirements of policy CLP13 and the wider NPPF.

## **5.10 Ground Conditions, Land contamination and Land Stability**

### **Relevant Policies**

5.10.1 Local Plan Policy CLP14 states that *'Unstable and Contaminated Land Proposals for development on land that is, or is suspected of being, contaminated or unstable will only be permitted if mitigation and/or remediation are feasible to make the land fit for the proposed use and shall include:*

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

*A programme of mitigation, remediation and validation must be agreed before the implementation of any planning permission on contaminated and/or unstable land. The requirement to undertake this programme will be secured using planning conditions.*

5.10.2 Paragraph 178 of the NPPF states that *'Planning policies and decisions should ensure that:*

- a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);*
- b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and*
- c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.'*

## Considerations

- 5.10.3 The Coal Authority has confirmed that no objections arise to the proposal. They confirm that the application site falls within the defined Development High Risk Area and their records indicate that within the application site there is a mine entry, shallow coal workings and extraction of coal by surface mining methods. The application is supported by a Phase 1 Geo-Environmental Assessment and Coal Mining Risk Assessment, dated February 2023 and prepared by BWB. This report concludes that further investigatory works are required to ascertain if voids are present within the shallow ironstone workings beneath the site. The report also notes that the foundations of the buildings will need to be designed to take account of the risks posed by past surface mining activity. The report acknowledges the recorded mine entry within the site noting that it is mapped under the existing canal alignment and that it will have been partially removed as part of the surface mining. They conclude this feature poses a low risk to the development. In respect of the shallow mine workings the report authors conclude that the shallowest coal seams will have been removed by the surface mining activity.
- 5.10.4 The submission is also supported by a Phase 2 Geo-Environmental Assessment, dated February 2023 and prepared by BWB. This report sets out details of the site investigations carried out on site and the findings. The report notes that boreholes have been drilled on site and that the maximum depths of reworked material is 12.45m, however they note that the base was not confirmed. The report states that considering the scale, low rise nature and lightweight construction of the buildings a raft foundation is likely to be appropriate, with piles as a potential alternative. The report does however recommend that a further detailed geotechnical assessment is undertaken to confirm the position of the surface mining highwall to ascertain if the building is close to this in order to further inform foundation design.
- 5.10.5 The Coal Authority would generally expect the surface mining highwall to have been established and its location used to inform the development layout, in order to avoid buildings straddling this feature.



However, in this case they note that the location of the building is dictated by the canal basin and infrastructure already present on the site. On this basis subject to the works recommended within the report, to assess the relationships between the highwall and the buildings, being carried out on site and the design of the foundations taking account of the findings of these works the Coal Authority confirms that they have no objections to the layout of the development.

- 5.10.6 The applicant has taken suitable precautions/mitigation necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available in order to ensure the safety and stability of the development, in accordance with paragraphs 178 and 179 of the National Planning Policy Framework and in accordance with Local Plan policy CLP14.

## **5.11 Biodiversity including Landscaping**

### **Relevant Policies**

- 5.11.1 Local Plan policy CLP16 states that *'The council will expect development proposals to:*

- *avoid or minimise adverse impacts on biodiversity and geodiversity; and*
- *provide a net measurable gain in biodiversity'*

- 5.11.2 The NPPF also requires net gains in biodiversity (paragraph 170 d).

- 5.11.3 Policy CLP15 of the Local Plan as referred to above is also of relevance to this section of the report.

### **Considerations**

- 5.11.4 The applicants ecology / biodiversity report indicates that the current grassland area of the site will be lost however species rich grassland will be created on site and any losses will be compensated for. Invertebrate provision can be provided in the form of bug hotels and bee bricks for example. No specific species is identified as being present on the site. The canal is adjacent to the site but is not

impacted by the scheme. A Construction Environmental Management Plan (CEMP) will be used to ensure that there are no construction phase impacts especially given the proximity of the site to the water environment.

- 5.11.5 A Biodiversity Enhancement Mitigation Plan (BEMP) is proposed to detail measures by which to enhance and create local habitats and the scheme proposes 3 bat boxes and 3 bird boxes. The BNG assessment under DEFRA metric 3.1 confirms a 2.61 unit loss in habitat and off site compensatory habitat is likely therefore to be required.
- 5.11.6 The applicant accepts that a net gain may not be possible within the red line boundary however with a preference to see compensatory measures on site or adjacent to the site, it has been suggested that this can be secured on the remainder of the Staveley Basin site which is in the applicants ownership and control (blue land) and which can therefore be secured by condition and avoid the need for a commuted sum to be paid for compensatory provision elsewhere. It is the case that adequate and appropriate land within the control of the applicant exists at Staveley Basin to be able to secure the objective of achieving a Biodiversity Net Gain.
- 5.11.7 The submitted Arboricultural report indicates that 5 low value young willow trees are to be removed to allow for construction of the surface water attenuation tank and car park but which can be replaced by replacement tree planting as part of the scheme.
- 5.11.8 Derbyshire Wildlife Trust has reviewed the Ecological Impact Assessment (EclA) by BWB Consulting and confirm that a reasonable level of survey effort has been employed at the site and they agree with the conclusions in terms of protected species constraints. Relevant safeguarding measures for wildlife can be secured via a condition for a Construction and Environmental Management Plan (CEMP: Biodiversity) which should include sympathetic vegetation clearance to safeguard common amphibians, best practice measures regarding vegetation removal and nesting birds (including waterfowl) and precautionary safeguarding measures for otter and water vole. Measures to protect

the open water habitats on site and any nearby designated sites should also be included. DWT also comment that a sensitive lighting plan should also be secured to avoid excessive lightspill to habitats of value to foraging bats, such as open water and scrub.

- 5.11.9 DWT comment that the main habitat to be lost appears to be reasonably diverse grassland. Given the invertebrate species of interest recorded on the site, it will be important to recreate diverse grassland habitats onsite to maintain a stepping-stone in the local area, along with insect bricks in the buildings and structures. Enhancements including bat and bird boxes are also recommended in the EcIA.
- 5.11.10 DWT comment that the report indicates that there may be some level of offsite compensation required to fully offset the habitats lost. Currently, only a summary of the BNG assessment is available in the Design and Access Statement, which indicates a loss of -25.65% (-2.61 units). The full metric should be submitted for review and a strategy developed to deliver a net gain. This can be secured by condition of any permission.
- 5.11.11 Subject to conditions requiring biodiversity enhancements be installed through agreeing a Management Plan for the site CEMP and BEMP and dealing with BNG, the development would accord with the requirements of CLP16 and the NPPF.

## **6.0 REPRESENTATIONS**

- 6.1 The application has been publicised by neighbour notification letters site notice and press advert and the single representation received is summarized as follows:
- 6.1.1 While the bringing of any vitality to the currently sterile Staveley Town Basin is strongly welcomed, the proposals show a clear lack of waterway knowledge in their formulation. Addressing the following points would provide a better fit for the development to this unique and sensitive location.

1). A towpath, while rarely now used for the towing of boats, has a special character resulting from its close paralleling of the water's edge. The current proposal unacceptably puts buildings between towpath and canal, divorcing these two elements of the waterway scene from one another, and placing the "towpath" into a highway setting, trapped between car park and road. The scheme also introduces conflict between towpath users and vehicles, which is not only poor design, but also goes against the principles of a traffic-free Trans Pennine Trail (which shares the towpath at this location). The orientation of the towpath in the current proposals even segregates it completely from Staveley Town Lock, the wrong side of the proposed access road: it should not be forgotten that the towpath has a function in allowing boat crews to access the lock on foot to prepare it well in advance of the arrival of their vessel, yet the current design does not facilitate this. Relocating the towpath to its rightful location around the edge of the basin would bring greater vitality and footfall to these areas. It would also guarantee an ongoing public right of way along the waterside, safeguarding against any potential future moves to fence and segregate the waterside area from the general public.

***Comments – The scheme does not affect the alignment of any routes through the site other than the minor deviation to the TPT. There was always an intention for there to be development to the west of the basin area which would be situated between the TPT and the waters edge. There will however be no conflict between the access and parking areas and the TPT as they will be separated in the main by a fence and proposed hedge. There will be nothing to prevent the user from walking along the waters edge through this site. There is clearly no intention for the County Council to segregate the waterside area from the general public as suggested.***

2). The sustainable drainage system proposed discharges surface water run-off below the deep and water-hungry Staveley Town Lock, despite, rather ironically, requiring a pump to do so. Seeing as a pump is required, discharging in to the basin above Staveley Town Lock is entirely feasible, and not only accords with the fundamental canal water management principle of obtaining and retaining one's water sources at the highest possible level for as long as possible,

but would make a significant contribution to addressing the discrepancy in water usage of Staveley Town Lock with the lock above and the potential shallower fall lock that may be required below to obtain navigational headroom under the railway.

Discharging into the longer canal pound above Staveley Town Lock than the very short weired pound below affords further opportunity for attenuation of discharge flows.

***Comments – The drainage solution proposes a discharge from the attenuation tank into the canal below the Staveley Town Lock. This is recommended by a competent Drainage Engineer and has been accepted as appropriate subject to conditions by the Lead Local Flood Authority. The applicants solution who also own the canal is considered appropriate.***

3). No detail is provided within the application on the intended use of the mooring pontoons; it is not clear whether these are for transient visiting boats (whether charged or not), residential moorings (subject to Council Tax), as non-residential long term leisure moorings, as a home mooring of holiday hire boats, or for trip boats, to give just some possible scenarios. Without having any knowledge of the intended usage, and any restrictions on the usage of these moorings, it is not possible to understand the suitability of the provisions made within the proposal, or the potential adverse impacts such usage could have on neighbouring properties, for example through air pollution (e.g. burning of solid fuels aboard vessels, which are not covered by any "clean air" regulations, or running of diesel engines), noise pollution (e.g. from running of engines or generators, operation of late night trip or party boats), and generation of both traffic volumes and parking volumes that would have significantly different profiles for each type of mooring usage.

***Comments – The applicant has confirmed that there will be no residential moorings and the pontoons will be provided on a phased basis as demand and finances allow. At least one of the pontoons with water and electric supply will be provided as part of the development.***

4). No provision exists within the proposals for the disposal of waste (both domestic and toilet waste) from boats using the moorings. No

publicly accessible facilities exist for the disposal of boaters' toilet waste on the land-locked DCC controlled section of the Chesterfield Canal, raising the concern that providing moorings may lead to inappropriate, illegal or environmentally risky disposal to occur. Addressing this deficiency could also address the lack of public toilet provision at a location the proposer wishes to promote as a honeypot site.

***Comments – The County Council as applicant and owner of the canal will have a management plan which will need to address the issues connected with the operation of any moorings at the basin site.***

5). While it is recognised that the proposal covers only part of the land surrounding Staveley Town Basin, it must be recognised that the Basin currently provides an excellent and safe location for the craning of boats in to and out of the water and is the only practical location for this on the landlocked DCC controlled section of the Chesterfield Canal. It is vital that an area for craning is protected within the development of the basin if boats are ever to be able to be launched or maintained.

***Comments – Agreed however this is a matter for the County Council as owner of the canal. There is currently a boat launch ramp on the opposite side of the basin to the development which is not affected and there are opportunities to crane boats into the canal at this point.***

## **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 The action in considering the application is in accordance with clearly established Planning law and the Council's Delegation

scheme. It is considered that the recommendation accords with the above requirements in all respects.

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

8.1 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2015 and paragraph 38 of 2021 National Planning Policy Framework (NPPF) as the proposed development does not conflict with the NPPF or with 'up-to-date' policies of the Local Plan, it is considered to be 'sustainable development' to which the presumption in favour of the development applies.

8.2 The Local Planning Authority has during the consideration of this application engaged in a positive and proactive dialogue with the applicant in order to achieve a positive outcome for the application.

## **9.0 CONCLUSION**

9.1 The proposal to develop a facility adjacent to the basin has the potential to attract visitors who can then use the canal corridor whether that be on foot, cycle, horse or boat. This has significant health and well being opportunities. The proposed building will provide a complementary community use in a café and associated facilities so as not to discourage any particular user. There will be no negative impacts on the various routes which pass through the site.

9.2 The proposed building is appropriately designed in its setting and subject to conditions the scheme satisfies all the technical requirements which have been made by statutory consultees. The proposal is not considered to be in conflict with the requirements of any Local Plan policies.

## **10.0 RECOMMENDATION**

10.1 It is therefore recommended that the application be **GRANTED** subject to the following:

## Conditions

### Time

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 Compulsory Purchase Act 2004

### Approved plans and documents

2. The development hereby approved shall only be carried out in full accordance with the approved plans and documents (listed below) with the exception of any approved non material amendment. All external dimensions and elevational treatments shall be as shown on the approved plan/s

- 1928-JSA-XX-XX-DR-A-00001-rev P1-Location Plan
- 1928-JSA-XX-XX-DR-A-01001-rev P1-Existing Site Plan
- 1928-JSA-XX-XX-DR-A-01202-rev P2-Proposed Site Plan
- 1928-JSA-XX-XX-DR-A-02201-rev P2-Proposed Ground and First Floor Plans
- 1928-JSA-XX-XX-DR-A-02204-rev P2-Proposed Roof Plan
- 1928-JSA-XX-XX-DR-A-03200-rev P2-Existing and Proposed Site Section
- 1928-JSA-XX-XX-DR-A-03201-rev P2-Proposed Sections
- 1928-JSA-XX-XX-DR-A-04201-rev P2-Proposed Elevations
- SCB-BWB-DGT-XX-DR-C 0100-rev P01-Vehicle Tracking sheet 1
- 1928-JSA-XX-XX-DR-A-0500-rev P01-Proposed Drainage layout
- SCB-BWB-DGT-XX-DR-C -0530-rev P01-Drainage Catchment Plan
- SCB-BWB-DGT-XX-DR-C-0600-rev P01-Proposed Finished Levels
- SCB-BWB-DGT-XX-DR-C-0630-rev P01-Proposed Earthworks

Reason – In order to clarify the extent of the planning permission for the avoidance of doubt.



### Landscaping and biodiversity

3. Within 2 months of commencement of the development a landscaping scheme with programme of implementation and maintenance scheme shall be submitted to the local planning authority for consideration. The details agreed in writing shall be implemented during the first planting season following the completion of the development and which shall be maintained thereafter as agreed.

Reason - To ensure a suitable programme for implementation of the landscaping scheme for the development to enhance its setting in accord with policy CLP15 and CLP20 and NPPF para 130b.

### Retention of soft landscaping

4. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within the agreed maintenance period under condition 3 above, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All landscaping shall also be carried out in accordance with the details approved under condition 3 above.

Reason - To ensure a satisfactory standard of landscaping in the interests of amenity in accordance with CLP20 and CLP16

### Drainage

5. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:
  - a. BWB, (6/2/23), Sustainable Drainage Statement, ref: SCB-BWB-ZZ-XX-RP-CD-0001\_SDS, rev-P02; BWB, (30/1/23), Flood Risk Assessment, ref: SCB-BWB-ZZ-XXRP-YE-0001\_FRA, rev-P03, including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team;

b. And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015);  
have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems are provided to the Local Planning Authority, in advance of full planning consent being granted.

6. No development shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 80 reference ID: 7-080-20150323 of the planning practice guidance.

Reason: To ensure that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the hierarchy of drainage options. The assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

- into the ground (infiltration);
- to a surface water body;
- to a surface water sewer, highway drain, or another drainage system;
- to a combined sewer.

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

Reason: To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development.

8. Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

Reason: To ensure that the drainage system is constructed to the national Non-statutory technical standards for sustainable drainage and CIRIA standards C753.

#### Highways

9. Prior to any works taking place a Construction Management Plan shall be submitted to the local planning authority for consideration showing space to be provided on site for storage of plant and construction materials, site accommodation, loading, unloading and manoeuvring of vehicles, parking and manoeuvring of employees and visitors vehicles. The details agreed in writing shall be laid out and constructed in accordance with the approved details prior to the commencement of construction works on site and once implemented the facilities shall be retained free from any impediment to their designated use throughout the construction period.

Reason – To ensure a suitable highway arrangements through the construction phase in the interests of highway safety and which accords with policy CLP22 and NPPF para 110b.

10. Prior to occupation of the development a Travel Plan for all users of the development shall be submitted to the local planning authority for consideration. The development shall thereafter be carried out in accordance with the measures and actions set out in the agreed travel plan.

Reason – To ensure that travel plan measures are implemented as proposed to secure active travel options and a sustainable development and which accords with policy CLP22 and NPPF para 113.

#### Use of Commercial Units

11. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) the extent of the class E (a) retail use of the units hereby agreed shall be restricted to a maximum of 280 square metres in total.

Reason – To limit any retail uses proposed as part of the scheme in order to prevent potential harm to the Staveley Town Centre in accordance with Policy CLP9 and NPPF paras 87-90.

#### Ground Conditions – Coal Authority

12. The development shall only proceed in accordance with the mitigation measures and further geotechnical assessment required as set out in the Phase I and II Geo-Environmental Assessment reports prepared by BWB Consulting Ltd dated February 2023.

Reason – To enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site and which will ensure the safety and stability of the development, in accordance with policy CLP14 and NPPF paragraphs 183 and 184.

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

Reason – The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial

and mitigatory measures to be identified and carried out before building works commence on site and which will ensure the safety and stability of the development, in accordance with policy CLP14 and NPPF paragraphs 183 and 184.

#### Biodiversity - CEMP

14. 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.
  - 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.
- The approved CEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason – To ensure appropriate consideration of habitat and species and a Biodiversity net gain in accord with policy CLP16 and NPPF para 179b.

#### Biodiversity – LBEMP

15. A Landscape and Biodiversity Enhancement and Management Plan (LBEMP) shall be submitted to, and be approved in writing by, the LPA prior to the commencement of the development. The aim of the LBEMP is to enhance and sympathetically manage the biodiversity value of onsite habitats. The LBEMP should combine both the ecology and landscape disciplines and shall be suitable to provide to the management body responsible for the site. It shall include the following:-

- a) Description and location of features to be retained, created, enhanced and managed, as per the approved biodiversity metric.
- b) Aims and objectives of management, in line with desired habitat conditions detailed in the metric.
- c) Appropriate management methods and practices to achieve aims and objectives.
- d) Prescriptions for management actions.
- e) Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).
- f) Details of the body or organization responsible for implementation of the plan.
- g) A monitoring schedule to assess the success of the habitat creation and enhancement measures
- h) A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
- i) Detailed habitat enhancements for wildlife, in line with British Standard BS 42021:2022.
- j) Requirement for a statement of compliance upon completion of planting and enhancement works.

The LBEMP shall also include details of the legal and funding mechanism(s) by which the long term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

Reason – To ensure appropriate consideration of habitat and species and a Biodiversity net gain in accord with policy CLP16 and NPPF para 179b.

#### Biodiversity - Lighting Strategy

16. Prior to the installation of lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife, with particular consideration given to the Chesterfield Canal corridor. This should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. A lux contour plan shall be provided to demonstrate acceptable levels of lightspill to any sensitive ecological zones/features. The approved details and measures shall be implemented in full as a part of the development. (Policy CLP16, NPPF para 179)

Reason – To ensure appropriate consideration of habitat and species in accord with policy CLP16 and NPPF para 179b

Biodiversity Net Gain

17. Prior to the commencement of development an updated Biodiversity Metric for the site shall be submitted to the local planning authority for consideration. This shall explore the opportunity to achieve a net gain by including the applicants neighbouring land (blue land). The development shall only proceed on the basis of the details agreed in writing by the local planning authority.

Reason – In order to ensure biodiversity net gain is achieved in accordance with Policy CLP16

Design – Materials

18. Before ordering of external materials takes place, precise specifications or samples of the walling and roofing materials to be used 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 – To ensure a satisfactory external appearance of the development in accord with policy CLP20.

Local Labour / Supply Chain

19. 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 – To secure opportunities for local employment, training and procurement through the development to benefit the local economy and supply chain in accord with policy CLP6.

20. Prior to the carrying out of the improvements to the access track between the Eckington Road gate and the Staveley Town Lock, as shown on drawing 1928-JSA-XX-XX-DR-A-01202-rev P2, details shall be submitted for consideration showing how safe pedestrian and cycle access can be provided between Eckington Road and the

canal network. The development shall only proceed in accordance with the details agreed in writing by the local planning authority.

Reason – To ensure an appropriate link to the site is provided for walkers and cyclists in accordance with Policy CLP20.

21. Prior to the carrying out of the extended pavement works to the north side of Hall Lane full details shall be submitted to the local planning authority for consideration and which shall have been implemented prior to the first occupation of the development.

Reason – To ensure an appropriate link between the site and Staveley Town Centre is provided for pedestrians in accordance with Policy CLP20.

22. The post and rail fence around the outer edge of the car park and access and which separates the development from the Trans Pennine Trail shall be 1.2 metres in height and which shall be supplemented by a new hedgerow, the details of which shall be provided under condition 3 above.

Reason – To safeguard the safety of users of the Trans Pennine Trail and in the interest of amenity in accordance with policy CLP18.

23. Details of a hitching rail and mounting block to be provided on site for use of horse riders shall be submitted to the local planning authority for consideration. The agreed details shall thereafter be provided as part of the development and which shall be available for use concurrent with the first occupation of the development and be retained as such thereafter.

Reason – To facilitate access to the facilities by horse riders.

24. Details of a horse rider dismount sign and mounting block to be provided on the north side of Hall Lane bridge site shall be submitted to the local planning authority for consideration. The agreed sign and mounting block shall be provided as part of the development and which shall be retained as such thereafter unless otherwise agreed in writing by the local planning authority.



Reason – To facilitate access to the facilities by horse riders.

**Informative Notes**

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.