

Case Officer: Paul Staniforth
Tel. No: (01246) 345786
Ctte Date: 16th November 2020

File No: CHE/16/00114/OUT
Plot No: 2/5345

ITEM 1

ADDENDUM / UPDATE REPORT

RESIDENTIAL DEVELOPMENT OF 20 DWELLINGS WITH APPROVAL OF ACCESS FROM WORKSOP ROAD AT LAND TO THE WEST OF CARPENTER AVENUE, MASTIN MOOR, DERBYSHIRE FOR THE NORBRIGGS PARTNERSHIP

Local Plan: Strategic Gap 3
Ward: Lowgates & Woodthorpe

1.0 CONSULTATIONS

Strategic Planning Team	Comments received – see report
Derbyshire Wildlife Trust	No adverse comments

2.0 BACKGROUND

2.1 On 8th August 2016 Planning Committee resolved to approve an outline planning application (subject to S106 agreement) under application reference CHE/16/00114/OUT for the following development:

‘Residential development of 20 dwellings with approval of access from Worksop Road on land to the west of Carpenter Avenue, Mastin Moor for The Norbriggs Partnership.’

2.2 Following the Planning Committee meeting negotiations commenced between the Applicant and Legal team at CBC to progress the S106 agreement however these discussions stalled due to a land ownership and conveyancing issue arising with the land the subject of the application. The issue related to the title of the land on the basis that the land had been purchased by four named trustees of the James family by a conveyance in 1935 and

all those members of the James family had passed away. It was necessary therefore to make application to appoint new trustees who would then be able to sell the land and enter into the s106 agreement. Locating the descendants was an extremely protracted and complicated process including genealogical tracing and this process was not concluded until 2019.

2.3 The committee will be aware that a report was brought to the committee in February 2020 in an attempt to move the matter forwards given the passage of time since the original planning committee resolution however this was withdrawn from the meeting following discussions with the applicant and their legal advisors. As the decision notice would only have been issued alongside the signing of the S106 agreement, the application remains undetermined. Under the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 'applications for planning permission are required to be determined in accordance with the most up to date development plan unless material considerations indicate otherwise'.

2.4 The application was previously recommended for approval, as per the report which is attached as Appendix A below. The resolution to grant permission was subject to serving a CIL Liability Notice and an agreement under s106 covering:

- 30% affordable housing,
- % for Art and
- Maintenance of open space area.

3.0 **CONSIDERATIONS**

3.1 Having regard to the background set out above and the passage of time since the committee resolved to approve the scheme, there have been several changes to the planning policy background since the resolution and which need to be considered before the permission is signed. The key ones are:

- The council is now able to demonstrate a five year supply of suitable housing sites
- A revised National Planning Policy Framework was published in February 2019
- A Review of the Green Wedges and Strategic Gaps published August 2016 (post committee)
- The council has now adopted its new Local Plan.

3.2 The current development plan for Chesterfield Borough is the Chesterfield Local Plan 2018-35 which was adopted in July 2020 and which supersedes all previous development plans. This Development Plan is now relevant to the further consideration and determination of this application. The former local plan showed the site as part of the open countryside area and an emerging strategic gap between Lowgates and Mastin Moor/Woodthorpe. The new Local Plan now includes the boundaries of the Strategic Gap 3 and settlement boundaries are now defined.

3.3 Given the passage of time the applicant has provided updated information as follows:

- Preliminary Ecological Appraisal by Witcher Wildlife Ltd June 2020.
- Updated Design and Access Statement by DLP Planning May 2020.
- Updated Planning Statement by DLP Planning June 2020.
- Revised supporting sketch scheme drawing 01
- Revised supporting sketch scheme drawing 01A

3.4 A key element in the recommendation for approval in August 2016 was the lack at the time of a five-year housing supply and the implications for the application of former policies CS10 and EVR2. There was clearly a conflict with the proposed Strategic Gap in the area however this was taken into account in arriving at the recommended decision.

3.5

The key policies in the new local plan are CLP1, CLP2, CLP3 and CLP15. Policy CLP1 sets out the Spatial Strategy and confirms 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.

Regeneration Priority Areas

The council will maximise regeneration benefits to existing communities offered by development opportunities in the following areas:

- *Eastern Villages– Barrow Hill, Duckmanton, Mastin Moor, Poolsbrook*

Policy CLP1 goes on to say that the “open character of Strategic Gaps will be protected from development between:

- *Lowgates / Netherthorpe and Woodthorpe / Mastin Moor (SG3)”*

Policy CLP15 states that “*Chesterfield borough’s green infrastructure network will be recognised at all levels of the planning and development process with the aim of protecting enhancing, linking and managing the network, and creating new green infrastructure where necessary. Development proposals should demonstrate that they will not adversely affect, or result in the loss of, green infrastructure, unless suitable mitigation measures or compensatory provision are provided.*

Development proposals should, where relevant:

b) not harm the character and function of the Green Wedges and Strategic Gaps; and

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

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

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

e) enhance the multi-functionality of the Borough’s formal and informal parks and open spaces; and

*f) protect or enhance Landscape Character; and
g) increase tree cover in suitable locations in the borough to enhance landscape character, amenity and air quality; and
h) where new green infrastructure is proposed, there must be clear funding and delivery mechanisms in place for its long-term management and maintenance, prior to the development commencing.*

Where necessary and appropriate development will be expected to make a contribution through planning obligations or CIL towards the establishment, enhancement and on-going management of green infrastructure by contributing to the development of a strategic green infrastructure network within Chesterfield Borough.

3.6

Policy CLP3, 'Flexibility in Delivery of Housing' is also of relevance and is intended to ensure a supply of deliverable housing sites sufficient for five years as set out in the NPPF. The policy seeks to meet the aims of the Local Plan's Spatial Strategy, and allows for some uncertainty in the timing of delivery of housing on allocated sites. The policy also sets out the council's position on the development of unallocated sites outside of the built-up area for housing and how this relates to the principles for the location of development set out in policy CLP2. It states:

Planning permission will be granted for residential development on the sites allocated on the Policies Map and as set out in Table 4, provided they accord with other relevant policies of the Local Plan. Outside of the built-up area (as set out on the Policies Map), and subject to other relevant policies of the Local Plan, new residential development on sites not allocated in Table 4 will only be permitted where:

a) The development can demonstrate that it would have reasonable access to a range of key services as set out in Policy CLP2; and

b) It re-uses redundant or disused buildings and enhances their immediate setting; or

c) It is for the sub-division of an existing residential dwelling; or

d) It is for the redevelopment of previously developed land in a manner that would not harm the intrinsic positive character of the

countryside; or

e) It represents the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of the heritage asset; or

f) It meets a specific demonstrable housing need for a rural worker; or

g) It is of exceptional quality of design quality, in that it:

i. is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and

ii. would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area.

3.7 It is clear that the applicant in this case has continued to invest in the submission on the strength of the planning committee resolution and in normal circumstances the planning permission would have been granted by now. It is also clear in this case that there have been significant legal difficulties in arriving at a point where the relevant parties are in position to be able to sign the legal agreement. In the meantime, where as the site is arguably now more derelict and overgrown compared with 2016, there is a requirement to consider the changes which have been introduced since the proposal was initially considered.

3.8 The new 2019 NPPF re-emphasises the advice contained within the previous version which is to significantly boost housing supply at the same time as referring to the importance of a need for sufficient amounts and variety of land to meet a range of housing requirements. The changes in the 2019 version of the NPPF do not change the basis of the consideration of the proposal beyond that which had previously been considered and referred to.

3.9 The main change has been the policy position in that the Council has adopted a new local plan however as before the site remains unallocated but is now a part of the Strategic Gap area.

- 3.10 Policy CLP1 – This policy does not expressly prohibit development in Strategic Gaps. The policy seeks to maximise sustainable development, particularly in Priority Regeneration Areas, and to maintain the open character of the area. Given that the Local Planning Authority has resolved to agree the proposal, the development is considered to contribute to this objective by providing housing that would effectively form part of an extension to the Mastin Moor regeneration area and which would contribute to the enhancement of the local community. Additional dwellings in the locality will support local businesses and achieve economic growth particularly through the construction process. This is particularly important given that Mastin Moor has been identified as a Regeneration Priority Area.
- 3.11 The site is currently separated from the playing fields and open countryside beyond, by a mature tree and hedgerow lined boundary. This boundary provides a strong defensible boundary which effectively rounds off the existing urban area to the west of Mastin Moor.
- 3.12 Policy CLP2 – This policy explores the sustainability credentials of a site and whilst the site does not comprise of brownfield land, the site is severely overgrown and provides no recreational, visual or high environmental value. The ecological surveys undertaken demonstrate that the site is of moderate to low ecological value with the most significant features being the hedgerows to the site boundaries. The site has also become victim to fly tipping. Reusing the vacant land for housing will improve the appearance of this site and provide an opportunity to enhance the ecological value of the site through various mitigation measures. The site is accessible to a range of local community services and facilities which are easily accessible on foot and include local shops and a post office within Mastin Moor, Staveley Centre with all its services and facilities including a doctors, primary, junior and secondary schools and a number of recreational playing fields and facilities. The proximity to the open countryside and the footpath links adjacent to the site will

also encourage active lifestyles which will be of significant social benefit.

- 3.12 The site is also well connected on its frontage to a range of public transport services which provide regular connection to Staveley and Chesterfield beyond. The site is sustainably located and will allow residents to easily access a range of services and facilities in the area.
- 3.13 The Officer's report on the original application confirmed that the proposals met all of the criteria in CS2 with the exception of (b) (on previously developed land). It was considered in respect to (d) (wider regeneration benefits) that there is the potential for the development to generate CIL income, a proportion of which can be spent locally.
- 3.14 Policy CLP3 - Policy CLP3 does allow for consideration of proposals which are not allocated and which fall outside of the built up area (settlement boundary). The site is a medium size site on the edge of an existing residential area which would provide the opportunity for a range of dwellings to be provided and in this case the applicant has secured a developer interested in delivering the scheme as soon as planning permission is secured. The policy is linked to Policy CLP2 but which sets out criteria upon which any development proposals are to be considered in order of importance. The first criteria relates directly to CLP2 and reference is made to the comments above which confirm that the proposals generally accord with the requirements. The second criteria links to re-use of redundant or disused buildings and enhancing their immediate setting and in this case whilst the original scheme excluded the three cottages on the A619 frontage of the site, the applicant has now included an undertaking that the cottages will be restored and brought back into use as part of the scheme as a considerable public benefit delivered on the back of the scheme. The issue of public benefit is debated further later in the report.

3.15

Policy CLP15 – This deals with the Strategic Gap which is designed to prevent neighbouring settlements from merging. Paragraph 8.3.4 of the Assessment identifies that: *“To the north of the A619, strong boundaries are defined by the Norbriggs Cutting and the River Doe Lea, alongside largely open land supporting the perception of separation between Lowgates and Mastin Moor.”* The Norbriggs Cutting forms the western boundary of the application site, and which is separated from the open playing fields to the south west by a substantial mature boundary hedgerow and footpath route. The proposals reinforce this boundary and which would mark the urban edge of Mastin Moor to the north, whilst retaining the main area of the strategic gap between the site and Netherthorpe to the south west. The 2016 Assessment sets out that this Strategic Gap is characterised by open green space, agricultural fields and the river corridor. The application site is overgrown and not strictly open in nature and does not necessarily reflect the characteristics of the wider gap due to its enclosed nature. The original officer’s report on the application and subsequent resolution to grant outline permission subject to S106 Agreement for the scheme had regard to policies within the Core Strategy and found that mature planting along the western site boundary, if retained and enhanced would provide a clear, defined edge to the east of the Strategic gap as well as enhancing access to the adjacent countryside area.





- 3.15 It is suggested that the proposal will not harm the character or function of the Strategic Gap in this location of the Borough. The development will form a rounding off of the settlement and provide a strong physical boundary with the open countryside beyond, thereby preventing urban sprawl. It is considered that the proposals would not undermine the character and function of the gap, which would be reinforced by mitigation forming part of the development.
- 3.15 When considering development which is not allocated and falls outside of the settlement boundary one of the key considerations set out in policy is the extent to which any public benefits can be delivered as a part of the scheme. Reference is made above to a number of benefits which arise as a result of the proposal as follows:
- provision of housing including provision of 6 No affordable houses and CIL contributions;

- delivery from a local builder as an economic benefit in terms of job creation and economic activity; and
- environmental, biodiversity and ecological benefits; and
- An opportunity to enhance the historical understanding of the former Norbriggs Branch of the Chesterfield Canal which is incorporated into the design of the development with the access route, proposed reuse of materials and provision of information boards. Future detailed design can also incorporate features which reference the characteristics of the historic canal; and
- the redevelopment of vacant, derelict and underused land;

3.17

However it is considered that the most significant public benefit would be to secure a restoration/repair scheme for the three frontage cottages which are currently vacant, boarded up and not fit for habitation. There is a risk that these buildings would be lost as a result of demolition. Their retention would provide an appropriate context to the canal environment reflected in the scheme and their occupation would provide additional housing in an existing resource which must be welcomed. The cottages were excluded from the original application however now that the new trustees have been appointed there is a willingness by the applicant to deliver the improvement of these cottages as a part of the scheme and the applicant considers that this can now be secured. Because the cottages fall outside the application site (red line boundary) the applicant has accepted the opportunity to include a “Grampian” condition which can be imposed which requires a scheme of restoration and a programme for its implementation to be agreed by the Council prior to any other element of the development taking place. The programme would need to demonstrate that the cottages would be refurbished and upgraded so that they can be marketed and be habitable at the same time as the first of the market houses on the remainder of the site. This would achieve a significant public benefit which on balance, together with the other benefits referred to and the fact

that the Council recently resolved to approve the development, tips any consideration of the proposal to an approval.



3.15 Retention of the cottages would be welcomed and their reoccupation would be highly desirable. Whilst they are not designated heritage assets such as listed buildings and the site does not fall within a conservation area, There is a listed building on the opposite side of the A619 to which the cottages relate and

there is the non-designated heritage asset (Derbyshire HER 13019 Norbriggs Branch of the Chesterfield Canal) on and adjacent to the site. Whilst the scheme does not propose to restore the Norbriggs Cutting for boating or angling, as confirmed and agreed by the Chesterfield Canal Trust, the remains of the Norbriggs Branch is of local significance on the basis of its historical interest and it has some potential archaeological interest given that it partially survives today however the condition of the site and its neglected and overgrown character is detrimental, and the site today is of limited interest in its current form and appearance. The retention of the public footpath preserves the alignment of the towpath. As far as the canal arm is concerned there is no visible historic fabric as reflected in the fact that it fell out of use about one hundred years ago. However the development will result in aesthetic improvements to the site by retaining managed greenery and removing the accumulated rubbish and weeds/self-seeded vegetation and detailed design features have been incorporated into indicative site layouts such as the impression of canal vessels in the roadway, the use of features for seating associated with the towpath and characteristics informing the design of housing. Information boards can also be used to provide public awareness of the sites historic use and a potential public art scheme can reflect the canal heritage of the site. These elements all have the potential to have a positive effect in the new development which can contribute to local character and distinctiveness in accordance with paragraph 192 c) of the Framework as well as adding to public understanding.

- 3.17.1 It has been necessary to revisit the ecological value of the site given the passage of time and in terms of the quantity and quality of the ecological function of the site, this has been set out within an updated Preliminary Ecological Appraisal dated June 1st, 2020. This concludes that the loss of habitats on site is assessed to be of no significant ecological impact and can be easily mitigated for through the planting scheme for the site. No protected species are affected by the scheme. An assessment of ponds within 500m of the site (Norbriggs Flash) have been carried out along with DNA

testing where required and it has shown that there are barriers to movement of newts between Ponds 1, 2, 3, 4, 5 and 6 and the survey area meaning it is unlikely that any great crested newts present in these ponds would travel to the site. As less than half the survey area lies within 500m of Pond 7 it is assessed as highly unlikely that great crested newts will travel from the pond to the site as there is little need for them to do so. The report states that in order to enhance the biodiversity value, bat roosting bricks can be installed into the new properties and at least 6 such features are proposed to be included in the detailed design of the proposed houses which will be part of any future reserved matters application to be made. The opportunity arises to now include a condition on any permission which requires the applicant to demonstrate a Biodiversity Net Gain in any scheme which comes forward.

- 3.18 Since the committee last considered the proposal the Council has secured Electric Vehicle charging points for each new dwelling in the Borough in line with policy CLP22 (previously CS20) and paragraph 110 of the NPPF. It is considered that a condition should be added to the permission as set out in the recommendation below.

4.0 **CONCLUSION**

- 4.1 Whilst it is accepted that the development of the site is on face value contrary to the new local plan, it is considered that on the basis of the previous committee resolution, the progress made by the applicant to resolve difficult land ownership issues and within the context of the location of the site and its relationship with the adjacent residential and Regeneration Priority Area, it is considered that the site would provide a logical addition to the main urban area of Mastin Moor and prevent further urban sprawl to the west of Mastin Moor. The proposal would meet the needs of the local community, rebalancing housing through the erection of 14 market units and 6 affordable housing units (30%). The development of 20 dwellings on the site will bring an active use to

a vacant site which is clearly distinct from the open countryside beyond.

- 4.2 The development proposals have sustainability benefits including; provision of housing, provision of affordable housing and CIL contributions and being able to be delivered by a local builder as an economic benefit in terms of job creation and economic activity. The scheme would deliver environmental benefits in terms of tidying a derelict site but also the proposed biodiversity measures. A scheme can be designed to comprise a mix of house types including a range of detached, semi-detached, terrace and bungalow properties and which can enhance the historical understanding of the former Norbriggs Branch of the Chesterfield Canal which is incorporated into the design of the development with the access route, proposed reuse of materials and provision of information boards. Future detailed design can also incorporate features which reference the characteristics of the historic canal.
- 4.3 However it is considered that the most significant public benefit would be to secure a restoration/repair scheme for the three frontage cottages which are currently vacant, boarded up and not fit for habitation. Their retention would provide an appropriate context to the canal environment reflected in the scheme and their occupation would provide additional housing in an existing resource which must be welcomed. The cottages were excluded from the original application however now that the new trustees have been appointed there is a willingness by the applicant to deliver the improvement of these cottages as a part of the scheme and the applicant considers that this can now be secured. Because the cottages fall outside the application site (red line boundary) the applicant has accepted the opportunity to include a “Grampian” condition which can be imposed which requires a scheme of restoration and a programme for its implementation to be agreed by the Council prior to any other element of the development taking place. The programme would need to demonstrate that the cottages would be refurbished and upgraded so that they can be marketed and be habitable at the same time as the first of the

market houses on the remainder of the site. This would achieve a significant public benefit which on balance, together with the other benefits referred to and the fact that the Council recently resolved to approve the development, tips any consideration of the proposal to an approval.

5.0 **RECOMMENDATION**

5.1 That the committee reaffirms the resolution to grant permission for the development subject to the s106 agreement and the conditions as previously set out in the attached report at appendix A but with the inclusion of the following additional conditions:

40. Prior to the commencement of the development hereby approved full details of proposals for the refurbishment, repair, rebuilding or redevelopment of the cottages at 1 – 3 Worksop Road (indicated in the blue line plan reference 01 Revision A Site Plan) shall have been submitted to and approved in writing by the Local Planning Authority. Such approved details shall then be implemented and shall be available for occupation concurrent with the occupation of the 5th new dwelling on the application site.

Reason: To deliver the improvement to the character and quality of the built form in the area as a regeneration benefit of the proposals in line with policies of the Chesterfield Local Plan 2018 – 35.

41. Details of ecological enhancement measures to be implemented at the site to provide a measurable biodiversity net gain shall be submitted to the Local Planning Authority for consideration as part of the reserved matters submission. Only the ecological enhancement measures agreed shall be implemented on site prior to the development hereby approved being first occupied and the ecological enhancement measures shall thereafter remain in perpetuity.

Reason - In the interests of ecology and biodiversity in accordance with policy CLP16 of the Chesterfield Local Plan 2018-35 and the NPPF.

42. A residential charging point shall be provided for each dwelling with an IP65 rated domestic 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. The socket shall be located where it can later be changed to a 32amp EVCP. Alternative provision to this specification must be approved in writing, by the local planning authority. The electric vehicle charging points shall be provided in accordance with the stated criteria prior to occupation and shall be maintained for the life of the approved development.

Reason - In the interests of air quality in accordance with policy CLP22 of the Chesterfield Local Plan 2018 – 35 and the NPPF.

- 5.2 The references to the former local plan in the reasons for the condition should also be amended as follows:

28 Reason – To ensure that any ecological interest on site is appropriately addressed and can be mitigated against, prior to any development taking place, in accordance with policy CLP16 of the Chesterfield Local Plan 2018 - 35 and the National Planning Policy Framework.

29 Reason – To ensure that any ecological interest on site is appropriately addressed and can be mitigated against, prior to any development taking place, in accordance with policy CLP16 of the Chesterfield Local Plan 2018 - 35 and the National Planning Policy Framework.

30 Reason – To ensure that any ecological interest on site is appropriately addressed and can be mitigated against, prior to any development taking place, in accordance with policy CLP16 of the Chesterfield Local Plan 2018 - 35 and the National Planning Policy Framework.

31 Reason – In the interests of biodiversity and to accord with policy CLP16 of the Chesterfield Local Plan 2018 - 35 and the National Planning Policy Framework.

32 Reason – In order to promote enhancement and improved connection to the existing footway / cycle network in accordance with the provisions of policy CLP2 and CLP22 of the Chesterfield Local Plan 2018 – 35 and the wider NPPF.

33 Reason – In order to preserve and enhance the significance of the undesignated heritage asset in accordance with policy CLP18 and CLP21 of the Chesterfield Local Plan 2018 - 35 and the wider NPPF.

34 Reason - In order to support the regeneration and prosperity of the Borough, in accordance with the provisions of CLP6 of the Chesterfield Local Plan 2018 - 35.

35 Reason – In the interests of sustainable development and to ensure that the development is capable of meeting the needs of future residents and / or businesses in accordance with policy CLP11 of the Chesterfield Local Plan 2018 – 35 and the wider NPPF.

39 Reason - In the interests of amenity and safeguarding the root environment of any protected / retained trees on site in the context of policy CLP15 of the Chesterfield Local Plan 2018 - 35

**APPENDIX A – PREVIOUS COMMITTEE REPORT FOR APPLICATION
CHE/16/00114/OUT**

Case Officer:	Sarah Kay	File No:	CHE/16/00114/OUT
Tel. No:	(01246) 345786	Plot No:	2/5345
Ctte Date:	8 th August 2016		

ITEM 3

**RESIDENTIAL DEVELOPMENT OF 20 DWELLINGS WITH APPROVAL OF
ACCESS FROM WORKSOP ROAD AT LAND TO THE WEST OF
CARPENTER AVENUE, MASTIN MOOR, DERBYSHIRE FOR THE
NORBRIGGS PARTNERSHIP**

Local Plan: Open countryside / other open land
Ward: Lowgates & Woodthorpe

1.0 CONSULTATIONS

DCC Highways	10/03/2016, 01/06/2016 & 20/07/2016 – comments received – see report
Lead Local Flood Authority	04/04/2016 – comments received – see report
Environment Agency	11/03/2016 – no comments / objections
C/Field Canal Trust	14/03/2016 & 13/05/2016 – comments received – see report
Crime Prevention Design Advisor	15/03/2016 – no comments / objections
Coal Authority	23/03/2016 – comments received – see report
CBC Design Services	23/03/2016 – comments received – see report
Derby & Derbyshire DC	23/03/2016 & 20/05/2016 -

Archaeologist	comments received – see report
Staveley Town Council	24/03/2016 – comments received – see report
Yorkshire Water Services	24/03/2016 – comments received – see report
CBC Housing	30/03/2016 – comments received – see report
Derbyshire Wildlife Trust	06/04/2016 & 08/07/2016 – comments received – see report
CBC Tree Officer	08/04/2016 – comments received – see report
CBC Urban Design Officer	11/04/2016 & 13/05/2016 – comments received – see report
CBC Environmental Services	14/04/2016 – comments received – see report
CBC Economic Dev. Unit	15/04/2016 – comments received – see report
DCC Strategic Planning	26/04/2016 – comments received – see report
CBC Conservation Officer	01/06/2016 – comments received – see report
Ward Members	No comments received
Site Notice / Neighbours	Nine letters of representation received

- 2.1 The application site measures approximately 0.68ha and is located to the north side of Worksop Road and to the west of the residential properties at Carpenter Avenue. The site is a parcel of Greenfield land and is currently vacant and overgrown.



- 2.2 The site lies within the Open Countryside area as set out in the Chesterfield Borough Local Plan Proposals Maps. The surrounding area to the east is mainly residential in character with a range of properties at Carpenter Avenue as well as a small row of cottages fronting Worksop Road to the south.
- 2.3 To the south of Worksop Road is the Grade II Listed Building at Norbriggs House. To the west and north west of the site beyond the boundary trees is further open countryside and a playing field.
- 2.4 The site is largely overgrown with dense shrubs and bramble. It was once used as a nursery site. Hedgerows and trees lie to the west and southern boundaries. Access into the site is currently available from the public footpath FP22 to the west of the site and which runs along the route of the former Norbriggs Cutting. There are currently no vehicular access arrangements into the site.

3.0 **RELEVANT SITE HISTORY**

- 3.1 CHE/0385/0183 - Permission for residential development. Refused on 16/12/1985 for the following reason:

01. The proposed development would lead to the formation of a new street access which could not be provided in accordance with appropriate standards of visibility and junction spacing. This would give rise to vehicles entering, leaving and crossing the principal road carriageway to the detriment of other road users.

4.0 **THE PROPOSAL**

4.1 This application is for outline planning permission for the residential development of 20 dwellings with details of access to be approved as per the submitted Indicative Site Layout Plan. All other matters including layout, landscaping, appearance and scale are to be reserved for approval at the reserved matters stage.

4.2 An indicative layout has been provided in order to illustrate the details of the access arrangements into the site and the potential density, scale and siting of the proposed residential properties.

4.3 The application submission is supported by the submission of the following plans and reports:

- Indicative Site Layout, Location Plan and Topographical Surveys;
- Planning Statement prepared by DLP Planning dated February 2016;
- Design & Access Statement prepared by DLP Planning dated February 2016;
- 5 Year Housing Supply Report prepared by DLP Planning dated February 2016;
- Transport Statement prepared by Infrastructure Planning & Design Ltd;
- Phase I Geotechnical and Geo-Environmental Site Investigation report prepared by Eastwood & Partners dated July 2015;
- Drainage Technical Note prepared by Infrastructure Planning & Design Ltd;
- Extended Phase I Habitat Survey and Protected Fauna Survey prepared by Whitcher Wildlife Ltd dated October 2015 and updated June 2016;
- Bat Intersect Surveys prepared by Whitcher Wildlife Ltd dated September 2015;
- Great Crested Newts DNA Examination Technical Report prepared by SureScreen Scientifics dated June 2016;

- Tree Survey prepared by Anderson Tree Care;
- Highways Technical Note prepared by Infrastructure Planning & Design Ltd dated June 2016.

5.0 **CONSIDERATIONS**

5.1 **National / Local Planning Policy**

5.1.1 The site the subject of the application is land allocated as Open Countryside / Other Open Land which is a protected allocation of Policy EVR2 from the 2006 Local Plan, which was saved alongside the adoption of the Chesterfield Local Plan: Core Strategy 2011 - 2031. Having regard to the nature of the application proposals and the allocation above policies CS1 (Spatial Strategy), CS2 (Location of Development), CS3 (Presumption in favour of Sustainable Development), CS4 (Infrastructure Delivery), CS6 (Sustainable Design), CS7 (Management of the Water Cycle), CS8 (Environmental Quality), CS9 (Green Infrastructure and Biodiversity), CS10 (Flexibility in delivery of Housing), CS11 (Range of Housing), CS13 (Economic Growth), CS18 (Design), CS19 (Historic Environment) and CS20 (Demand for Travel) of the Core Strategy and the wider National Planning Policy Framework (NPPF) apply. In addition the Councils Supplementary Planning Document on Housing Layout and Design 'Successful Places' is also a material consideration.

5.2 **Principle of Development (5 Year Supply, Spatial Strategy & Strategic Gap)**

5.2.1 The site is currently designated as Open Countryside under saved policy EVR2 of the 2006 Local Plan. This policy has been saved until the Local Plan; Sites and Boundaries have been adopted. Under policy EVR2 residential development would not normally be permitted. The site is also within an area identified as a Strategic Gap in policy CS1 of the adopted Core Strategy (a provisional boundary, which includes the site, was published as part of consultation on Options for a Sites and Boundaries DPD in 2012) to which policy CS9 applies. Policy CS10 of the recently adopted Local Plan Core Strategy (adopted July 2013), also states that residential development on greenfield sites that are not in an adopted Local Plan will not normally be permitted whilst the Council is able to demonstrate a supply of deliverable housing sites sufficient for five years.

- 5.2.2 The council is not currently able to demonstrate the required 5 year supply of deliverable land for housing, however, and as such, other local and national policies come into consideration. The policy implications of the lack of 5 year supply of housing land are primary considerations and will be dealt with first.
- 5.2.3 In particular, paragraph 49 of the National Planning Policy Framework stipulates that relevant policies for the supply of housing should not be considered up to date if the Council cannot demonstrate a 5 year supply of deliverable housing sites. A recent Court of Appeal decision (Richborough Estates vs Cheshire East District Council) has determined that paragraph 49, any development plan policy that restricts provision of housing is therefore a "relevant policy for the supply of housing". In this case this is taken to include policies EVR2 and CS9 insofar as it relates to the Strategic Gap. Policies rendered 'out-of-date' by Para 49 should not be ignored, but it is up to the council to determine what weight should be placed on them, taking into account factors such as the councils' actions to remedy any shortfall, the purpose of the particular policy, the extent of the shortfall and the circumstances of the application and other material considerations. Paragraph 14 of the NPPF states that where relevant policies are out-of-date; development should be approved unless the adverse impacts of doing so would outweigh the benefits or specific policies of the NPPF indicate that development should be restricted.
- 5.2.4 Policy CS10 of the Local Plan is clearly worded in such a way that the limitation on greenfield development falls away in these circumstances. It is a general policy that restricts development in the open countryside regardless of the particular character of the site or landscape in question. It is therefore considered that little, if any, weight can be given to policy EVR2.
- 5.2.5 Policy CS9, insofar as it applies to the Strategic Gap, is intended to fulfil a specific purpose relating to the character and function of the specific area of and between Mastin Moor and Netherthorpe. Policy CS9 states that development should 'not harm the character or function of the ... Strategic Gaps'. The council's 'Green Wedges and Strategic Gaps indicative Assessment' (2011) defines the role of Strategic Gaps as:
- The need to protect the setting and separate identify of settlements, by avoiding their coalescence.

- The need to retain the openness of the land by resisting greenfield growth, and thus conserving the existing character of an area in terms of its current mix of urban and rural development.
- The need to provide real access and recreational benefits to urban dwellers, and the perceived (psychological) as well as real benefits of having open countryside near to where people live.

5.2.6 The development of this site would bring the settlements of Mastin Moor and Netherthorpe closer together at its narrowest point, albeit no closer than development on the southern side of the A619 and as Woodthorpe currently does. The land is currently overgrown and treed; the removal of this landscape would affect the openness of the land, however mature planting along the western boundary of the Norbriggs Cutting, if retained and enhanced (see below) would continue to provide a clear, defined 'edge' to the eastern side of the Strategic Gap if the site were developed. There is already good access to the open countryside via the Footpath 22 along the Norbriggs Cutting and there will be opportunities to enhance this (see below).

5.2.7 This must be balanced against the current housing supply position. The latest published position (April 2015) is that the borough can demonstrate a 4.1 year supply of housing, once the shortfall in delivery and a 20% margin for 'persistent under delivery' is taken into account. Monitoring of housing delivery for 2015-16 is currently underway and a number of significant planning permissions for housing have been granted since April 2015, including 300 at land west of Dunston Lane, 146 at the former Cammac Coal site, 150 at Wheeldon Mill and 103 at Bevan Drive, Inkersall. The council is also currently preparing a review of the Local Plan with publication of a draft plan set for September/October 2016, and releasing council owned land at Holme Hall for a further 300.

5.2.8 On balance, although the council cannot currently identify and demonstrate a five year supply of deliverable sites, there are steps in place to address the shortfall. The development would undoubtedly result in a practical narrowing of the strategic gap, but with appropriate mitigation it would not have a significant impact upon the perceived openness of the overall settlement gap in this area and could result in improved access to open countryside.

Therefore in this case, whilst it is appropriate to have regard to the Strategic Gap policy as set out in policy CS9, in this case the limited harm that would arise to the character and function of the gap and so limited conflict with CS9 would be outweighed by the delivery of housing.

5.2.9 Policy CS1 states that the overall approach to growth will be to concentrate new development within walking and cycling distance of centres, and to focus on areas that need regenerating. The site is at the limit of reasonable walking and cycling distance from Staveley Town Centre, but Mastin Moor is specifically mentioned as a Regeneration Priority Area where the council will 'seek to maximise development opportunities that offer regeneration benefits'.

5.2.10 In terms of policy CS2, 'Principles for the Location of Development', the application does not meet criteria (b) ('are on previously developed land'), but does meet the other tests set out. As regards (d) 'delivers wider regeneration benefits ... to the area', there is potential for restoration/improvement of the Norbriggs Cutting and the development would also generate CIL income, a proportion of which would go directly to Staveley Town Council for local use. Policy CS13 also requires the implementation of a Local Labour Clause.

5.2.11 The principle of residential development of this site can therefore be accepted at this time.

5.3 **Design and Appearance Considerations (inc. Neighbouring Impact)**

5.3.1 The site occupies an area of approximately 0.66 hectares. The application proposes 20 dwellings. This equates to a density of 30dph, which represents a standard suburban density.

5.3.2 However, the site contains a number of constraints that may influence the ability to accommodate the amount of development proposed. In particular Yorkshire Water has identified the presence of a sewer passing through the southern part of the site (see drainage / flood risk section below). This has a 4m wide easement associated with the sewer that would affect the ability to develop within this corridor, unless the sewer can be moved/diverted at the developers expense. As no utilities

information accompanies the submission, it is unclear whether other services may exist within the site that might result in similar impacts but it is assumed that this would information would be obtained to inform any reserved matters submission.

- 5.3.3 In its initial submission the site layout proposals fail to acknowledge the presence of the Norbriggs Cutting as an undesignated heritage asset (however during the application process a heritage statement was sought to respond this issue and this is considered in more detail in the heritage / archaeology section below). At present the indicative proposals show the northern part of the layout encroaches across the cutting with the access road and Plots 16-17 built over the former canal. If the significance of the canal is determined to be an important factor this would also influence the ability to accommodate the amount of development sought.
- 5.3.4 Notwithstanding the uncertainties around potential constraints on the layout shown, in general terms the layout appears to respond positively to the edge of settlement position and the awkward shape of the site. The buildings are mainly outward facing and would positively address the new street, existing footpath and the western boundary with the countryside. Some frontage parking is indicated. This would need to be carefully designed and landscaped in order to be acceptable. The garage positioned on the end gable of Plot 11 relates poorly towards the streetscene as does the garage position of Plot 20 which is highly visible at the entrance into the scheme. The arrangement of these areas would need to be revisited. Elsewhere parking is integrated between units and would appear relatively discrete within the streetscene. Rear gardens would need to achieve a minimum separation distance of 10.5m where abutting existing neighbouring properties and ensure that garden sizes meet or exceed the minimum requirements set out within the Successful Places SPD (2013 – sec. 9.11 Amenity).
- 5.3.5 The access road indicated on the indicate site layout plan appears narrow and includes no footways beyond the initial entrance. A footway on the eastern side of the carriageway should be provided, which may create a number of pinch points. Local Authority Refuse Collection Vehicles (RCV's) will not enter private drives to undertake bin collections, so an access road of this length would need to be adopted as public highway. If a private drive is intended

this could potentially result in excessive and unacceptably long bin carry distance to an appropriate bin collection point and therefore any reserved matters submission would need to be considered these issues amongst other identified above. The turning area at the northern end of the layout appears awkward and it is uncertain whether a service vehicle is capable of turning within the available space. Vehicle tracking drawings would be required to demonstrate that the service vehicles can turn within site in an acceptable way. This should be based upon an RCV size of 11.5m.

- 5.3.6 Scale is a reserved matter although the submission indicates that house types ranging from bungalows to 2.5 storey houses could be accommodated on this site. This range of options is acceptable in principle, although the details of any future configuration would need to be carefully designed in response to site considerations e.g. its gateway position to Mastin Moor and Woodthorpe, the setting to Norbriggs House opposite, the relationship to the countryside and the neighbouring dwellings on Carpenter Avenue.
- 5.3.7 Landscaping is a reserved matter however, details of hard and soft landscape design will be an important aspect of the design of any scheme given the edge of settlement position of site. Details should be conditioned.
- 5.3.8 Boundaries between the site and the public right of way will be important in terms of how the interface is created between the two. Plots 17, 18 and 20 are particularly sensitive as well as frontages and exposed side garden boundaries within the site. The details of all boundary treatments, including the boundary running alongside Footpath 22 should be subject of a suitably worded condition requiring details to be first submitted to and approved by the LPA. Access to the rear gardens of mid-terrace units will be required. Rear access paths should be avoided and ginnel passages introduced to ensure rear access can be achieved without the need to pass through the dwelling (see Successful Places SPD (2013 – sec. 3.19 Servicing)).
- 5.3.9 Appearance is also a reserved matter however, the design and appearance of the buildings would need to have regard to its context, including the setting of the nearby listed building. Details of materials should be conditioned.

- 5.3.10 Although the application is in outline (other than means of access), the indicative layout submitted with the application appears to show housing and the access road on the route of the cutting and presents no indication of any improvements to the footpath.
- 5.3.11 The proposed development should ensure that the footpath through the site is improved to greenway standard within the site, and that the full extent of Norbriggs Cutting is preserved and restored. The planting on the western boundary should be retained and enhanced so as to present a strong, natural boundary to the Strategic Gap. These requirements should be secured through planning conditions and/or planning obligations.
- 5.3.12 Having regard to the design and appearance concerns raised above at this stage the detailed design is yet to be undertaken. Nevertheless, as a major site it will be important to ensure that the quality of the built environment achieves the objectives set out under the NPPF and NPPG that a good standard of design is achieved in a manner that supports the positive characteristics and local distinctiveness of Chesterfield. It is considered that in respect of design, appearance and amenity issues the proposals (subject to reserved matters) can be suitably designed to demonstrate accordance with the requirements of policy CS18 of the Core Strategy and the principles set in the Successful Places SPD if the above points of concern are taken into account and therefore the principles / outline considerations of a scheme of up to 20 dwellings on this site are in respect of design and appearance considerations acceptable. It is noted that a number of site constraints are highlighted and these would need to be addressed appropriately and any subsequent reserved matters submission would need to respond to these with an appropriate density. It is considered however that if dwellings and the roadway were to be amended to avoid the former Norbriggs Cutting area then the density on the remainder of the site could be increased to maintain the number of units without significant impact on the character of the scheme which would be achieved.

5.4 **Highways Issues**

- 5.4.1 The application submission has been supported by the preparation of a Transport Statement prepared by Infrastructure Planning & Design Ltd and Highways and a subsequent Technical Note prepared by Infrastructure Planning & Design Ltd dated June

2016. Both of these documents have been reviewed by the **Local Highways Authority (LHA)** who offered the following comments:

'The submitted details propose a development of 20no. residential units served via a new junction with Worksop Road (A619) and include a Transport Assessment supporting the development.

The Highway Authority has stated that it is reasonably satisfied that a junction can be formed with the A619 but this is dependent on provision of requisite exit visibility as determined by the results of a speed survey and submission of a Transport Statement to demonstrate that operation of the signalised junction will not be affected.

The Transport Statement makes reference to three original access options of which Option 2 is the preferred layout. Whilst I have no written record of Highway Authority preference for this option, it's considered that there would be some operational benefit in having a carriageway of sufficient width to accommodate a vehicle turning right into the site whilst allowing some free flow of westbound traffic. Although there does not appear to be any information concerning perceived impact on operation of the junction post development, when bearing in mind the predicted level and nature of vehicular activity likely to be generated by the proposals, it's considered that provision of a layout such as that shown would reduce the likelihood of any significant harm to operation of the existing signalised junction.

The proposed junction layout drawing demonstrates introduction of a longitudinal joint in the carriageway surfacing that would not be permitted. The detail design will need to demonstrate shaping of the carriageway surfacing and any permitted/ feasible longitudinal joint would need to be located away from the perceived line of wheel tracking.

A consequence of providing a new junction as demonstrated is the need to relocate the existing bus stop lay-by although the replacement lay-by shown does not appear to meet the geometrical requirements of this Authority i.e. 20m lead in taper; 18m straight run of kerbs with raised section for boarding; exit taper of 15m; width between tapers of 3.0m. The Transport Statement highlights that an existing speed camera will require relocation to accommodate this although there is no detail of where

this may be to and the appended drawings are annotated to the effect that it will remain as existing. A revised drawing demonstrating a lay-by of the correct dimensions and affect on any existing street furniture/ apparatus (speed camera, signs, lighting columns, etc.) should be submitted for approval.

The content of the Statement would suggest that some liaison with this Authority's Traffic Signals Section has taken place as it's stated that no reconfiguration of traffic detectors is required due to the predicted low level of traffic that may be generated by the site. I have no reason to doubt this but would ask if any advice has been sought as yet with regard to relocation of the speed camera.

The proposed junction layout drawings show relocation of the existing bus shelter that is within the ownership of your Authority. However, it's suspected that this will need to be a replacement as, due to age of the shelter, relocation of the existing one is unlikely to prove practical. This Authority's Transport Unit would normally act as Agent in cases such as this and advice with respect to shelter specification can be obtained from them (tel:- 01629 536745).

The Highway Authority has previously advised that the proposed visibility sightlines are supported by the results of a traffic speed survey and adjusted for gradient on approach from the west. Taking no account of gradient, desirable exit visibility where vehicle approach speeds are 40mph is 2.4m x 103m to the nearside carriageway channel in each direction. Absolute minimum is 2.4m x 82m but this does not take account of gradient. I strongly suspect that 85%ile approach speeds from the east will be at or below the speed limit due to the presence of the speed camera, however, there is no similar facility on the A619 to the west of the site. That said, a visibility splay of 2.4m x 90m has been demonstrated to the nearside carriageway edge in each direction and, subject to the speed camera remaining in a similar (if not the same) location and taking into account that overtaking through the signalised junction is extremely unlikely to occur, I consider that the proposed visibility sightlines are acceptable without need of further supporting evidence.

As layout has been reserved, I shall only make brief comment on the feasibility layout plan. The indicative road layout submitted is the same as that provided at pre-application stage at which time it

was pointed out that the layout should generally comply with the recommendations of the 6C's Design Guide with suitability for use by a Large Refuse Vehicle being demonstrated by means of swept path analysis. Each unit should be located within the recommended maximum mancarry distance of 25m from the proposed road or a turning facility suitable for use by a typical supermarket delivery vehicle and provided with off-street parking on the basis of 2no. or 3no. spaces of 2.4m x 5.5m minimum dimension per 2/3 or 4/4+ bedroom dwelling respectively. Private driveways should be located at, or close to, 90° to the proposed carriageway channel and provided with exit visibility commensurate with the design speed of the new road. In addition, if adoption of the new road is to be pursued, an extended Maintenance Period is likely to be required due to the perceived subsidence risk and extent of adoption could be affected where there is a lack of frontage development.

Therefore, it's recommended that the applicant is requested to submit revised details to satisfactorily address the above issues however, if you are minded to approve these proposals as submitted, it's recommended that the following Conditions are included within the Consent:-

- 1. Before any other operations are commenced, detailed designs indicating the proposed junction with Worksop Road (A619) and bus stop lay-by layouts, including all relocation and/ or removal of existing street furniture/ apparatus, shall be submitted to the Local Planning Authority for written approval.*
- 2. Before any other operations are commenced, (excluding Condition 1 above), the new bus stop lay-by shall be formed in accordance with the approved details. For the avoidance of doubt the developer will be required to enter into a 1980 Highways Act S278 Agreement with the Highway Authority in order to comply with the requirements of this Condition.*
- 3. Before any other operations are commenced, (excluding Conditions 1 and 2 above) the new junction with Worksop Road (A619) shall be formed in accordance with the approved detailed designs and provided with visibility sightlines extending from a point 2.4 metres from the carriageway edge, measured along the centreline of the*

access, for a distance of 90 metres in each direction measured along the nearside carriageway edge. The land in advance of the visibility sightlines shall be retained throughout the life of the development free of any object above ground level relative to adjoining nearside carriageway channel level.

- 4. Before any other operations are commenced, (excluding Conditions 1, 2 and 3 above), space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. Once implemented the facilities shall be retained free from any impediment to their designated use throughout the construction period.*
- 5. Throughout the period of development vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway.*
- 6. Notwithstanding the submitted information a subsequent reserved matters or full application shall include design of the internal layout of the site in accordance with the guidance contained in the 6C's Design Guide.*
- 7. No development shall take place until construction details of the residential estate road and footways (including layout, levels, gradients, surfacing and means of surface water drainage) have been submitted to and approved in writing by the Local Planning Authority.*
- 8. The carriageway of the proposed estate road shall be constructed in accordance with Condition 7. above up to and including at least road base level, prior to the commencement of the erection of any dwelling intended to take access from that road. The carriageway and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and*

footway, between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or abutting the footway. The carriageway, footways and footpaths in front of each dwelling shall be completed with final surface course within twelve months (or three months in the case of a shared surface road) from the occupation of such dwelling, unless otherwise agreed in writing by the Local Planning Authority.

- 9. The sole means of vehicular access to the application site shall be from Worksop Road (A619) only. There shall be no means of access to the Public Right of Way adjacent to the western boundary of the site and to this end, a permanent physical barrier shall be erected across the entire site frontage all as agreed in writing with the Local Planning Authority in consultation with the County Highway Authority.*
- 10. The premises, the subject of the application, shall not be occupied until space has been provided within the site curtilage for the off-street parking of residents/ visitors vehicles, located, designed, laid out and constructed all as agreed in writing with the Local Planning Authority and maintained throughout the life of the development free from any impediment to its designated use.*
- 11. There shall be no gates or other barriers within 6.0m of the nearside highway boundary and any gates shall open inwards only, unless otherwise agreed in writing by the Local Planning Authority.*
- 12. The proposed access driveways to the proposed estate street shall be no steeper than 1 in 14 for the first 6.0m from the nearside highway boundary and 1 in 10 thereafter.*
- 13. No part of the development shall be occupied until details of arrangements for storage of bins and collection of 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.*

14. *Prior to the commencement of the development details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of water from the development onto the existing and proposed highway. The approved scheme shall be undertaken and completed prior to the first use of the accesses and retained as such thereafter.*

15. *No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Annex F of PPS25 (or any subsequent version), and the results of the assessment provided to the Local Planning Authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - i. *provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;*
 - ii. *include a timetable for its implementation; and*
 - iii. *provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.**

16. *No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an Agreement has been entered into under Section 38 of the Highways Act 1980 or a private management and maintenance company has been established.'*

5.4.2 Following receipt of the comments from the LHA above the applicant prepared an additional Technical Note which was submitted in June 2016 to address the issues the LHA had highlighted. The following comments from the LHA were subsequently received:

'I refer to your request for highway comments on the attached Technical Note.

The Note includes detail generally concurring with the views of the Highway Authority although it's clear that the intention is to provide a detailed junction design at a later stage in the planning process. As access is not a reserved matter a more detailed design would be of benefit, however, this Authority has indicated that we are reasonably comfortable that an acceptable junction layout can be delivered and, this being the case, the previously recommended Condition requiring a detail design to be prepared and approved prior to commencement of any other works is considered to remain appropriate.

If the later submission of a detail junction design is acceptable to you, there would be no highway objection to the approach suggested within the Note.'

5.4.3 Having regard to the comments received from the LHA above notwithstanding the fact the application is submitted with access to be considered in detail this does not preclude the LPA from accepting the scheme despite the exact detail of the access not being agreed / accepted at this stage. It is not unusual for outline permission to be granted with the need for the access to be further revised.

5.4.4 In this instance the LHA has indicated that an appropriate access solution is achievable and given that there is need for the site layout to be revised (as per other material considerations set out in respect of design / heritage / drainage) the LHA has provided a list of suggested conditions which can be imposed to appropriately address any highway safety concerns they might have expressed in their comments above. Overall therefore given that it is feasible to provide an appropriately designed access to the site the subject of condition or reserved matters detail it is not considered that planning permission could be refused on the grounds of highway safety. Accordingly it is considered that the application proposals

can subject to detailed design accord with the provisions of policies CS2, CS18 and CS20 of the Core Strategy and wider NPPF in respect of highway safety.

5.5 **Heritage / Archaeology**

- 5.5.1 As mentioned in the design and appearance section above the route of the former Norbriggs Cutting, a branch of the Chesterfield Canal which terminated at Worksop Road to serve the Norbriggs Colliery lies within the application site boundary. The cutting largely remains, albeit, overgrown. Although not a designated heritage asset, it is nevertheless an important piece of industrial archaeology dating from 1777. Policy CS19 of the Local Plan states that the council will protect the historic environment and heritage assets, including through “d) the identification and, where appropriate, protection of important archaeological sites and historic environment features”. The route of the cutting is also identified in connection with policy CS20 on the ‘Chesterfield proposed Strategic Cycle Network’ (diagram 7, page 83) as a proposed Greenway. Policy CS20 requires development proposals to prioritise pedestrian and cycle access to and within the site and to protect and improve the strategic pedestrian and cycle network. Furthermore, policy CS14 states that proposals for the restoration and enhancement of Chesterfield Canal will be encouraged.
- 5.5.2 The NPPF states that “When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s Conservation” (para 132). In addition “the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset” (para 135). As shown on the submitted layout, the proposal would lead to the loss of the majority of the cutting. Chesterfield Canal is a significant heritage asset for the borough, as demonstrated by its inclusion with the Strategic Objectives of the Local Plan Core Strategy (objective S12 “Restore the Chesterfield Canal to a navigable state along all its length within the borough”) and the council’s direct involvement in the Chesterfield Canal Partnership, which has demonstrated significant gains in restoring the canal to date.

5.5.3

In consultation with the Council's **Conservation Officer**, the **Derby and Derbyshire DC Archaeologist**, **Chesterfield Canal Trust** and the **Urban Design Officer** the applicant was invited to prepare and submit a Heritage Statement, which was required following these consultees raising concerns that the presence of the Canal Cutting had been ignored in the preparation of the indicative site layout plan. A Heritage Statement prepared by Humble Heritage was subsequently received and its review was undertaken by these consultees who raised the following comments:

Conservation Officer

'Norbriggs Cutting was originally part of the historic Chesterfield Canal (the latter opened in 1777). The restoration of the Chesterfield Canal has been ongoing for a number of years, driven mainly by the work of the Chesterfield Canal Trust and Derbyshire County Council, as well as partners on the Chesterfield Canal Partnership (which includes the local authority areas the canal is located in (Chesterfield, Bassetlaw, North East Derbyshire, Rotherham, Notts, Derbyshire), the Canal & Rivers Trust and Inland Waterways Association). The restoration of the canal has been very successful with only a few miles of the eastern section now remaining out of water. Once fully restored, a navigable waterway would stretch from Chesterfield Town centre (Waterside) to the River Trent at West Stockwith in Nottinghamshire. Consequently, in addition to being a significant and important heritage asset, the canal is a key regeneration and restoration project for Chesterfield Borough and much wider area, potentially bringing in significant amounts of tourism, visitors and investment.

I would only support the above application if the Norbriggs Cutting section of the Chesterfield Canal was protected and not sterilised against future canal restoration. Development should also acknowledge the potential of future restoration by careful attention to housing design (e.g. orientation) and setting. Notwithstanding the applicant's sympathetic intent to fill sections of the cutting (with an emphasis on protecting the route and archaeology), I notice that a number of plots would be constructed over the latter section, closest to the main road access, hence there would be some sterilisation. There appears to be an assumption in the Heritage Statement that Norbriggs cutting will never be restored. Whilst in the short-term (given current priorities and resources) Norbriggs

Cutting is unlikely to be prioritised for restoration, this situation could change in the future, particularly given the uncertainty over HS2 (new priorities may have to be sought as a result of the final route, should HS2 continue).

I note this application is in outline. I would recommend the applicant revises the proposed layout with the aim of avoiding any impacts on the Norbriggs cutting route. The objective should be to avoid negating the potential for future restoration (this should include avoiding any impacts on any archaeological assets). This approach would be more consistent with the National Planning Policy Framework (particularly paragraphs 128 – 136) which clearly states that planning applications that will cause harm to heritage assets should be refused (para 133).'

Derby and Derbyshire DC Archaeologist

'The heritage statement shows that there is probably good survival of the Norbriggs Branch of the Chesterfield Canal within the proposal site; however, the canal is partial infilled and very overgrown, and it has not been possible to identify any surviving structures – retaining walls etc – on the ground.

The Chesterfield Canal in its entirety is a regionally important heritage asset with good preservation of historic canal features and fabric. There is an intention (see response from the Chesterfield Canal Trust) to restore the canal in its entirety. Although it is unlikely that the Norbriggs Branch would be a priority in this process, it is noteworthy that the branch currently appears to survive in its entirety.

Map evidence suggests that there was a wharf at the southern end of the canal – originally extending to the east of the canal cut beneath and to the east of the present site of 3 Worksop Road, and subsequently reorientated west of the canal to the north of 1 Worksop Road. Archaeological evidence for these wharves may survive below ground.

The heritage statement suggests that it is proposed to complete the infilling of the canal, thus preserving the below-ground archaeology. This suggestion is at odds with the feasibility layout presented on plan LDS/14/300/01, which shows the southern end of the canal impacted by housing (plots 18, 19, 20). The applicant's presentation of impacts to the canal is therefore unclear, and does

not meet the requirements of NPPF para 128 in that it is not currently possible to understand impacts to the heritage asset.

Furthermore, although complete infilling of the canal would preserve its below-ground remains, it would be harmful to the significance of the heritage asset in that it could no longer be 'read' in the contemporary landscape. NPPF para 131 suggests that local planning authorities should take into account "the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation, the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality, and the desirability of new development making a positive contribution to local character and distinctiveness." I feel that these aims would be better achieved were the canal remains to be incorporated, consolidated or referenced within the landscaping plan for the site. For example, initial clearance of vegetation would ascertain whether any retaining walls or wharves survive: any such 'hard' features could be consolidated and retained, while the line of the canal could be represented through retention of a swale, or through landscaping/planting.

To summarise, therefore: the application does not at present meet the requirements of NPPF para 128, in that the plans and heritage statement are not in agreement on the proposed treatment of the canal at its southern end. A revised plan/heritage statement should be submitted to clarify this issue. In addition, I recommend that the applicant consider a more sympathetic landscape treatment to the former canal than simply infilling, as outlined above.'

Chesterfield Canal Trust

'Thank you very much for the opportunity to have a look at the Heritage report on the development site at the end of the Norbriggs cutting. We are delighted that the towpath and canal cutting will not be adversely affected by the proposed development and will be preserved.

However we do have a concern over the statement that this section of the canal will never be restored and we do appreciate that the statement came from the document 'Next Navigation West' much of which was prepared before the reductions in local government finance, and also before the announcement of the Initial Preferred Route for HS2 Phase 2 in January, 2013. Since

the time of Next Navigation West's publication, budget reductions and rail proposals have meant that the whole art/science and economics of canal restoration have had to be rethought and greater income generation has become vital for the future maintenance of the restored canal, especially as the section within Derbyshire is owned and maintained by Derbyshire County Council. Potentially, the Norbriggs cutting could be required as a generator of income from residential moorings. Also with the current uncertainties over the proposed route for HS2 (which is likely to have a considerable impact on the canal) the Norbriggs Arm may need to be restored as an alternative route for the canal. Discussions about the potential use of the Norbriggs cutting as an alternative route for the canal formed an important part of the Trust's submission to Government in the Public Consultation on the Initial Preferred Route for HS2

Whilst we cannot say for sure if this arm of the canal will be needed or not we feel that the developer needs to be aware that there may be a requirement to restore the Norbriggs Arm at sometime in the future.

If the affected section of the Norbriggs cutting is preserved as detailed in the heritage report and the future viability for future restoration is preserved, the Trust would not oppose the proposed development.

As to factual accuracy, there is an error in the heritage report : Para 5.04 should not say 1777. One of the reasons for making the Norbriggs cut was to get traffic onto the canal from the Chesterfield/Worksop turnpike (now A619) whilst the Staveley Puddlebank was being constructed. The date should be 1776.

The Canal Trust's historian has requested that the developer be required to provide and install accurate information boards to interpret the history and heritage of the Norbriggs cutting, where they can be easily seen by the public, as a condition of the application. The Trust would be pleased to advise on content.'

Urban Design Officer

'The contents of the Heritage Statement indicate that the canal branch remains of local importance due to its association with the Chesterfield Canal, Norbriggs Colliery and engineer James Brindley, although its original form has become heavily degraded.

However, the loss of only a limited extent of the former canal would have only a limited impact on this undesignated heritage asset. It is recommended that advice is sought from the Conservation Officer in respect of its conclusions.

The submission of the Heritage Statement does not fundamentally change the conclusions of my initial consultation response insofar as the amount of development able to be accommodated is likely to be influenced by the presence of a sewer and easement corridor as well as the awkward form of the site. This is likely to reduce the amount of houses that can be accommodated satisfactorily.'

5.5.4 Having regard to the comments which have been received above it is noted that all on the consultees consider the submitted indicative site layout plan to be unsatisfactory however on the basis the application is submitted in outline with all matters apart from access reserved there is a clear opportunity for any prospective developer to review the concerns raised and respond in a reserved matter submission with a revised layout which takes account of the issues highlighted above in respect of the canal cutting.

5.5.6 As already highlighted in the design and appearance section above, appropriate conditions can be imposed on any subsequent outline permission to ensure the proposed site layout addresses preservation of the canal cutting and its integration into a scheme alongside the footpath enhancement measures to the satisfaction of all the consultees detailed above. This would further ensure that any development to take place on the site would not sterilise the heritage asset and its presence / significance would be restored to be enjoyed alongside the strategic footway network according with the provisions of policy CS19 of the Core Strategy and the wider NPPF.

5.6 **Ecology / Biodiversity / Trees**

5.6.1 The application submission is accompanied by an Extended Phase I Habitat Survey and Protected Fauna Survey (which was updated in June 2016, Bat Intersect Surveys and a Great Crested Newts DNA Examination (also submitted in June 2016). The initial review of these documents and their subsequent revisions has been reviewed by **Derbyshire Wildlife Trust (DWT)** under their service level agreement. Where revisions and additional information were

submitted these were in response to comments from DWT which have been received throughout the application process.

5.6.2 The latest comments from DWT offered the following comments:

'We have checked the site against the Trust's data sets (see Endnote) and are aware of 2 great crested newt (GCN) species records within 500 of the application site: SK444756 (1996), SK445747 (1998), bat roost 90m south, records of Schedule 1 birds and grass snakes 370m west. In addition the site is adjacent to Norbriggs Flash LNR.

We have considered the relevant documents submitted as part of the planning application with particular reference to the following reports:

- *Extended Phase 1 Habitat Survey and Protected Species Survey (prepared by Whitcher Wildlife Ref 150613/Rev 1, 13th October 2015)*
- *Extended Phase 1 Habitat Survey and Protected Species Survey (prepared by Whitcher Wildlife Ref 150613/Rev 2, 24th June 2016)*
- *Bat Transect Surveys (Ref 150613/BT, 2nd September 2015)*
- *Tree Survey prepared by Anderson Tree Care (dated Jan-June, 2015)*
- *Design and Access Statement*
- *Feasibility Layout*

Comments on ecological assessment

An extended phase 1 habitat survey of the site was carried out by Whitcher Wildlife on 9th June 2015. The initial appraisal identified the broad habitats types present on the site and the appraisal was informed by an appropriate desk study involving data consultation with local nature conservation organisations for existing biological records, which is welcomed.

The site was identified to comprise an overgrown disused nursery with hedgerows to the south and west, scattered trees, tall ruderal vegetation, dense and scattered scrub and bare ground. The Norbriggs Flash Local Wildlife Site is situated immediately to the west of the site and provides records of Schedule 1 birds and grass snake.

Subsequently two nocturnal surveys for bats were undertaken; eDNA surveys on pond 6 and 7 and invertebrate surveys were undertaken throughout 2015.

The ecological assessment has identified that the hedgerows and trees provides the main habitats of interest within the site. We would advise the Council that this is likely to be an accurate assessment.

Habitats

We would advise that the hedgerows with mature trees that form the field boundaries provide the most ecologically valuable habitats on the site. The hedgerow habitats meet the definition of UK BAP priority and, as such, we would expect the retention of the hedgerows wherever possible, with any removal compensated for by replacement planting to ensure there is no net loss of priority habitat as a result of the proposed development.

The Feasibility Layout illustrates hedgerow removal along the western/northern boundary of the site, it is unclear if the hedgerow is part of the LNR or the site. The ecology report phase 1 plan would appear the hedgerow is within the site. Clarification on the ownership of the hedgerow and its longevity within the scheme is require prior to determination of this application. It is unclear from the proposed plans if additional hedgerow planting will be provided on a like for like basis.

We accept that some removal of hedgerow sections will be required to facilitate the formation of access road. However, we would advise that sufficient compensation should be provided by new native hedgerow plating to ensure there is no net loss of hedgerow as a result of the proposed development. Figures should be provided detailing the extent of hedgerow and tree removal in comparison to the extent of proposed (native) hedgerow and tree planting. We anticipate that the most significant hedgerow removal will be along the southern boundary (clarification required on the western/northern boundary) in order to form access road.

*In order to secure the long-term future and management of the hedgerows and scattered trees, we advise that, wherever possible, they should **not** be incorporated within the curtilage of residential properties but should be located alongside paths, roads or areas of greenspace. Any new landscape planting, including the infilling of*

existing hedgerows and tree planting, should use native species appropriate to the corresponding landscape character area to be of maximum benefit for wildlife.

All retained habitats should be protected from damage by the erection of adequate temporary protective fencing for the duration of the works in accordance with a scheme to be submitted to and approved in writing by the local planning authority prior to the commencement of any works on the site as a condition of any consent.

The proposed layout plan has the potential to result in a direct loss of biodiversity through loss of hedgerow habitats potentially cause a net loss to biodiversity without appropriate assessment, mitigation and enhancements.

Local Nature Reserve

The boundary to the LNR should be securely fenced with high visibility temporary fencing during the whole period of construction including any vegetation clearance and enabling works. This is in order to ensure that no spoil or stored materials accidentally spill into the LNR.

Due to the proximity of the LNR, landscaping adjacent to the area should use of locally native species in planting or where appropriate horticultural varieties of plants and shrubs which support nectar sources and/or fruit.

Although the LNR will not be affected by the proposed works, it is unclear how the development and hedgerows will be managed in the future as it is unclear if the hedgerow forms the boundary of the sites. It is unknown how the site will be managed if consent is given, therefore a Habitat Management Plan to be submitted to and approved in writing by the local planning authority prior to the development as a condition of any consent.

Reptiles and Great Crested Newts

Records of grass snake are present in the wider area with connecting habitat to the site. However, the site is overgrown and lacks open areas for reptiles, there is a very low likelihood of them being present on site.

*eDNA surveys have been undertaken at an appropriate time of year, which conclude negative result for pond 6 and positive result for great crested newts at pond 7. Pond 7 is located 480m from the site boundary. Great Crested Newts move between terrestrial foraging areas, breeding ponds and hibernation sites at different times of the year. Although most newts remain within 80m of their breeding ponds (Jehle, 2000), some may move up to 1km from the ponds. Therefore, due to the location of the LNR and close proximity of records for reptiles and GCN being present in Pond 7, it is highly recommended a strict Precautionary Method of Works (PMW) will be required. This will detail times at which the works can be done, formalise working areas and detail where supervision of the works is required in areas of higher risk. If the PMW cannot be followed, and/or GCN are found on site works must cease and a re-evaluation made which may then require an EPS licence. **A condition to this effect should be applied to any approval if granted.***

Birds

To ensure that breeding birds are protected from harm we recommend that a condition to secure the following is attached to any consent:

“No removal of hedgerows, trees, shrubs, brambles or ground clearance work shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the area for active birds’ nests immediately before the work is commenced and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.”

Bats

The extended phase 1 report identified the need for further bat surveys to be carried out; transect surveys were undertaken on the 30th July 2015 and 1st September 2015. Low levels of bat activity were noted on the western and northern boundary of the site.

As discussed previously, clarification on the hedgerow on the western/northern boundary is required. The ecology report details the majority of bat activity was surveyed in these areas, therefore,

the retention of the trees and hedgerows to facilitate the movement of fauna is prudent.

All external lighting should be directional and positioned away from the trees and hedgerow; this will ensure any foraging activity from fauna are not impacted. Details of the external lighting are required to ensure the development does not impact on the fauna utilising the site.

We would advise the LA to attach a condition requiring that lighting on the site is sympathetic to the needs of bats and other nocturnal wildlife especially in relation to the hedgerow found on the site.

Landscape Strategy

Following the NPPF (2012) enhancements are required as part of any development, therefore we recommended measures to enhance the area, such as native hedgerows and trees with native shrub planting (such as fruit bearing trees and holly) and bats and birds boxes should be considered to provide additional habitats for the species.

Conclusions and Recommendations

At present we do not consider that the application is accompanied by sufficient information to fully understand the level of impact on biodiversity and how these impacts will be avoided, minimised, mitigated and if necessary compensated. Therefore:

- We would advise the Council to clarify how the applicant intends to compensate for the loss of UKBAP habitats (hedgerows) and*
- Clarification on the ownership of the hedgerow and its longevity within the scheme*

Assuming that the outstanding issues raised above are addressed to the satisfaction of the Local Authority we would recommend the following conditions or measures are considered.

In order to secure the provision of the green corridors, and ecological enhancements and protection as shown in the Feasibility Layout which should provide mitigation for the impacts upon some breeding birds, GCN/reptiles, bats and habitats.

We would advise the LA attach a condition to the effect that 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 strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

This would address issues relating to protected species and wildlife legislation as well as the wider biodiversity sensitivities of the site.

Landscape and Ecological Mitigation Plan

*We would advise the LA attach **a condition** (once clarification on the above) to the effect that a Landscape and Ecological Mitigation and Management Plan for all retained habitats within the development site shall be submitted to, and be approved in writing by, the local planning authority as part of any reserved matters application. The plan should incorporate the details provided in the ecological appraisals and the content of the plan should include the following:*

- a) Description and evaluation of features to be managed / enhanced or created.*
- b) Ecological trends and constraints on site that might influence management.*
- c) Aims and objectives of management.*
- d) Appropriate management options and methods for achieving aims and objectives.*
- e) Timescales*
- f) Prescriptions for management actions.*

- g) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).*
 - h) Details of the body or organization responsible for implementation of the plan.*
 - i) Ongoing monitoring and remedial measures.*
- The plan shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured as by the developer with the management body(ies) responsible for its delivery (this would need to reflect and be informed by whatever is agreed within a S106 agreement).*

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the plan are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.'

5.6.3 Having regard to the comments received from DWT above it is considered, given the outline nature of the application proposals, that the applicant is not in position currently to respond to the outstanding comments / concerns that DWT raise about the hedgerows on site. Given the indicative nature of the site layout plan submitted and the need for the applicant to also address a number of other issues which have been highlighted by additional consultees the proposed site layout is likely to change significantly if outline planning permission is granted. The application submitted seeks permission in outline for up to 20 dwellings however a scheme which seeks to address site constraints which have been highlighted might result in a lesser density and therefore it would be unreasonable to require the hedgerow issues to be addressed at this stage when they could form part of an appropriate planning condition or reserved matters submission concerning landscaping.

5.6.4 In collaboration with the comments and recommendations of DWT with regard to ecology and habitat enhancement there is no doubt the hedgerows within and surrounding the application site make a positive contribution to this environment and they should be protected and enhanced wherever possible. By imposing a condition which requires a full hedgerow survey to accompany the landscaping reserved matter submission it is considered that the issues DWT have highlighted can be addressed in accordance

with the provisions of policies CS9 and CS18 of the Core Strategy. Furthermore the requirement to submit Landscape and Ecological Management Plan will offer greater enhancements which overall are considered to be acceptable.

5.6.5 The application submission has also been reviewed by the Council's **Tree Officer** albeit that the site is not covered by any Tree Preservation Orders. The following comments were made:

'The Outline Planning Application reference CHE/16/00114/OUT is for 20 dwellings with approved access off Worksop Road. There is no tree preservation order on the site however there are scattered trees within the site and hedgerows to the boundaries. The overgrown hedgerows along the southern and western boundaries provide a valuable screen and habitat for wildlife. The scattered trees within the site are not significant individually however they do provide valuable tree cover in this area and some of the more mature trees should be incorporated into the design where possible.

The proposed access off Worksop Road will result in some of the southern Hawthorn hedgerow and a single Ash tree being removed. The hedgerow mainly consists of overgrown Hawthorn, individual Ash and Maple trees and conifers in the eastern section near to the crossroad junction. Just to the north of the hedgerow to the frontage of the site is a mass of scattered Hawthorn, Sycamore and Ash trees which had gradually colonised the area over the years.

There is no objection to the proposed access as long as in mitigation for the trees lost in this location improvements are carried out to the remainder of this hedgerow by removing the conifer species, the retention of individual trees within and new tree planting to the frontage which must be visible from the streetscene. In addition new hedgerow planting should be proposed within the site or on the boundaries.

Any development on the site will obviously mean the removal of the scattered trees within the site which mainly consist of Hawthorn trees, Ash and Elder which gradually gets denser as you move further to the south of the site.

A tree survey has been submitted by the applicant by Anderson Tree Care dated January/July 2015 which supports my observations that there are only two areas on the site which are of particular value. These are the two hedgerows along the southern and western boundaries and where possible retaining existing trees to add maturity to the site. This may however be problematic in trying to protect and retain while construction is in progress and a good landscaping scheme in mitigation may be a better option.

I therefore have no objections to the outline application with proposed access as long as:

- Improvements to the existing and retained two hedgerows on the southern and western boundaries are included in a landscaping scheme and include the removal of the conifer trees to the southern hedgerow.*
- New tree planting is included in a landscaping scheme which should include native species both on the site and within the hedgerow to the frontage off Worksop Road.*
- A detailed drainage and other utility services plan is submitted showing any excavations. These should not go through the retained hedgerows and provisions should be made to include these in the proposed access road off Worksop Road.*
- A drawing should be submitted which shows which trees are to be retained and which are to be removed. This should include the retention of the hedgerows on the southern and western boundaries and individual trees within the site.*
- Details of where any machinery, materials, site cabins and any other construction traffic will be located while the site is cleared and during the construction phase. These should be away from any retained trees and hedgerows unless providing a physical barrier to protect them.'*

5.6.6 Having regard to the comments received from the Tree Officer above it is considered that these observations can be incorporated into conditions for soft landscaping and habitat enhancement measures as already recommended as a result of the DWT comments above. Further conditions concerning protection measures and drainage / utility service plans can also be conditioned to ensure these avoid root protection areas of any established / retained soft landscaping.

5.7 **Drainage / Flood Risk**

- 5.7.1 In respect of matters of drainage and potential flood risk (having regard to policy CS7), it is noted that the application site lies within flood risk zone 1 and therefore is unlikely to be at risk from fluvial flooding; however the site does lie adjacent to a designated flood storage area which is separated by an embankment.
- 5.7.2 The Councils **Design Services (DS)** team and **Yorkshire Water Services (YWS)** have both commented on the application raising no objections in principle to the development proposals however details of the proposed site drainage strategy and a flood risk assessment will need to be submitted for approval in accordance with the Council 'Minimum Standards for Drainage' to inform any reserved matter submission detailing layout, levels etc. Comments specifically from YWS note the presence of public sewers which cross the application site and need to be protected from development with the form of 3m easements either side of the sewer lines.
- 5.7.3 Having regard to the fact the application is submitted in outline it is considered that the measures required by both the DS team and YWS could be imported into a revised site layout plan which appropriately addressed any potential site constraints such as sewers etc. The developer will be required to demonstrate that sustainable measures of handling surface water drainage are not feasible prior to the scheme being accepted for connection to the mains system. Appropriate conditions can be imposed to this effect, if permission is granted.
- 5.7.4 The application submission has also been reviewed by the **Lead Local Flood Authority (LLFA)** who have also confirmed that they would have no objections in principle to the development; however they would seek appropriate planning conditions to secure an appropriate drainage strategy (informed by relevant reports and calculations) which meets current guidance. As per the above recommendations appropriate planning condition could be imposed to this effect in addition, if permission is granted.

5.8 Land Condition / Contamination / Noise

- 5.8.1 The site the subject of the application is currently a combination of previously developed land / open land and therefore land condition and contamination need to be considered having regard to policy CS8 of the Core Strategy.
- 5.8.2 The Council's **Environmental Health Officer (EHO)** has reviewed the application proposals raising no objections however given the proximity of the site to other residential properties they have commented that it will be necessary to control construction hours of working in the interest of the neighbouring residents amenity.
- 5.8.3 The **Coal Authority (CA)** has reviewed the application proposals and offered the following comments:

'The CA concurs with the recommendations of the Phase 1 Geotechnical and Geo-Environmental Site Investigation Report; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site.

The CA recommends that the LPA impose a Planning Condition should planning permission be granted for the proposed development requiring these site investigation works prior to commencement of development.

In the event that the site investigations confirm the need for remedial works to treat the areas of shallow mine workings to ensure the safety and stability of the proposed development, this should also be conditioned to ensure that any remedial works identified by the site investigation are undertaken prior to commencement of the development.

A condition should therefore require prior to the commencement of development:

- * The submission of a scheme of intrusive site investigations for approval;*
- * The undertaking of that scheme of intrusive site investigations;*
- * The submission of a report of findings arising from the intrusive site investigations;*
- * The submission of a scheme of remedial works for approval; and*

** Implementation of those remedial works.*

The CA considers that the content and conclusions of the Phase 1 Geotechnical and Geo-Environmental Site Investigation Report are sufficient for the purposes of the planning system and meets the requirements of NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development.'

5.8.4 Having regard to the comments detailed above it is considered that all of the issues raised by the EHO and CA can be subject to appropriate planning conditions (under policy CS8 of the Core Strategy) if permission is granted.

5.9 **S106 Contributions / Community Infrastructure Levy (CIL)**

S106 Contributions

5.9.1 Having regard to the nature of the application proposals, if the principle of development is accepted, several contribution requirements would be triggered given the scale and nature of the proposals. Policy CS4 of the Core Strategy seeks to secure necessary green, social and physical infrastructure commensurate with the development to ensure that there is no adverse impact upon infrastructure capacity in the Borough.

5.10.2 Internal consultation has therefore taken place with the Councils own **Economic Development, Leisure Services and Housing** teams, as well as externally with **Derbyshire County Councils Strategic Planning** team on the development proposals to ascertain what specific contributions should be sought.

5.9.3 The responses have been collaborated to conclude a requirement to secure S106 Contributions / Legal Agreements in respect of negotiations for up to a 30% Affordable Housing contribution (Policy CS11); negotiations up to 1% of the overall development cost for a Percent For Art scheme (Policy CS18); and appointment of an external management company to manage and maintain the on site green open space and SuDS infrastructure (Policies CS7 and CS9). Matters in respect of education and green infrastructure are now dealt with by CIL contributions (see section 5.9.5 below).

- 5.9.4 In respect of the remaining comments arising from the DCC Strategic Infrastructure team to the Council it will be necessary to look to secure by planning condition the requirement for local labour and the provision of on-site high speed broadband connections (Policy CS13).

CIL Contributions

- 5.9.5 Having regard to the nature of the application proposals the development comprises the creation of up to 20 no. new dwellings and the development is therefore CIL Liable. The site the subject of the application lies within the low CIL zone and therefore the full CIL Liability would be determined at the reserved matters stage on the basis of a cumulative charge of £20 per sqm of gross internal floor area created. The following advice note will be appended to any subsequent decision notice drawing this to the applicants attention:

'You are notified that you will be liable to pay the Community Infrastructure Levy (CIL) to Chesterfield Borough Council as CIL collecting authority on commencement of development. This charge will be levied under the Chesterfield Borough Council CIL charging schedule and s211 of the Planning Act 2008. A CIL Liability Notice will be issued at the time of a detailed planning permission which first permits development, in accordance with the Community Infrastructure Levy Regulations 2010 (as amended). The extent of liability will be dependent on the permitted Gross Internal Area. This will be calculated on the basis of information contained within a subsequent detailed planning permission. Certain types of development may eligible for relief from CIL, such as self-build or social housing, or development by charities. Further information on the CIL is available on the Borough Council's website.'

6.0 **REPRESENTATIONS**

- 6.1 The application has been publicised by site notice posted on 18/03/2016; by advertisement placed in the local press on 17/03/2016; and by neighbour notification letters sent on 08/03/2016. As a result of the application publicity (which included notification of the development proposals being a departure from the Local Plan if approved) nine letters of representation from

neighbours and a representation from Staveley Town Council have been received as follows:

Staveley Town Council

Support the comments of the Chesterfield Canal Trust and would like further information on the proposed access onto Worksop Road.

See section 5.5 and 5.4 above.

12 Rose Crescent, Mastin Moor

- Concerns that a housing development would increase traffic on the A169. Traffic congestion is already an issue on Worksop Road.
- Many children from Mastin Moor walk to Netherthorpe School and traffic leaving the development could pose a danger

See section 5.4 above.

Norbriggs House, 18 Worksop Road, Mastin Moor

- Look favourably on the redevelopment of the land, are concerned that some of the proposed development will be built over the route of the Norbriggs Cutting of the Chesterfield Canal.
- Concern that the well used footpath which follows the route of the cutting might be encroached upon.
- We are concerned that adequate thought has been given to the ease and safety of vehicular egress from this proposed housing development, particularly when turning right towards Staveley or left when wishing to enter the right hand lane to enable a right hand turn into Norbriggs Road.

See section 5.3, 5.4 and 5.5 above.

29 Carpenter Avenue, Mastin Moor

- The consequences of the houses being built would be losing all nature and wildlife we currently have and destroying the peaceful land we have now.
- Dog would not get the exercise they seek for all the paths will be block by huge houses. Rambling clubs will not get access to the paths they need.

See section 5.3, 5.5 and 5.6 above.

29 Carpenter Avenue, Mastin Moor

- On the A619 there is already two junctions, three pelican crossings as well as two bus stops. Another junction would be an even bigger danger with schoolchildren having to take themselves across with no assistance
- Concerned for the wildlife. We have a nature reserve on the back field that attracts a number of wild birds including woodpeckers, badgers and foxes.

See section 5.4 and 5.6 above.

49 Carpenter Avenue, Mastin Moor

- Keep our children safe and leave our wildlife along Cuckoo Way.
- This plan ignores that fact that this strip is part of Cuckoo Way access/green corridor/cycle route
- Concerned about the loss of animals, birds, mammals, badgers and hedgehogs.
- Concerned about putting another junction into an already very busy road and road safety for children with no crossing guards.
- Loss of parking on our streets due to visitors to the new houses
- Concerned about loss of privacy

See section 5.3, 5.4, 5.5 and 5.6 above.

41 Carpenter Avenue, Mastin Moor

- Scale drawing is drawn to make the potential area look as appealing and spacious as possible with planting to 'green the area'. There is no room for 20 dwellings with gardens, a road and a car park. No room for visitors to park. The road on the plan is on top of the path and canal cutting and the hedge is on the wrong side of the footpath. The amount of space leaves approximately 257sq meters per dwelling plot which not much bigger than a garage.
- Not a brownfield site and no vehicular access.
- They will not be social housing for residents of the area or their children, they will be 'affordable' which means they will be up for sale.

- The plan ignores the fact that this strip is part of the cuckoo way route access/green corridor/cycle route – all part of the nature reserve plan.
- Habitat loss of the animals and birds is not addressed it will in fact be destroyed. The mammals except the compulsory bat survey are not mentioned.
- Flooding will also be a concern , the cutting itself currently acts as a huge sponge preventing water flooding onto the playing field
- Massive concern about the main road, access and moving the bus stop. Road safety for children and potential for an accident.
- Do not want Norbriggs Cutting to be built upon and remain a green corridor, welcoming people into the nature reserve.

See section 5.2, 5.3, 5.4, 5.5, 5.6, 5.7 and 5.9 above.

Unknown address

- Concerned about the location of the proposed access road on Worksop Road which is incredibly busy.
- Concerned about the relocated of the bus stop and road safety for school children with no crossing guards

See section 5.4 above.

33 Carpenter Avenue

- Main concern is the extra traffic, the traffic is horrendous without additional roads to cross without supervision.
- 75 houses have already been planned for Woodthorpe and also potentially another 650, therefore I feel this is a massive risk for a lot of children for the sake of a few houses.

See section 5.4 above.

23 Carpenter Avenue

- Incorrect boundary line to the rear of 23 Carpenter Avenue is incorrect, it should be a continuous line from the boundary of 19 to 25.
- Previous applications requiring access to Worksop Road from this land have been deemed hazardous due to the proximity of two bus stops, a narrow stretch of road and the local primary school.

- This land supports a large population of local wildlife, including hedgehogs, a large amount of bird life and I believe there is also the possibility of it being a hunting area for at least one species of owl.
- Object to losing tree cover would increase noise pollution from Worksop Road.

See section 5.4 and 5.6 above.

7.0 **HUMAN RIGHTS ACT 1998**

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

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

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.

7.4 Whilst, in the opinion of the objectors, the development affects their amenities, it is not considered that this is harmful in planning terms, such that any additional control to satisfy those concerns would go beyond that necessary to accomplish satisfactory planning control

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 **CONCLUSION**

9.1 The proposal the subject of the application is deemed to be contrary to the provisions of policy EVR2 of the Local Plan in so far as the application site is situated on land allocated as open countryside / other open land. Approval of the application would be a departure. The Council is currently in a position where it cannot demonstrate a five year housing land supply and therefore para. 49 of the National Planning Policy Framework is triggered rendering policy EVR2 (which would ordinarily prevent housing development on unallocated greenfield sites) out of date.

9.2 Given the position above the Council has considered the proposals the subject of the application against all remaining up to date development plan policies, including policies CS1 (Spatial Strategy), CS2 (Location of Development), CS3 (Presumption in favour of Sustainable Development), CS4 (Infrastructure Delivery), CS6 (Sustainable Design), CS7 (Management of the Water Cycle), CS8 (Environmental Quality), CS9 (Green Infrastructure and Biodiversity), CS10 (Flexibility in delivery of Housing), CS11 (Range of Housing), CS13 (Economic Growth), CS18 (Design), CS19 (Historic Environment) and CS20 (Demand for Travel) of the Core Strategy. In addition consideration has been given to the wider National Planning Policy Framework (NPPF) and the Councils Supplementary Planning Document on Housing Layout and Design 'Successful Places'.

9.3 It is considered that the proposed development is able to demonstrate its compliance with policies CS1, CS2, CS3 and CS4 of the Core Strategy in so far as its ability to provide connection (and where necessary improvement) to social, economic and environmental infrastructure such that the development meets the definitions of sustainable development. The application submission is supported by the preparation of assessment and reports which illustrates the proposed developments ability to comply with the provisions of policies CS6, CS7, CS8, CS9, CS11, CS13, CS18, CS19 and CS20 of the Core Strategy and where necessary it is considered that any outstanding issues can be mitigated and addressed in any subsequent reserved matters submission or any appropriate planning conditions being imposed.

10.0 **ADDITIONAL RECOMMENDATION**

10.1 That a S106 agreement be negotiated and signed concurrent with the planning permission and dealing with:

- Negotiations for up to a 30% Affordable Housing;
- Negotiations up to 1% of the overall development cost for a Percent For Art scheme; and
- Appointment of an external management company to manage and maintain the on site green open space and SuDS infrastructure.

10.2 That a CIL Liability notice issued as per section 5.9 above.

11.0 **RECOMMENDATION**

11.1 That the application be **GRANTED** subject to the following conditions / notes:

Time Limit etc

01. Approval of the details of the layout, scale and external appearance of the building(s), the means of access and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason - The condition is imposed in accordance with article 3 (1) of The Town and Country Planning (General Development Procedure) Order 1995 (as amended).

02. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason - The condition is imposed in accordance with sections 91, 56 and 93 of the Town and Country Planning Act 1990.

03. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason - The condition is imposed in accordance with sections 91, 56 and 93 of the Town and Country Planning Act 1990.

Site Investigations

04. Development shall not commence until intrusive site investigations have been carried out by the developer to establish the exact situation regarding coal mining legacy issues on the site and approval for commencement of development given in writing by the Local Planning Authority. The investigation and conclusions shall include any remedial works and mitigation measures required/proposed for the stability of the site. Only those details which receive the written approval of the Local Planning Authority shall be carried out on site.

Reason - To fully establish the presence and / or otherwise of any coal mining legacy and to ensure that site is remediated, if necessary, to an appropriate standard prior to any other works taking place on site.

Drainage

05. The site shall be developed with separate systems of drainage for foul and surface water on and off site.

Reason - In the interest of satisfactory and sustainable drainage.

06. No development shall take place until a flood risk assessment and 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.

Reason - To ensure that no surface water discharges take place until proper provision has been made for its disposal.

07. No building or other obstruction shall be located over or within 3.0 (three) metres either side of the centre line of the sewers, which crosses the site.

Reason - In order to allow sufficient access for maintenance and repair work at all times.

08. No new tree planting shall be permitted over or within 5.0 (five) metres either side of the centre line of the sewers, which cross the site.

Reason – In order to protect the structural integrity of the pipe from tree root infestation.

09. No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site, in accordance with Defra Non-statutory technical standards for sustainable drainage systems, has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the use of the building commencing.”

Reason - To ensure that the principles of sustainable drainage are incorporated into this proposal and sufficient detail of the construction, operation and maintenance of

sustainable drainage systems is provided to the LPA in advance of full planning consent being granted.

10. 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 hierarchy in Approved Document Part H of the Building Regulations 2000.”

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:

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

11. There shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

Reason - To ensure that no foul or surface water discharges take place until proper provision has been made for their disposal.

Highways

12. Before any other operations are commenced, detailed designs indicating the proposed junction with Worksop Road (A619) and bus stop lay-by layouts, including all relocation and/ or removal of existing street furniture/ apparatus, shall be submitted to the Local Planning Authority for written approval.

Reason – In the interests of highway safety.

13. Before any other operations are commenced, (excluding Condition 12 above), the new bus stop lay-by shall be formed in accordance with the approved details. For the avoidance of doubt the developer will be required to enter into a 1980 Highways Act S278 Agreement with the Highway Authority in order to comply with the requirements of this Condition.

Reason – In the interests of highway safety.

14. Before any other operations are commenced, (excluding Conditions 12 and 13 above) the new junction with Worksop Road (A619) shall be formed in accordance with the approved detailed designs and provided with visibility sightlines extending from a point 2.4 metres from the carriageway edge, measured along the centreline of the access, for a distance of 90 metres in each direction measured along the nearside carriageway edge. The land in advance of the visibility sightlines shall be retained throughout the life of the development free of any object above ground level relative to adjoining nearside carriageway channel level.

Reason – In the interests of highway safety.

15. Before any other operations are commenced, (excluding Conditions 12, 13 and 14 above), space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. Once implemented the facilities shall be retained free from any impediment to their designated use throughout the construction period.

Reason – In the interests of highway safety.

16. Throughout the period of development vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned

before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway.

Reason – In the interests of highway safety.

17. Notwithstanding the submitted information a subsequent reserved matters or full application shall include design of the internal layout of the site in accordance with the guidance contained in the 6C's Design Guide.

Reason – In the interests of highway safety.

18. No development shall take place until construction details of the residential estate road and footways (including layout, levels, gradients, surfacing and means of surface water drainage) have been submitted to and approved in writing by the Local Planning Authority.

Reason – In the interests of highway safety.

19. The carriageway of the proposed estate road shall be constructed in accordance with Condition 18 above up to and including at least road base level, prior to the commencement of the erection of any dwelling intended to take access from that road. The carriageway and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or abutting the footway. The carriageway, footways and footpaths in front of each dwelling shall be completed with final surface course within twelve months (or three months in the case of a shared surface road) from the occupation of such dwelling, unless otherwise agreed in writing by the Local Planning Authority.

Reason – In the interests of highway safety.

20. The sole means of vehicular access to the application site shall be from Worksop Road (A619) only. There shall be no

means of access to the Public Right of Way adjacent to the western boundary of the site and to this end, a permanent physical barrier shall be erected across the entire site frontage all as agreed in writing with the Local Planning Authority in consultation with the County Highway Authority.

Reason – In the interests of highway safety.

21. The premises, the subject of the application, shall not be occupied until space has been provided within the site curtilage for the off-street parking of residents/ visitors vehicles, located, designed, laid out and constructed all as agreed in writing with the Local Planning Authority and maintained throughout the life of the development free from any impediment to its designated use.

Reason – In the interests of highway safety.

22. There shall be no gates or other barriers within 6.0m of the nearside highway boundary and any gates shall open inwards only, unless otherwise agreed in writing by the Local Planning Authority.

Reason – In the interests of highway safety.

23. The proposed access driveways to the proposed estate street shall be no steeper than 1 in 14 for the first 6.0m from the nearside highway boundary and 1 in 10 thereafter.

Reason – In the interests of highway safety.

24. No part of the development shall be occupied until details of arrangements for storage of bins and collection of 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.

Reason – In the interests of highway safety.

25. Prior to the commencement of the development details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the

discharge of water from the development onto the existing and proposed highway. The approved scheme shall be undertaken and completed prior to the first use of the accesses and retained as such thereafter.

Reason – In the interests of highway safety.

26. No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Annex F of PPS25 (or any subsequent version), and the results of the assessment provided to the Local Planning Authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii. include a timetable for its implementation; and
 - iii. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason – In the interests of highway safety.

27. No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an Agreement has been entered into under Section 38 of the Highways Act 1980 or a private management and maintenance company has been established.

Reason – In the interests of highway safety.

Ecology

28. 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 strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason – To ensure that any ecological interest on site is appropriately addressed and can be mitigated against, prior to any development taking place, in accordance with policy CS9 and the National Planning Policy Framework.

29. A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority prior to the commencement of the development. The content of the LEMP shall include the following.
- a) Description and evaluation of features to be protected, enhanced, created and/or managed.

- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP 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 for a period of no less than 10 years.

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The scheme shall include a timetable for implementation relative to the completion of dwellings hereby approved.

Thereafter the approved ecological mitigation, compensation and enhancement scheme shall be implemented in full in accordance with the approved timetable and retained as such thereafter.

The approved plan will be implemented in accordance with the approved details.

Reason - To mitigate against the loss of existing biodiversity and habitats and provide biodiversity benefit, in accordance with Policy CS9 and the National Planning Policy Framework.

30. There shall be no removal of hedgerows, trees, shrubs, brambles or ground clearance take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the area for active birds' nests immediately before the work is commenced. Provided that the ecologist is satisfied that no birds will be harmed, and/or that there are appropriate measures in place

to protect nesting bird interest on site and the Local Planning Authority receive written confirmation of such (which shall subsequently need to be approved in writing), works will thereafter be permitted to take place in accordance with any protection measures recommended without restriction.

Reason – To ensure that any ecological interest on site is appropriately addressed and can be mitigated against, prior to any development taking place, in accordance with policy CS9 and the National Planning Policy Framework.

31. No works shall commence on site until a lighting strategy has been submitted to and agreed in writing with the Local Planning Authority. Such approved measures shall be implemented in full and maintained thereafter.

Reason – In the interests of biodiversity and to accord with policy CS9 of the Local Plan: Core Strategy 2011-2031 and the National Planning Policy Framework.

Heritage / Footpaths

32. Concurrent with the submission of the first reserved matters a scheme for improvements to the Footpath 22 where it is contiguous with the western boundary of the application site, together with a programme for carrying out of the improvements, shall be submitted. The improvements shall be carried out in accordance with any approved details and programme.

Reason – In order to promote enhancement and improved connection to the existing footway / cycle network in accordance with the provisions of policy CS1 and CS20 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 and the wider NPPF.

33. Concurrent with the submission of the first reserved matters a scheme for protection, restoration and enhancement of the Norbriggs Canal Cutting where it is within the site, together with a programme for carrying out of the improvements, shall be submitted. The improvements shall be carried out in accordance with any approved details and programme.

Reason – In order to preserve and enhance the significance of the undesignated heritage asset in accordance with policy CS19 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 and the wider NPPF.

Others

34. 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.

35. The development hereby approved shall include the provision of appropriate infrastructure to enable the dwellings to have high speed broadband, in accordance with details to be submitted to, and approved in writing, by the Local Planning Authority.

Reason – In the interests of sustainable development and to ensure that the development is capable of meeting the needs of future residents and / or businesses in accordance with policy CS4 of the Core Strategy and para. 42 of the NPPF.

36. Work shall only be carried out on site between 8:00am and 6:00pm Monday to Friday, 9:00am to 5:00pm on a Saturday and no work on a Sunday or Public Holiday. The term "work" will also apply to the operation of plant, machinery and equipment.

Reason - In the interests of residential amenities.

37. Before construction works commence or 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.

Reason - The condition is imposed in order to ensure that the proposed materials of construction are appropriate for use on the particular development and in the particular locality.

Trees

38. Prior to the commencement of development details of the location of site cabins, materials, construction vehicles and parking shall be submitted to the Local Planning Authority for consideration and written approval; and these should be outside the RPAs of the retained trees.

Reason – In the interest of safeguarding the retained / neighbouring trees, having regard to their root protection areas, and in the interest of the appearance of the surrounding area.

39. Prior to the commencement of development a site layout plan shall be submitted showing all necessary service runs, which should avoid all the defined Root Protections Areas for any protected or retained trees / hedgerows on site. Only those details which are subsequently agreed in writing shall be implemented on site.

Reason - In the interests of amenity and safeguarding the root environment of any protected / retained trees on site in the context of policy CS9 of the Core Strategy.

Notes

01. 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.
02. 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.

03. You are notified that you will be liable to pay the Community Infrastructure Levy (CIL) to Chesterfield Borough Council as CIL collecting authority on commencement of development. This charge will be levied under the Chesterfield Borough Council CIL charging schedule and s211 of the Planning Act 2008. A CIL Liability Notice will be issued at the time of a detailed planning permission which first permits development, in accordance with the Community Infrastructure Levy Regulations 2010 (as amended). The extent of liability will be dependent on the permitted Gross Internal Area. This will be calculated on the basis of information contained within a subsequent detailed planning permission. Certain types of development may eligible for relief from CIL, such as self-build or social housing, or development by charities. Further information on the CIL is available on the Borough Council's website.

Highways

04. The Highway Authority recommends that the first 6m of the proposed access driveways should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the landowner
05. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway/ new estate street measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
06. Pursuant to Section 278 of the Highways Act 1980, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal,

administrative and financial processes involved in Section 278 Agreements may be obtained from the Strategic Director of Economy Transport and Communities at County Hall, Matlock (tel: 01629 538658). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.

07. Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Strategic Director of Economy Transport and Communities at County Hall, Matlock (tel: 01629 538578).
08. Highway surface water shall be disposed of via a positive, gravity fed system (ie; not pumped) discharging to an approved point of outfall (eg; existing public sewer, highway drain or watercourse) to be sanctioned by the Water Authority (or their agent), Highway Authority or Environment Agency respectively. The use of soakaways for highway purposes is generally not sanctioned.
09. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary 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 (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
10. The application site is adjacent to a Public Right of Way (Footpath 22 Chesterfield on the Derbyshire Definitive Map). The route must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Advice regarding the temporary (or permanent) diversion of such routes may be obtained from the Strategic Director of Economy Transport and Communities at County Hall, Matlock (tel: 01529 580000 and ask for the Rights of Way Officer).

11. Car parking provision should be made on the basis of 1.5no., 2no. or 3no. spaces per 1 bedroom, 2/3 bedroom or 4/4+ bedroom dwelling respectively. Each parking bay should measure 2.4m x 5.5m with adequate space behind each space for manoeuvring.
12. Under the provisions of the New Roads and Street Works Act 1991 and the Traffic Management Act 2004, all works that involve breaking up, resurfacing and / or reducing the width of the carriageway require a notice to be submitted to Derbyshire County Council for Highway, Developer and Street Works. Works that involve road closures and / or are for a duration of more than 11 days require a three months notice. Developer's Works will generally require a three months notice. Developers and Utilities (for associated services) should prepare programmes for all works that are required for the development by all parties such that these can be approved through the coordination, noticing and licensing processes. This will require utilities and developers to work to agreed programmes and booked slots for each part of the works. Developers considering all scales of development are advised to enter into dialogue with Derbyshire County Council's Highway Noticing Section at the earliest stage possible and this includes prior to final planning consents.
13. The applicant is advised that to discharge Condition 16 that the Local Planning Authority requires a copy of a completed Agreement between the applicant and the Local Highway Authority under Section 38 of the Highways Act 1980 or the constitution and details of a Private Management and Maintenance Company confirming funding, management and maintenance regimes.
14. The application proposals are affected by a Prescribed Building Line under the Roads Improvement Act 1925. Whilst it is an offence to undertake building works in advance of this line, it may be possible for the applicant to apply to rescind the line. The applicant is advised to write to the Strategic Director of Economy, Transport and Communities at County Hall, Matlock, DE4 3AG, at least 6 weeks before commencing works requesting that the line(s) be removed

and confirming that they will meet the Authority's administrative / legal costs if the removal is approved. For further advice, please contact the Highways Searches and Information Unit on 01629 538650.

Design

15. Attention is drawn to the Successful Places: A Guide to Sustainable Housing Layout and Design SPD (2013) <http://www.chesterfield.gov.uk/Residential-Design-SPD-849.html>
This Supplementary Planning Document (SPD) identifies good practice guidance on the design process and urban design principles that should underpin and inform the design of new residential development and any subsequent reserved matters submission.
16. Attention is drawn to the attached guidance, 'Minimum Standards for Drainage' in respect of any drainage related conditions / subsequent reserved matter submissions.

Drainage Notes

17. The County Council do not adopt any private SuDS schemes. As such, it should be confirmed prior to commencement of works which organisation will be responsible for SuDS maintenance once the development is completed. Any works in or nearby to an ordinary watercourse require consent under the Land Drainage Act (1991) from the County Council (e.g. an outfall that encroaches into the profile of the watercourse, etc) to make an application for any works please contact Flood.Team@derbyshire.gov.uk. The applicant should demonstrate, to the satisfaction of the LPA, the appropriate level of treatment stages from the resultant surface water in line with Table 3.3 of the CIRIA SuDS Manual C697. This type of development usually requires >2 treatment stages before outfall into surface water body/system which may help towards attainment of downstream receiving watercourse's Water Framework Directive good ecological status. Although the site is outside of the Environment Agency defined fluvial Flood Zones the County Council would encourage the applicant to consider creating a flood plan for the worst case

scenarios should flooding occur due to the sites close proximity to the watercourse.

18. To discharge the drainage conditions the applicant should ensure all of the below parameters have been satisfied:
 1. The production and submission of a scheme design demonstrating full compliance with DEFRA's Non-statutory technical standards for sustainable drainage systems:
 - Limiting the discharge rate and storing the excess surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical duration rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site to comply with S2 & S3.
 - Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm to comply with S7 & S8.
 - Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements.
 - Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure the features remain functional.
 - Production of a plan showing above ground flood pathways where relevant for events in excess of 1 in 100 year rainfall event to comply with S9.
 - Where reasonable practicable demonstrate that the runoff volume of the site reflects the requirements of S4.
 2. Information to indicate that the surface water can, in principle, be disposed of sustainably in compliance with Approved Document H of the Building Regulations 2000. In particular, the following information should be provided to the Local Planning Authority for review:

- Soakaway/ground investigation conducted in compliance BRE Digest 365 methodology or similar submitted to demonstrate the feasibility of infiltration alone to manage surface water on the site.
- If infiltration is found not to be feasible, an alternative option for surface water disposal should be proposed. In order of preference this should be to:
 - i. an adjacent watercourse with detailed evidence of the feasibility of this option given the existing site constraints,
 - ii. a surface water public sewer, with appropriate evidence that the relevant Water and Sewerage Company (WaSC) deems this acceptable, or
 - iii. a combined public sewer, with appropriate evidence that the relevant WaSC deems this acceptable.