

Case Officer: PS  
Committee date 16<sup>th</sup> May 2022

Application No: CHE/21/00754/REM1

## ITEM 1

### **REPLAN OF APARTMENT BLOCK AREA TO BRIMINGTON ROAD TO INCLUDE REPOSITIONING AND REDUCING TO TWO BLOCKS AND INCREASING TO 4 STOREY WITH AMENDED PARKING LAYOUT AND EXTERNAL STAIR LINK PATH FROM BRIMINGTON ROAD TO CHESTERFIELD CANAL AS PART OF CHESTERFIELD WATERSIDE DEVELOPMENT, BRIMINGTON ROAD, CHESTERFIELD FOR AVANT HOMES (CENTRAL)**

Local Plan: Unallocated

Ward: St Helens

#### **1.0 CONSULTATIONS**

Ward Members	No comments received.
Local Highways Authority	Comments received on access proposed see report.
Derbyshire Constabulary	No comments to make.
Chesterfield Cycle Campaign	Supports the proposal
Design Services Drainage	No comments to make.
Lead Local Flood Authority	No comment to make.
The Coal Authority	No objection to changes – previous advice applies
Yorkshire Water	No comments received.

Environment Agency	No objection to changes
Strategic Planning	Comments received – see report.
Urban Design Officer	Comments received – see report.
Environmental Health	No objection provided the amendments secure protection from noise from passing traffic.
Trans Pennine Trail Office	Comments received – See report.
Chesterfield Canal Trust	No comment to make.
Site Notice and Advert	No representations received.

## **2.0 THE SITE**

- 2.1 The application site is a part of the wider Chesterfield Waterside Regeneration area of major change which is located between Brimington Road to the east, the A61 bypass to the west and which stretches from the Brewery Street roundabout close to the railway station to the south through to the DCC depot site to the north.
- 2.2 The application site concerns the plots immediately adjacent to the new bridge and road entrance to the site either side the junction with Brimington Road. The plot is sandwiched between the River Rother to the west (at a lower level), Brimington Road to the east, No 200 Brimington Road to the south and the landscaped belt between the River Rother corridor and Brimington Road to the north.
- 2.3 The main Avant Homes redevelopment site is accessed from Brimington Road and comprises a housing scheme of 173 units total and is well under construction with many units sold and occupied.

2.4

The agreed scheme featured 3 apartment blocks with two on the northern parcel and 1 on the southern parcel of the site. The applicant has already constructed the foundations and lower walls of the amended building positions as shown in the attached photographs below. The southern plot is more advanced.



Northern plot



Southern plot

### **3.0 SITE HISTORY**

3.1 The site has a considerable planning history however the approvals of particular relevance to the current application are as follows.

3.1.1 CHE/09/00662/OUT – Outline for Mixed Use Regeneration scheme comprising residential (1560), retail (A1, A2, A3, A4, A5), Offices (B1), Doctors Surgery and Creche (D1), 2 hotels (C1), Health and Fitness (D2), Nursing Home (C2), ancillary creative uses including possible arts centre, canal link, open space and eco and linear parks, new public realm and car parking including a MSCP. – Approved with Conditions 9<sup>th</sup> March 2011 (Associated s106 legal agreement).

3.1.2 CHE/16/00183/REM1 – Variation of Conditions 3 (Tie to Design & Access Statement and masterplan), 10 (Code for Sustainable Homes), 11 (BREEAM very good), 12 (10% renewable energy), 13 (bird and bat opportunities), 14 (household recycling), 39 (timing for

provision of Holbeck Close signalisation) and 47 (approved plans) of outline CHE/09/00662/OUT – Approved 12<sup>th</sup> May 2017.

- 3.1.3 CHE/18/00083/REM1 – Variation of Conditions 3 (tie to Design & Access Statement and Masterplan), 5 (phasing plan), 8 (public realm strategy), 14 (archaeological recording and WSI), 18 (tie to FRA), 24 (Water Vole management strategy), 25 (fish passage around weir), 33 (highway and access staging plan) and 45 (approved plans) of CHE/16/00183/REM1 to omit canal arm – Approved 24<sup>th</sup> April 2018.
- 3.1.4 CHE/19/00007/REM - Reserved matter application for CHE/18/00083/REM1 – erection of 173 dwellings and associated landscaping and infrastructure (additional information and revised plans received 18/04/2019 and 25/04/2019 and 02/05/2019) on land east of A61 known as Chesterfield Waterside, Brimington Road, Tapton, Chesterfield for Avant Homes (Central).
- 3.1.5 CHE/21/00018/NMA –NMA of CHE/19/00007/REM – amend layout of apartment blocks 1 and 2 and delete footpath connection (cond 28) – letter 28<sup>th</sup> July 2021 not accepted as NMA

## **4.0 THE PROPOSAL**

- 4.1 The application proposes a s73 submission to revise the detail already agreed under CHE/19/00007/REM in respect of the apartment blocks section of the overall site.
- 4.2 The agreed scheme under CHE/19/00007/REM was as follows:



Block 1 south elevation



Block 2 east elevation



Block 3 east elevation

- 4.3 The agreed scheme featured three, three storey blocks comprising of 21 apartments in a mix of 1 and 2 bed units. Parking areas were proposed comprising of 21 spaces to the north plot and 6 spaces to the south plot (27 spaces overall) with the parking area forming the undercroft area to apartment block 3 on the north plot.
- 4.4 Condition 28 of the planning permission required:  
*“The footpath/cycle connection within the application site red line boundary and to the north of Apartment Block 1 linking Brimington Road towards the River Rother footpath shall be surfaced and provided at a 3 metre width in accordance with a scheme which has first been agreed in writing by the local planning authority. The footpath/cycle connection shall be available for use concurrent with the first occupation of Apartment Block 1.”*
- 4.4 The amended scheme proposes a new layout in respect of the northern most plot however the layout for the southern most plot (building, car parking and access) remains unchanged. The changes proposed comprise:
- South plot –
- external appearance changes;
- North plot –
- Reposition of apartment block 1 to the Brimington Road frontage and reducing its footprint but increasing its storey height from 3 to 4. This reduces the number of apartments in the block from 9 to 8;
  - External appearance changes;

- Increasing parking space numbers from 21 to 22;
- Repositioning of the access to the site entrance road;
- Formation of a 2 metre wide stepped access immediately to the north of Block 1 between Brimington Road and the lower river footpath route.



## 5.0 **CONSIDERATIONS**

### 5.1 **Planning Policy**

5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that, 'applications for planning permission must be



determined in accordance with the development plan unless material considerations indicate otherwise'. The relevant Development Plan for the area comprises of the Chesterfield Borough Local Plan 2018 – 2035.

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

- CLP1 Spatial Strategy (Strategic Policy)
- CLP2 Principles for Location of Development (Strategic Policy)
- CLP11 Infrastructure Delivery
- CLP13 Managing the Water Cycle
- CLP14 A Healthy Environment
- CLP16 Biodiversity, Geodiversity and the Ecological Network
- CLP20 Design
- CLP22 Influencing the Demand for Travel

## 5.3 **National Planning Policy Framework**

- Part 2. Achieving sustainable development
- Part 5. Delivering a sufficient supply of homes
- Part 8. Promoting healthy and safe communities
- Part 9. promoting sustainable transport
- Part 12. Achieving well-designed places
- Part 14. Meeting the challenge of climate change, flooding and coastal change
- Part 15. Conserving and enhancing the natural environment

## 5.4 **Principle of Development**

### **Relevant Policies**

5.4.1 The application site is unallocated and is positioned within the built up area of St Helens where policies CLP1 and CLP2 are of relevance as is place shaping policy SS3.

5.4.2 Policy CLP1 states that *'The overall approach to growth will be to concentrate new development within walking distance of a range of Key Services as set out in policy CLP2, and to focus on areas that need regenerating, including the 'place shaping' areas set out in policies SS1 to SS6 and Regeneration Priority Areas.'*

5.4.3 Policy CLP2 states that when *‘Planning applications for developments that are not allocated the Local Plan, will be supported according to the extent to which the proposals meet the following requirements which are set out in order of priority:*

- a) deliver the council’s Spatial Strategy (policy CLP1);*
- b) are on previously developed land that is not of high environmental value;*
- c) deliver wider regeneration and sustainability benefits to the area;*
- d) maximise opportunities through their location for walking access to a range of key services via safe, lit, convenient walking routes;*
- e) maximise opportunities through their location for cycling and the use of public transport to access a range of key services;*
- f) utilise existing capacity in social infrastructure (Policy CLP10) or are of sufficient scale to provide additional capacity, either on site or through contributions to off-site improvements;*
- g) ensure the long term protection of safeguarded Minerals Related Infrastructure as identified in the Derbyshire and Derby Minerals Local Plan and shown on the Policies Map;*
- h) are not on the best and most versatile agricultural land;’*

5.4.4 Policy SS3 promotes the Waterside development as a way of contribution to jobs, restoring the canal improved access to the site including the footpath and cycle network, a high quality environment and a scheme which manages flood risk.

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

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

*infrastructure corridor;*

*f) managing flood risk.*

*Land within the Chesterfield Waterside area will be comprehensively redeveloped in accordance with an approved masterplan, including provision of a new Local Centre located adjacent to the existing canal basin. Planning applications submitted for development outside of the existing outline planning permission, but which otherwise deliver the objectives of the approved masterplan, will be expected to contribute towards the overall delivery of the infrastructure required for comprehensive development, secured through a section 106 agreement”.*

## **Considerations**

- 5.4.5 The principle of the development of this site is well established with an extant permission which is being implemented by Avant Homes. It is the case however that the outline planning permission CHE/09/00662/OUT has expired in respect of the opportunity for any new applications for reserved matters, however the conditions, S106 and the masterplan set out in the Design and Access Statement remain pertinent to this application. The masterplan itself is granted weight separately through the operation of Local Plan policy SS3.
- 5.4.6 This application seeks to change a part of the reserved matters scheme already agreed and it is the case therefore that the development generally accords with the outline permission for the wider redevelopment and which also generally accords with local plan and national planning policy. The issue of the principle of the development of this part of the site is therefore accepted and which is not an issue for consideration as part of this application.
- 5.4.7 It is appropriate however to consider the limitations which were set in the outline permission and in the masterplan for the site and such issues are dealt with below in the design and appearance section.

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

### **Relevant Policies**

5.5.1 Local Plan policy CLP20 states ‘*all development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context respect the character, form and setting of the site and surrounding area by virtue of its function, appearance and architectural style, landscaping, scale, massing, detailing, height and materials.*’

### Considerations

5.5.2 The changes to the external appearance of the southern most plot (apartment block 2) are relatively insignificant with changes only to door and window openings on the front and rear elevations. Access to the block is relocated from the east façade to the west car park façade.

5.5.3 The main changes in respect of the northern most plot feature pulling the apartment block 1 to the Brimington Road frontage and reducing its footprint but also increasing its storey height from three to four. In this respect the inclusion of a four-storey element on the Brimington Road frontage exceeds the indicative heights set out in the outline planning permission as illustrated below.



5.5.4 The outline permissions for the site included condition 3 which requires that development be carried out in accordance with the Design and Access Statement and masterplan:

**Condition 03.** *Outline consent is granted on the basis of the principles set out in the Design and Access Statement dated December 2009 and approved Indicative Masterplan (drawing no. MM100 rev G). All reserved*

*matters applications shall demonstrate how any proposed development accords with this Indicative Masterplan and its Design and Access Statement.*

- 5.5.5 It is the case however that the masterplan for the site promoted a different development form to that which has resulted on site in the developments which have been implemented and it is acknowledged as a result of the changes which have occurred over the years that there is a need to now review the masterplan for the site. The Council has embarked on a process of reviewing the Masterplan for the site. An extract of the agreed masterplan is attached below which showed buildings fronting Brimington Road served by a separate access to a rear parking courtyard area:



- 5.5.6 The building heights plan and agreed masterplan show four storey to Brimington Road further along the street to the south however it is accepted that reducing the storey heights the further to the north assists in transitioning the urban form into the primarily landscaped area further to the north. It is necessary however to consider the detail of the change. The agreed three storey apartment block was shown at 11.5 metres to ridge height and 8.1 metres to eaves height and by comparison the proposed four storey building is slightly lower to ridge height at 11.4 metres but higher to eaves level at 9.1 metres. The proposed roof pitch is less steep at 30 degree however the proposed building is higher in its walls by 1 metre but overall the building is no higher than what has already been agreed. This assumes the levels to which the three storey building was to be constructed at are the same as those which have been commenced for the proposed

four storey building. This is most likely to be the case on the basis that this part of the site was an elevated car park level with substantial retaining wall up to the river corridor. The photograph shown at 2.4 above also indicates that the buildings on the site are to be set lower than the Brimington Road level and which will assist in diminishing any height issue. Furthermore it is noted that the agreed scheme under CHE/19/00007/REM showed the apartment block 3 as having an undercroft parking area which gave the impression that the building was four storey when viewed from the west. The undercroft parking area has now been removed in the current scheme with block 3 becoming a traditional three storey building. On balance the differences in massing terms between the agreed and proposed schemes are relatively insignificant and could not be argued to justify a reason as to why planning permission should not be granted in this case.

5.5.7 Moving the apartment block 1 from the Riverside to the Brimington Road frontage loses the benefit of overlooking the river, and the natural surveillance of the footpath that is possible however this actually accords with the masterplan and Derbyshire Constabulary has commented that they raise no comments in respect of the changes proposed.

5.5.8 A further key change in the proposal is the detail of the connection to the river environment. The reserved matters scheme CHE/19/00007/REM showed an indicative connection from Brimington Road down to the riverside path immediately north of the site. The path was steep, uneven and loosely surfaced but well used as shown in the photographs below.



Condition 28 of the reserved matters approval required detail of a footpath/cycle connection within the application site red line boundary and to the north of Apartment Block 1 linking Brimington Road towards the River

Rother footpath and to be surfaced and provided at a 3 metre width in accordance with a scheme which has first been agreed in writing by the local planning authority.

5.5.9 The proposed scheme shows a formal stepped and graded 2 metre wide route to be constructed to the red line site boundary within the applicants control. The route turns through 90 degrees to follow the edge of the development site and align with the riverside retaining wall structure at the lower end. The Cycle Campaign support the stepped proposal commenting that the link is too steep for a cycle link and the route along the river, to which it adjoins, is for pedestrians only. They comment that the cycle route is further to the north. The Trans Pennine Trail office also comment that the additional steps provide a further connection for able bodied walkers and care will need to be taken that there is no impact on the riverside route during construction. On this basis it is considered that the link should only be suitable for pedestrian use and a 2 metre width is not therefore inappropriate. Furthermore because of the substantial level difference a stepped route cannot be avoided however this will be far safer than the loose surfaced slope which it replaces. The level difference is too steep to create a graded and ramped route down to the riverside path. In normal circumstances it is also appropriate to secure a straight, direct connection such that users at either end have a clear view of their exit. The 90 degree turn in the path is in this case needed to increase the length of the route to achieve an appropriate gradient however it will be open landscape to the inside of the route such that users can see across the corner. An open metal railing boundary treatment is also intended which will assist in maintaining the forwards visibility. This will be a marked improvement to what currently exists where users cannot see the complete end to end route. Policy CLP22 of the adopted Local Plan seeks to 'maximise walking, cycling and the use of public transport through the location and design of development' and states that '*Priority will be given to measures to encourage more sustainable travel choices*'. It is considered that the proposal satisfies this objective.

5.5.10 It is also clear that the applicant can only implement the part of the link within the red line area which they control even though the plans show the complete scheme linking down to the riverside path. The permission is an amendment of the reserved matters approval for the development and

which is tied to the legal agreement which expected a package of public realm improvements which would be delivered by Chesterfield Waterside Ltd. Such improvements would be to the routes and links through the site including that part of this link outside the Avant Homes responsibility area. This is the same approach as that which has been required connecting the walking and cycling route through the Avant Homes scheme on the other side of the river to the TPT to the north of the site (condition 23 of the Reserved matters permission). There will need to be a condition to require detail of how the works within the red line can be tied into the existing path outside the red line pending the undertaking of subsequent public realm works.

5.5.11 The design of the entrance area to the Avant Homes site and the form and arrangement of apartment buildings was the subject of considerable design discussion and revision at the time of the original submission (19/00007/REM) in order to secure a suitable arrangement and balance between the level of accommodation, its relationship to its surroundings, the provision of parking and the inclusion of landscape and space for the purposes of the amenity of future residents and to achieve an attractive entrance with a positive sense of arrival into the development.

5.5.12 Concerns have been expressed from an urban design perspective that the proposals are retrogressive however it is clear that this site is constrained by the existing substantial concrete retaining wall and the drainage requirements which impact on this part of the site. The area now proposed behind the apartment buildings is occupied entirely by a parking area which is pushed to the margins of the space in two long banks of unrelieved parking bays and which are pushed to the edges with very little space between the bays and the buildings creating a cramped, unappealing environment with a poor outlook for future occupants. Amendments have been made to the scheme however the further opportunity arises to soften this space through landscaping. The opportunity to delate a parking space on the west run of spaces (one of the visitor spaces) to create a planting bed to accommodate a tree also arises. This will break up and soften the courtyard area and provide a less harsh appearance and can be achieved without detriment to parking numbers as



referred to below. Views out over the river corridor will be maintained by ensuring the barrier to be installed on the retaining wall structure is designed as an open design (metal railings).

5.5.13 Materials of construction have been specified as part of the submission and which include Dorado facing brick, Ibstock Leicester Weathered Grey stock and Tobermore Kingston Moorland bricks all beneath Calderdale edge Dark Grey roof tiles. These materials reflect those used on the adjacent development by Avant Homes and are therefore acceptable.

5.5.14 Having consideration for the observations above the proposal is considered to be appropriately designed and would not cause sufficient adverse impacts on the visual amenity and character of the area to justify a refusal of permission. The proposal therefore accords with the provisions of policy Local Plan policy CLP20.

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

### **Relevant Policies**

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

5.6.2 Local Plan policy CLP20 expects development to '*k) have an acceptable impact on the amenity of users and neighbours;*'

### **Considerations**

5.6.3 The proposed changes arising out of the amended scheme do not impact on any neighbours in a material manner. The development of the southern most plot is the nearest to the neighbour at 200 Brimington Road however the proposed scheme does not change any positioning or massing issue of that part of the scheme.

5.6.4 The side windows of northern most block facing south include a living room window and bathroom at each level which will now look

directly into the flank wall of the block immediately to the south with a separation distance of approximately 3.25m. The living room windows are secondary windows to what are relatively large open plan living spaces which also include full height doors/windows and an additional window on the rear elevation. The relationship is considered to be acceptable in so far as the amenity which will be provided for the occupants.

5.6.5 The Environmental Health Officer has confirmed no objection to the proposals provided that the alterations ensure that the properties meet the needs of the occupants and that any noise from passing traffic is addressed with the design and layout of the properties. Whilst the needs of the occupants will not be known the dwellings will be designed with appropriate glazing standards to protect those inside from excessive noise from the adjacent road. Two of the three blocks on the site remain unaltered in terms of their position and whereas the northern most block is moved closer to Brimington Road it will be no closer than what has already been accepted on other parts of this application site.

5.6.6 Whereas there are changes to the proposed buildings they do not impact on neighbours because there are none and it is considered that the scheme fully satisfies the provisions of Local Plan policies CLP14 and CLP20.

## **5.7 Highways Safety and Parking Provision**

### **Relevant Policies**

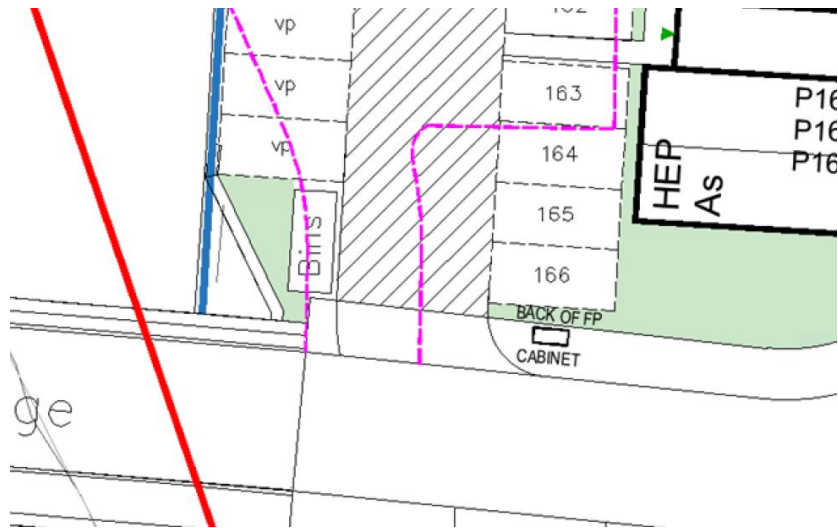
5.7.1 Local Plan policy CLP20 expects development to *'g) provide adequate and safe vehicle access and parking and h)*

5.7.2 Local Plan policy CLP22 details the requirements for vehicle/cycle parking  
*'The level of vehicle and cycle parking provision appropriate to any individual proposal will take into account the circumstances of the particular scheme, including in particular:*  
*i. The size of any dwellings proposed.*  
*ii. The type, mix and use of the development.*

- iii. The proximity of facilities such as schools, shops or employment*
- iv. The availability of and capacity for safe on-street and public car parking in the area.*
- v. Proximity to and availability of public transport and other sustainable transport options.*
- vi. The likelihood that any existing on-street parking problems in terms of highway safety, congestion, pedestrian and cyclist accessibility and amenity will be made worse.*
- vii. Local car ownership levels.*

### **Considerations**

- 5.7.3 The agreed scheme featured 21 apartments in a mix of 1 and 2 bed units. Parking areas were proposed comprising of 21 spaces to the north plot and 6 spaces to the south plot (27 spaces overall) with the parking area forming the undercroft area to apartment block 3 on the north plot. The proposed scheme maintains the number of units and the parking numbers for the southernmost plot however for the northern most plot the scheme reduces the apartments by 1 from 15 to 14 and increases parking space numbers from 21 to 22. The applicant has indicated a preference to achieve a 1.5 ratio of parking to apartments however for the 14 apartments this would result in a need for 21 parking spaces. There is clearly an opportunity therefore to delete a visitor parking space as referred to in paragraph 5.5.12 above and this can be secured by condition.
- 5.7.4 The Highway Authority comment that the access to the parking area (north plot) is closer to the bridge parapet and which will reduce exit visibility in the critical direction from the access to below an acceptable level and less than what would be achieved on the agreed layout. Reference is also made to footpath 17 on the definitive map which crosses the site.
- 5.7.5 Comparison with the agreed access detail (broken purple line) actually suggests that the access now proposed is moved further away from the bridge parapet as illustrated in the overlaid image below.



5.7.6 The footpath route referred to as FP 17 is the route along the riverside and is outside the redline area and not affected by the proposals.

5.7.7 On this basis it is considered that the development complies with the requirements of policy CLP20.

## 5.8 Flood risk, Drainage and Water Efficiency

### Relevant Policies

5.8.1 Local Plan policy CLP13 states that *'The council will require flood risk to be managed for all development commensurate with the scale and impact of the proposed development so that developments are made safe for their lifetime without increasing flood risk elsewhere.'*

*Development proposals and site allocations will:*

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

5.8.2 Local Plan policy CLP13 states that *'Development proposals will be expected to demonstrate that water is available to support the development proposed and that they will meet the optional Building*

*Regulation water efficiency standard of 110 litres per occupier per day.'*

### **Considerations**

- 5.8.3 The application site is located in 'Flood Zone 1' as defined by the Environment Agency and is therefore considered to be at low risk of flooding. The consultations with Design Services, the Environment Agency, the Lead Local Flood Authority and Yorkshire Water has confirmed no objection to the revisions. Having regards to the provisions of CLP13 and the wider NPPF the proposal is considered to be acceptable.

## **5.9 Ground Conditions Land contamination and Land Stability**

### **Relevant Policies**

- 5.9.1 Local Plan Policy CLP14 states that *'Unstable and Contaminated Land Proposals for development on land that is, or is suspected of being, contaminated or unstable will only be permitted if mitigation and/or remediation are feasible to make the land fit for the proposed use and shall include:*
- a) a phase I land contamination report, including where necessary a land stability risk assessment with the planning application; and*
  - b) a phase II land contamination report where the phase I report (a) indicates it is necessary, and*
  - c) a strategy for any necessary mitigation and/or remediation and final validation.*
- A programme of mitigation, remediation and validation must be agreed before the implementation of any planning permission on contaminated and/or unstable land. The requirement to undertake this programme will be secured using planning conditions.*
- 5.10.2 Paragraph 178 of the NPPF states that *'Planning policies and decisions should ensure that:*
- a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the*

*natural environment arising from that remediation);*  
*b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and*  
*c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.'*

### **Considerations**

- 5.9.3 The application site is located in area considered to be at 'high risk' of former Coal Mining Legacy however the applicant has dealt with the issues already in connection with the reserved matters consent on the site and no new Coal Mining Legacy issues therefore arise.
- 5.9.4 Subject to the imposition of relevant conditions the proposal is considered to accord with the requirements of Local Plan policy CLP14 and the NPPF.

## **5.10 Biodiversity including Trees and Landscaping**

### **Relevant Policies**

- 5.10.1 Local Plan policy CLP16 states that *'The council will expect development proposals to:*
- avoid or minimise adverse impacts on biodiversity and geodiversity; and*
  - provide a net measurable gain in biodiversity'*
- 5.10.2 The NPPF also requires net gains in biodiversity (paragraph 170 d).

### **Considerations**

- 5.10.3 The application proposes to amend a reserved matters submission which is linked to the original outline planning permission for the Waterside development and which predates the policy and requirement to achieve a Biodiversity Net Gain. It would now be inappropriate to require additional measures as part of the current proposal.

## **5.11 Developer Contributions and Community Infrastructure Levy**

- 5.11.1 The application proposes to amend a reserved matters submission which is linked to the original outline planning permission for the Waterside development and which predates the CIL policy. It would now be inappropriate to require a CIL payment on the basis of the current proposal.

## **6.0 REPRESENTATIONS**

- 6.1 The application has been publicised by neighbour notification letters, site notice and advertisement in the Derbyshire Times however no representations have been received as a result.

## **7.0 HUMAN RIGHTS ACT 1998**

- 7.1 Under the Human Rights Act 1998, which came into force on 2<sup>nd</sup> October 2000, an Authority must be in a position to show:

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

- 7.2 The action in considering the application is in accordance with clearly established Planning law and the Council's Delegation scheme. It is considered that the recommendation accords with the above requirements in all respects.

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

- 8.1 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 and paragraph 38 of 2021 National Planning Policy Framework (NPPF) as the proposed development does not conflict with the NPPF or with 'up-to-date' policies of the Local Plan, it is considered to be 'sustainable development' to which the presumption in favour of the development applies.

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

## 9.0 **CONCLUSION**

9.1 The proposals are considered to be appropriately designed having regard to the character of the surrounding area and which are considered to be generally in line with the remainder of the reserved matters permission, the masterplan and the aspirations for the site. The proposal would not have an unacceptable detrimental impact on the amenities of local residents or highway safety. As such, the proposal accords with the requirements of policies of the adopted Chesterfield Local Plan and the wider NPPF requirements.

## 10.0 **RECOMMENDATION**

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

### **Conditions**

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

#### **Apartment Types**

- Apartment Block 2 Floor Plans - n1189 APT2\_01
- Apartment Block 2 Elevations 1 of 2 – n1189 APT2\_02
- Apartment Block 2 Elevations 2 of 2 – n1189 APT2\_04
- Apartment Block 2 block plan - n1189 APT2\_10
- Apartment Block 3 SF Plan - n1189 APT3\_02
- Apartment Block 3 FF Plan - n1189 APT3\_02
- Apartment Block 3 GF Plan - n1189 APT3\_02
- Apartment Block 3 Basement Plan - n1189 APT3\_02
- Apartment Block 3 Side elevations - n1189 APT3\_01
- Apartment Block 3 Rear elevation - n1189 APT3\_01
- Apartment Block 3 Front elevation - n1189 APT3\_01
- **Apartment Block 4 Floor plans 6050-500**



- **Apartment Block 4 Elevations 6050-501**
- **Apartment Re-plan Streetscene section and layout 6050-502**

### House Types

- Applebridge floor plans and elevations - n1189 AB\_03
- Beckbridge elevations version 1 – n1189 BB1\_01A
- Beckbridge floor plans version 1 – n1189 BB1\_02A
- Beckbridge elevations version 2 – n1189 BB2\_01B
- Beckbridge floor plans version 2 – n1189 BB2\_02B
- Beckbridge elevations version 3 – n1189 BB3\_01B
- Beckbridge floor plans version 3 – n1189 BB3\_02A
- Beckbridge floor plans and elevations version 3 – n1189 BB3\_03A
- Fenbridge elevations - n1189 FB\_01
- Fenbridge floor plans - n1189 FB\_02
- FOG elevations – n1189 FOG\_01A
- FOG floor plans – n1189 FOG\_02A
- Kewbridge floor plans and elevations – n1189 KB\_03A
- Kewbridge special floor plans and elevations – n1189 KBS\_03A
- Northbridge elevations – n1189 NB1\_01B
- Northbridge floor plans version 1 – n1189 NB1\_02A
- Northbridge special floor plans and elevations – n1189 NB1S\_03
- Northbridge floor plans and elevations version 2 – n1189 NB2\_03B
- Northbridge elevations version 3 – n1189 NB3\_01A
- Northbridge floor plans version 3 – n1189 NB3\_02
- Northbridge floor plans and elevations version 3 detached – n1189 NB3\_03A
- Seabridge floor plans and elevations version 1 – n1189 SB1\_03
- Seabridge floor plans and elevations version 2 – n1189 SB2\_03
- Ulbridge elevations version 1 – n1189 UB1\_01A
- Ulbridge floor plans version 1 – n1189 UB1\_02
- Ulbridge floor plans and elevations version 1 – n1189 UB1\_03A
- Vossbridge floor plans and elevations version 1 – n1189 VB1\_03C
- Vossbridge special floor plans and elevations version 1 – n1189 VB1S\_03B

- Vossbridge floor plans and elevations version 2 – n1189 VB2\_03B
- Westbridge elevations version 1 – n1189 WB1\_01A
- Westbridge floor plans version 1 – n1189 WB1\_02
- Westbridge special elevations version 1 – n1189 WB1S\_01A
- Westbridge elevations version 2 – n1189 WB2\_01A
- Westbridge floor plans version 2 – n1189 WB2\_02A
- Westbridge elevations version 2 – n1189 WB2\_04
- Westbridge floor plans version 2 – n1189 WB2\_05
- Westbridge special elevations version 2 – n1189 WB2S\_01
- Westbridge special floor plans version 2 – (plots 85, 111, 113, 114) – n1189 WB2S\_02

#### Site Layout

- Site Location Plan – n1189 001 rev C
- **Apartment re-plan Site Layout 6050-500 rev A**
- **Apartment re-plan Boundary Treatments 6050-BT-001**
- **Apartment re-plan Materials 6050-MP-001**
- Presentation layout – n1189 004B
- Presentation layout (Constraints overlay) – n1189 004\_01A
- Presentation layout (Connectivity Plan) – n1189 004\_02
- Presentation layout – n1189 007P
- Indicative Site Sections – n1189 011A
- Topographic Survey 24<sup>th</sup> April 2017
- Materials Plan – n1189 106A
- Landscape Strategy Plan GL1051

#### Supporting Documents

- Design Compliance Statement (rev C) by Nineteen47 Ltd (required by condition 3);
- Visuals Pack – 8 viewpoints dated Dec 2018;
- Energy Statement dated Dec 2018 by FES Group (required by condition 11);
- Arboricultural Survey dated Sept 2018 by BWB;
- Arboricultural Impact Assessment dated Oct 2018 by BWB;
- BS5837 survey;
- Ecological Management Strategy dated Nov 2018 by BWB;
- Water Vole Mitigation Strategy dated Aug 2018 by BWB;
- Ecological Technical Note dated Jul 2018 by BWB;

- Noise Impact assessment by BWB;

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

02. Before ordering of external materials takes place, precise specifications or samples of the walling and roofing materials to be used shall be submitted to the Local Planning Authority for consideration. Only those materials approved in writing by the Local Planning Authority shall be used as part of the development unless otherwise agreed by the Local Planning Authority in writing. – **The materials specified on Apartment re-plan Materials 6050-MP-001 are accepted.**
03. Prior to any works taking place a Construction Management Plan shall be submitted showing space to be provided for storage of plant and construction 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. – **The detail accepted in connection with the development of the adjacent phases of development is acceptable.**
04. Throughout the construction period vehicle wheel cleaning facilities shall be provided and retained within the site for use at appropriate times, in order to prevent the deposition of mud or other extraneous material on the public highway.

*Reason – In the interests of highway safety.*

05. The carriageways of the proposed estate roads shall be constructed 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. Subsequently, the carriageways and footways shall be laid out and constructed up to and including binder

course level to ensure that each dwelling, prior to occupation, has a properly consolidated and surfaced carriageway and footway for residents to use, between the dwelling and the existing highway. Until final surfacing is completed, the footway binder 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 carriageways, 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.*

06. No dwelling shall be occupied until space has been laid out within the respective plot for the parking of residents and visitors vehicles. The parking spaces shall thereafter remain free from any impediment to its designated use for the life of the development.

*Reason – In the interests of highway safety.*

07. No development shall take place until details of the proposed means of disposal of surface water drainage, including details of any balancing works and off -site works, have been submitted to and approved by the Local Planning Authority. If discharge to public sewer is proposed, the information shall include, but not be exclusive to:-
- a) evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical;
  - b) evidence of existing positive drainage to public sewer and the current points of connection;
  - c) the means of restricting the discharge to public sewer to the existing rate less a minimum 30% reduction, based on the existing peak discharge rate during a 1 in 100 year storm event, to allow for climate change; and
  - d) details of either the proposed diversion of the public sewer which crosses the site and its easement protection which accords with the

requirements of Yorkshire Water Services, or confirmation of a build over agreement approved with Yorkshire Water Services.

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. – **The detail already provided and accepted is considered to be appropriate**

08. Prior to the commencement of the development, a scheme for the protection of the retained trees, in accordance with BS 5837:2012 including a tree protection plan(s) (TPP) shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be implemented in strict accordance with the approved details.
- Specific issues to be dealt with in the TPP include:
- a) Location and installation of services/ utilities/ drainage.
  - b) Details of construction within the RPA or that may impact on the retained trees.
  - c) a full specification for the construction of any hard landscaping and footways, including details of any no-dig specification and extent of the areas hard landscaping and footpaths to be constructed using a no-dig specification. Details shall include relevant sections through them.
  - d) A specification for protective fencing to safeguard trees during construction phases and a plan indicating the alignment of the protective fencing.
  - e) a specification for scaffolding and ground protection within tree protection zones.
  - f) Tree protection during construction indicated on a TPP and construction and construction activities clearly identified as prohibited in this area.
  - g) details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires
- The detail provided in respect of the apartment plots on the site is accepted.**

09. No vegetation clearance works shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to and approved in writing by the local planning authority and then implemented as approved. – **Works already carried out are acceptable.**
10. No development above any floor-slab/D.P.C level shall take place until details of two additional swift boxes to be attached to houses on the scheme and bat boxes to be included in the landscape scheme have been submitted to and approved in writing by the Local Planning Authority. The agreed details, or any approved amendments to those details, shall be carried out prior to occupation of the dwelling to which they relate and as part of the agreed landscaping programme and shall be retained 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.*

11. Within 2 months of commencement of development full details of hard landscape works for the approved development shall be submitted to the Local Planning Authority for consideration. Hard landscaping includes proposed finished land levels or contours; means of enclosure; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.) retained historic landscape features and proposals for restoration, where relevant. These works shall be carried out as approved prior to the occupation of the dwellings.

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

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

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

13. If, within a period of five years from the date of the planting of any tree or plant, that tree or plant, or any tree or plant planted as a replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

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

14. No development above any floor-slab/D.P.C level shall take place until details of the proposed boundary treatments have been submitted to and approved in writing by the Local Planning Authority. These details shall include the fill material for gabion baskets and the increase in knee rail fencing to 1.2 metres height. The agreed details, or any approved amendments to those details, shall be carried out prior to occupation of the dwelling to which they relate and shall be retained thereafter. – **The detail shown on**

**Apartment re-plan Boundary Treatments 6050-BT-001 is accepted.**

15. Prior to the construction of the EI Sb Station, full details of the external appearance and materials of construction shall be submitted to the local planning authority for consideration. The EI Sub Station shall only be constructed in accordance with the details which have been agreed in writing by the Local Planning Authority. **Already complied with and implemented.**

16. Prior to the implementation of a lighting scheme for the site, full details of the lighting scheme shall be submitted to the local planning authority for consideration. The lighting scheme shall only be constructed in accordance with the details which have been agreed in writing by the Local Planning Authority and which shall be retained as such thereafter.

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

17. The meter boxes on the dwellings and apartments hereby approved shall be colour co-ordinated to blend with the external materials of the respective dwellings and apartments.

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

18. Prior to the construction of the Applebridge house type, details of brick detailing to the rear elevation shall be submitted to the local planning authority for consideration. The Applebridge house type shall only be constructed in accordance with the details which have been agreed in writing by the Local Planning Authority. **Already complied with.**



19. Full details of the proposed textured brickwork and verges on various house types shall be submitted to the local planning authority for consideration. The agreed details shall be carried out in accordance with the details which have been agreed in writing by the Local Planning Authority. **Already complied with.**
20. This consent shall not relate to the parking spaces shown for plots 66 and 67. A revised plan shall be submitted showing deletion of the 2 visitor spaces and splitting the remaining 4 spaces into two pairs with tree planting between to reflect the opposite side of the street. The parking shall be carried out in accordance with the details which have been agreed in writing by the Local Planning Authority and which shall be available for use concurrent with first occupation of plots 66 or 67 and which shall be retained as such thereafter. **Already complied with.**
21. Prior to occupation of dwellings on the site, a scheme of sound insulation shall have been submitted to and agreed in writing with the Local Planning Authority to ensure that the following levels are not exceeded:
- Daytime (07:00 – 23:00hrs) LAeq, 16hr 35 dB in bedrooms and living rooms;
  - Daytime (07:00 – 23:00hrs) LAeq, 16hr 55 dB in gardens;
  - Night-time (23:00 – 07:00hrs) LAeq, 8hr 30 dB in bedrooms;
  - Night-time (23:00 – 07:00hrs) LAFmax levels to not regularly exceed 45 dB in bedrooms. **Already complied with.**
22. Prior to the implementation of the acoustic fence along the bund, full details shall be submitted to the local planning authority for consideration. The acoustic fence shall only be constructed in accordance with the details which have been agreed in writing by the Local Planning Authority and which shall be retained as such thereafter. **Already complied with.**

23. Full details of a 3 metre wide pedestrian/cycle path connection to the red line boundary north east corner of the site shall be submitted to the local planning authority for consideration. The agreed details shall be carried out in accordance with the details which have been agreed in writing by the Local Planning Authority and shall be available for use within 3 years of the date upon which construction works started on the site. **Details already agreed.**

24 Internal estate street junctions shall be provided with 2.4m x 25m minimum visibility splays in each direction, measured up to 1m into the carriageway at the extremity of the splay; the area in advance of the sightlines being laid out as an extended footway / margin, forming part of the estate street and not part of any adjoining plot or other third party land.

Reason - In the interests of highway safety.

25 Individual driveways shall be provided with 2.4m x 25m visibility splays, or other such dimension as may be agreed in writing with the Local Planning Authority, in each direction to the new estate street - measured up to 1m into the carriageway at the extremity of the splay; the area in advance of the sightlines remaining thereafter free from any obstructions to visibility over 1m high (750mm in the case of vegetation) relative to the nearside carriageway channel level.

Reason - In the interests of highway safety

26 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order (or any Order revoking and/or re-enacting that Order) the garages hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging of private motor vehicles associated with the residential occupation of the property without the grant of further specific planning permission from the Local Planning Authority.

Reason - In the interests of highway safety

27. Prior to any works exceeding demolition or site clearance taking place on site 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 for the private areas of the development. **Details already agreed.**

28. **The stepped footpath connection to the north of the site within the application site red line boundary shall be implemented in accordance with the Apartment re-plan site layout 6050-500 rev A and shall be available for use concurrent with the first occupation of Apartment Block 4. Details shall have been first submitted to show how the footpath connection will link to the exiting path.**

**Reason - To ensure an appropriate connection linking Brimington Road to the river / canal footpath/cycle routes.**

29. **The detail required by condition 12 shall include the removal of one of the central visitor parking spaces to the west side of the parking area and which shall be replaced with a planting area to accommodate a tree.**

**Reason – To enhance the appearance of the development and soften the car park courtyard to the rear of the site in the interests of visual amenity.**

### **Informative Notes**

1. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.

2. This approval contains condition/s which make requirements prior to development commencing. Failure to comply with such conditions will render the development unauthorised in its entirety, liable to enforcement action and will require the submission of a further application for planning permission in full.