

## ITEM 3

Case Officer – A Hayes

**CHE/20/00496/FUL - DEMOLITION OF 7 BUILDINGS AND ERECTION OF 12 NEW UNITS (USE B2 / B8) WITH ANCILLARY OFFICES, ASSOCIATED CAR PARKING AND EXTERNAL VEHICULAR AREAS / LANDSCAPING (ADDITIONAL INFORMATION RECEIVED 28/10/2020, 05/11/2020, 21/01/2021, 12/03/2021, 06/07/2021, 29/09/2021, 04/10/2021, 05/07/2022, 06/07/2022) ON LAND OFF STATION ROAD, OLD WHITTINGTON, DERBYSHIRE, S41 9AW FOR W H BUTLER AND SONS (FOUNDERS) LTD**

Committee Date: 30<sup>th</sup> August 2021

Ward: Old Whittington

### 1.0 CONSULTATION RESPONSES

Ward Members	No representations received
Estates	No representations received
Strategic Planning	No objections – see report.
Local Highway Authority	No objection subject to conditions – see report.
Environment Agency	Comment received – see report.
Design Services	No additional comments to those made by the LLFA, YWS and the EA
Yorkshire Water Services	Comments received – see report.
Lead Local Flood Authority	Following the submission of the additional information received 05/07/2022, the LLFA have no objection to the scheme subject to the impositions of conditions.
Coal Authority	No objections subject to imposition of recommended planning conditions – detailed comments received, see report.

Environmental Health	No objections subject to imposition of recommended planning conditions in respect of noise, air quality, land contamination, and lighting - See report
Economic Development	No representations received
DCC Archaeology	The proposals will have no archaeological impact.
DCC Constabulary	No objection to the proposal in principle and no comments regarding the detail.
Network Rail	No objection in principle however recommends use of conditions in terms of safeguarding of the rail. See report
Urban Design Officer	No representations received
Derbyshire Wildlife Trust	Comment received – see report
Chesterfield Cycle Campaign	No representations received
Tree Officer	A landscaping condition should therefore be attached if consent is granted to the application.
Representations	1 x representation received

## **2.0 THE SITE**

2.1 The application site is located on the north west side of Station Road and bound by Whittington Way to the north of the application site. The site can be accessed by both public highways however the access off Station Road is a track, not a tarmacked access road like that of Whittington Way. To the south west of the application site, the site is bound by the railway line whilst to the north west there is an area of vegetation with shrubs and trees. There is also vegetation between the application site and the railway line, some of which is within the application site but not all. The application site is approximately 0.81 hectares in size and is square in shape, with the exception for the access from Station Road which is a linear track. The site

is finished in compacted stone chippings and is uneven in places with large sunken areas which gather and hold water when it rains.

- 2.2 The application site is allocated for Economic Growth (CLP6) and is currently occupied by various industrial based tenants, with documents submitted to support the application indicating the tenants include a shot blaster, a mechanics and car body work repairs / respraying. The application site forms a parcel of land within a wider industrial setting with some units within the setting sharing the same access to the application site but are not included within the red line boundary.
- 2.3 Numerous buildings are situated on the application at present however the largest building, which is located centrally in the site is a large, disused iron foundry. This building is constructed of various materials, including corrugated steel sheeting and corrugated cement sheet. Many of the other buildings in the application site are former of temporary site containers or smaller buildings which are also predominantly constructed in metal.
- 2.4 According to information provided in the application, the site has been occupied as an Iron Foundry since 1965 and the site has remained relatively unchanged to this date.

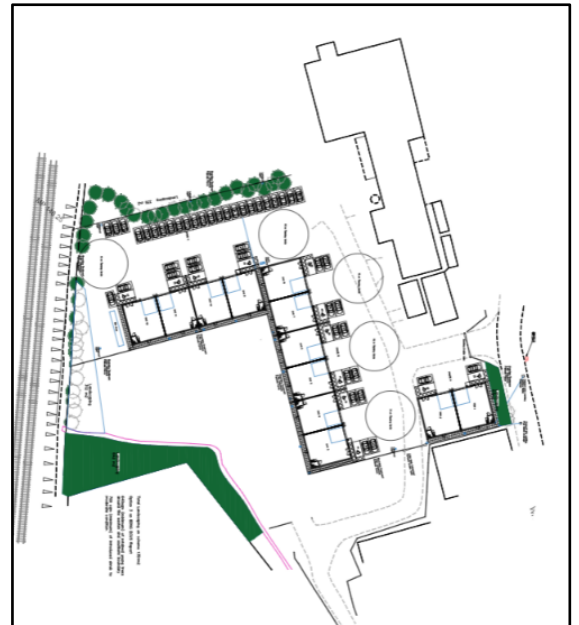
### **3.0 SITE HISTORY**

- 3.1 CHE/1184/0724 – Permission for change of use to timber merchants yard  
Conditional permission granted 25/01/1985
- 3.2 CHE/0785/0415 – Permission for change of use from special industrial (Class 6) to General industrial (Class 4) at former foundry  
Conditional permission granted 03/09/1985
- 3.3 CHE/14/00454/FUL – Proposed extension to existing machine shop  
Conditional permission granted 11/09/2014

### **4.0 THE PROPOSAL**

- 4.1 The application seeks planning consent for the demolition of no.7 buildings and the erection of no. 12 new units with a B2 / B8 use with ancillary officers, associated car parking and external vehicular areas with associated landscaping.

- 4.2 The proposed development will result in an overall reduction of floorspace at the application site from 2,742 square metres to 1,454 square metres. This arises as a result of realigning the site and how the space is used. Currently, the site has developed over time dating from the late 1800s and many of the units are now considered (by the applicant) to be too large for the tenants of the site and therefore the proposal seeks to reduce the size of the units to attract smaller / start up businesses with improved outdoor space and parking provision.
- 4.3 The current layout of ad-hoc buildings (as shown below in the aerial image) are proposed to be demolished, through a phased approach, to allow for the development of a uniformed layout – as shown below.



Above Left: The site as existing – image from Google Maps ©

Above Right: The site as proposed – drawing of submitted layout from agent

- 4.4 The proposed layout will predominantly be formed by 2no. blocks of units, laid in an “L” shape to the south of the application site with an additional unit proposed to the north east corner of the application site.
- 4.5 The proposed unit that extends along the north / south of the site will have a maximum length of 42 metres and have a depth of approximately 13 metres. The block of units that are sited (approximately) east / west will have an overall length of 64.5 metres and a depth of 13 metres. The 2no. units proposed in the north east corner of the site will have a footprint of 21.3 metres x 13 metres.

- 4.6 All of the units proposed will have a uniform appearance with a maximum height of 7.8 metres and the eaves of the monopitched units having a height of 6.3 metres.
- 4.7 The units are detailed to be finished with a low level brick perimeter cavity wall with plastisol coated metal profile sheeting wall cladding with insulation. The windows and doors in the units are detailed to be solar reflective triple glazed windows with powder coated aluminium frames. Each unit will also include an electronically operated insulated metal section up and over door.
- 4.8 The submitted phasing plan, as well as the application form, indicate the site will be bound by galvanised palisade fencing which will have a height of 2.4 metres. The fencing will be sited around the perimeter of the application site at the south and west boundaries however it will be set approximately 1.5 metres off from the rear elevations (south and east) of the units numbered 3 – 8 and 9 – 12 respectively.
- 4.9 The units will all be bound by a pathway which will have a width of 1.5 metres around the perimeter of the blocks. The external area will be finished in tarmacadam, with concrete yard areas / loading bays.

## **5.0 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)

CLP6 Economic Growth (Strategic Policy)

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 4. Decision-making

Part 6. Building a strong, competitive economy

Part 8. Promoting healthy and safe communities

Part 12. Achieving well-designed places

Part 15. Conserving and enhancing the natural environment

### 6.0 CONSIDERATION

#### 6.1 Principle of Development

6.1.1 The proposed development is, as previously noted, located within an area identified in the adopted Local Plan to be allocated for economic growth and therefore policy CLP6 is of consideration when determining this application. To understand the appropriateness of the development proposed, the **Strategic Planning Officer (SPO)** confirms that *“Under policy CLP6 this would be a suitable location for B1 (b&c), B2 and B8 (subject to no unacceptable adverse traffic impacts).”*

6.1.2 The SPO did note however in the comments provided that *“B1a office uses are identified as a Main Town centre use in Annex 2 of the NPPF, and subject to a sequential approach, set out in paragraph 86, intended to direct them to town centres and ‘transport hubs’... I note that no sequential assessment accompanies the current application. Failure to satisfy the sequential test (which can include not submitting such information) can be a reason for refusal (NPPF para 90). As an alternative, given the character of the units proposed, a condition is suggested that prevents the use of any of the units solely for Office use.”*

6.1.3 Following receipt of the above comments, the case officer contacted the agent to confirm, as it was initially thought, that the proposed offices were to be ancillary in association with the occupants of the proposed buildings. This was confirmed by the agent who also indicated the imposition of a condition, as recommended by the SPO was acceptable to their client. The SPO maintained a concern regarding a failure to satisfy the sequential test however given the nature of the proposal it was evident that the applicant was not seeking planning consent for offices that would serve as stand alone office space. On this basis, the imposition of a planning condition to limit the use of the units was considered to appropriate.

6.1.4 The SPO also noted the proposed development will need to demonstrate compliance with wider policies of the adopted Local Plan – notably CLP13, CLP16 and CLP22. Given the recommended imposition of the planning condition however it is considered the principle of the development is acceptable subject to the development demonstrating compliance with the Local Plan.

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

6.2.1 Local Plan policy CLP20 states in part; 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.

6.2.2 The layout of the proposed development will have a reduced physical footprint on the application site and as a result, will be more organised and uniform in appearance. The units will have a uniform height and appearance which is considered to be a visual enhancement compared with the application site as existing. The units are industrial in appearance due to the nature of the metal cladding and up and over doors. This is considered to be acceptable given the location and allocation of the application site and giving consideration to the existing appearance of the site.

6.2.3 As the proposed development seeks a reduction in footprint size it is also considered the development is of an appropriate scale for the application site and gives appropriate consideration to the biodiversity enhancement requirements – this is discussed in Section 6.6 of this report.

6.2.4 The application is also accompanied by a proposed phasing plan (received 06/07/2022) which outlines which parts of the site are to be developed when. This is to ensure current tenants of the premises can have business continuity and the project is undertaken in phases. Following a positive determination, this LPA would expect to see information come forward in respect of each phase of the application site.

6.2.5 It is therefore considered that the proposal is appropriate to the existing setting and its surroundings and would not cause significant adverse impacts on the visual amenity and character of the area. The proposal therefore accords with the provisions of policy Local Plan policy CLP20.

### 6.3 Amenity

6.3.1 Local Plan policy CLP14 states that development will be expected to have an acceptable impact on the amenity of users and neighbours.

6.3.2 Overall, it is not considered the proposed development will give rise to amenity concerns for the users of the site or the nearby residential neighbours. The proposed development seeks to provide modern units at the application site and incorporates sustainable design features such as increased insulation and Electric Vehicle Charging points for each unit. This is considered to be acceptable and will continue the established use of the application site that is currently located on land for Economic Growth. It is considered the proposed development will support this allocation in that it will result in a net increase of 5no. units at the site through the alteration and improved layout of the site.

6.3.3 During the consultation process however, the **Environmental Health Officer (EHO)** commented that *“all lighting shall be designed so as not to cause glare / overspill of the site. This shall be added as an advisory note to the decision notice should planning consent be granted.”*

6.3.4 It is noted from the submitted drawings that external lighting is to be included in the proposed scheme and therefore it is considered reasonable for the LPA to condition this requirement as set out by the EHO, rather than include it as an advisory. The requirement for the applicant to ensure all lighting does not cause glare / overspill to be conditioned will ensure that the LPA can take action should the lighting cause an amenity issue to neighbouring premises or indeed residential properties which are located less than 200 metres to the north east of the application site.

6.3.5 On this basis and subject to the compliance with the recommended planning condition, the proposal is considered to accord with the provisions of policy CLP14 of the Local Plan.

### 6.4 Noise and nuisance

6.4.1 In accordance with the requirements of Local Plan policy CLP14, stating development must have an acceptable impact on the amenity of users and neighbours, the **EHO** made comments in respect of noise matters that may arise as a result of the proposed development, or indeed, during construction, if the application were to be granted permission.



- 6.4.2 The **EHO** returned comments with regard to noise requiring that “...construction work and demolition work shall only be carried out between the hours of 8:00 am to 6:00 pm Monday to Friday and 9:00 am to 5:00 pm on a Saturday. Construction work shall not be carried out on Sundays or Public Holidays. The term ‘construction work’ shall include mobile and fixed plant/machinery, (e.g. generators) radios and the delivery of construction materials”.
- 6.4.3 Whilst the application site is located in a predominantly commercial area with industry surrounding the immediate site boundaries it is noted there are residential properties in close proximity to the application site (being those located on Whittington Hill) and therefore the recommended condition as set out by the EHO is considered to be reasonable to protect the amenity of these neighbouring occupants.
- 6.4.4 Similarly, the EHO commented that “*all demolition work shall be carried out in a manner that does not give rise to unnecessary airborne dust.*” The EHO indicated that this information shall be added as an advisory note to the decision notice, should planning be granted. This is not considered to be sufficient however – especially having regard to the neighbouring residential properties. It is therefore considered necessary for the LPA to impose a condition that reads as follows; “Measures to minimise airborne dust arising from the site shall be in place throughout the construction period including demolition.” By imposing this requirement as a condition (rather than an advisory), the LPA will have opportunity to control this element of the proposal and ensure the impact is acceptable when having regard to the health and amenity of the neighbouring residential properties as well as the health of the workers of neighbouring sites. An advisory would not be controllable by the LPA.
- 6.4.5 It is therefore considered, subject to the development complying with the above recommended planning conditions, the proposal will comply with the requirements set out in Local Plan policy CLP14.

## **6.5 Highway Safety**

- 6.5.1 Local Plan policy CLP20 and CLP22 require consideration of parking provision and highway safety.
- 6.5.2 To understand the impacts of the proposed development on highway safety and parking matters, the LHA were consulted with and the comments received are detailed below;

*“The submitted details propose a development comprising demolition of 7no existing buildings and erection of 12no B1/B2/B8 units served via an existing ‘main’ vehicular access with Whittington Way and a secondary access directly available with Station Road. It’s stated that tenants of the proposed buildings will not be permitted use of the latter access.*

*It’s noted that there would be a significant reduction in overall Gross Floor Area as a result of the proposals although it’s noted that the existing buildings are ‘largely dilapidated’. In view of the latter, does the Local Planning Authority consider the site to have an extant use for the full existing GFA as stated?*

*On the basis that the development proposals will result in an overall reduction in extant GFA, it’s considered that vehicle trips generated by the site would be likely to be no greater than those that may be generated by the extant use of the site and, as such, it’s unlikely that any objections on the Grounds of intensification in vehicular activity could be sustained.*

*However, streetview images dated July 2018 show exit visibility from the site access with Whittington Way as being impeded by vegetation on the site boundary and it’s recommended that all areas in advance of exit visibility sightlines of 2.4m x 25m are maintained clear of any obstruction greater than 1.0m in height (600mm in the case of vegetation) relative to the nearside carriageway channel level.*

*Should it be determined that there is no, or less, extant B2/B8 use of the site, details should be submitted demonstrating that the layout of the access with Whittington Way meets current design recommendations together with details of measures to prevent vehicular use of the access with Station Road.*

*I trust that you will ensure that the proposed level of off-street parking provision satisfactorily meets the requirements of your own Authority’s standards to serve both existing and proposed development, each space being clear of sufficient manoeuvring space to enable the largest vehicles likely to frequently visit the site to enter and exit in a forward gear.*

*Therefore, if you are minded to approve the proposals on the basis of there being an overall reduction in extant use of the site, it’s recommended that the following Conditions are included within the Consent:-*

1. *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.*
2. *Prior to any part of the development, the subject of the application, being brought into use, the existing access to Whittington Way shall be modified to be provided with 2.4m x 25m exit visibility splays in either direction, the area in advance of the sightlines being maintained clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.*
3. *The premises, the subject of the application, shall not be taken into use until space has been provided within the application site in accordance with the approved application drawings for the parking/ loading and unloading/ manoeuvring of visitors/ staff/ customers/ service and delivery vehicles (including secure covered cycle parking), laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.*
4. *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 their designated purposes at all times thereafter.*

*In addition, the following Advisory Note may be included for the information of the applicant:-*

*a. Car parking spaces should measure 2.4m x 5.5m (larger in the case of spaces for use by disabled drivers) with adequate space behind each space for manoeuvring.”*

- 6.5.3 The comments received from the LHA are noted however it is to be acknowledged that the LHA query the use of the site and if the identified use is extant. It is considered that the industrial use of the buildings on site as existing is surviving given the current uses that were evident and in use at the time of the case officer's site visit. The fact that reference is

made to dilapidated buildings, as referred to in the application site, is a statement about their condition rather than the use.

- 6.5.4 The LHA consider the proposed development is unlikely to result in the increase of vehicle trips generated at the application site and therefore intensification of use is not considered to be a reason that the LHA would be able to sustain if it were to object to the proposal. Notwithstanding this, the LHA consider the access from Whittington Way to be an access to / from the site that is impeded by vegetation on the site boundary. The recommendation from the LHA that *“all areas in advance of exit visibility sightlines of 2.4m x 25m are maintained clear of any obstruction greater than 1.0m in height (600mm in the case of vegetation) relative to the nearside carriageway channel level.”* This is considered to be an acceptable recommendation and therefore, subject to a positive recommendation, the above can be imposed as a planning condition. Although it is noted in the Design and Access statement that the site is to be accessed primarily by Whittington Way and the secondary access from Station Road will not be included as a right of way for new tenants of the application site. This is noted and considered to be reasonable however for the purposes of highway safety, it is considered appropriate to impose the condition as recommended by the LHA.
- 6.5.5 Each unit will be allocated 3no. parking bays (one of which will be allocated as a disabled bay) and a total of 22no. shared visitor parking spaces will be marked within the application site. A total of 58no. spaces will therefore be provided at the application site. Each space will measure a minimum of 2.4 x 4.8 metres and this is considered to be acceptable in accordance with the requirements set out in the adopted SPD. The disabled bays are noted to be larger in size, having measurements of 3.6 metres x 6 metres. This is considered to be acceptable.
- 6.5.6 In respect of air quality, the **EHO** comments that *“As the government has set an aspirational target for all new vehicles in the UK to be zero emission at source by 2040 (as contained in The UK Plan for Tackling Roadside Nitrogen Dioxide Concentrations: Detailed Plan, published July 2017), I ask that infrastructure for electric charging points be installed as part of the build phase.”* The comments in respect of electric vehicle charging points are noted and considered to be appropriate given the targets set by the government and to assist this LPA deliver on its Climate Change Emergency declaration. It is noted the Design and Access Statement that each unit is detailed to have electric vehicle charging point

and therefore it is considered this condition will be welcomed by the applicant.

- 6.5.7 It is noted that the LHA have requested a condition be imposed which requires no part of the development to be occupied until details of the arrangements for storage of bins and the collection of waste have been submitted to and approved by the LPA. This condition is considered to be unreasonable given the site is already in operation and therefore it is understood the site (be that individual tenants of units or as a whole), has waste collection arrangements in place. This application does result in an intensification in the number of units on the site however owing to the improved manoeuvrability of the site, it is not considered waste collection is a concern in this application. In addition, it is considered most units will hire a private contractor owing to the business nature of the site and agreement will need to be arranged with the waste collector. This condition as recommended should not therefore be imposed on any decision granted.
- 6.5.7 On this basis the proposal is considered to accord with the provisions of policies CLP20 and CLP22 of the Local Plan.

## **6.6 Biodiversity including trees and landscaping**

- 6.6.1 Local Plan policy CLP16 states that all development will “protect, enhance, and contribute to the management of the boroughs ecological network of habitats, protected and priority species ... and avoid or minimise adverse impacts on biodiversity and geodiversity and provide a net measurable gain in biodiversity.” The NPPF in paragraph 170 requires decisions to protect and enhance sites of biodiversity and paragraph 174 also requires plans to “pursue opportunities for securing measurable net gains for biodiversity”.
- 6.6.2 The application site was referred to **Derbyshire Wildlife Trust** for comment as a result of the extensive wooded / scrub land to the north of the application site and as well as the nature of works that were due to take place. It was noted by the case officer during a site visit that due to the age and condition of some of the units, it could be possible that protected species (such as bats) would be present at the application site. The initial comments received from DWT on 03/11/20 indicated that there were “*no significant habitats or nature conservation designations on the site, the demolition of 7 buildings could impact on protected species.*” At the time of comment, the application had not been accompanied by an

ecological assessment and therefore DWT commented further indicating that *“there is insufficient information on the nature of the buildings to know whether or not they could have potential to support bat roosts and as such, the proposal could result in the loss of bat roosts and in the killing and injuring or any individual bats that are present at the time of the works.”*

The DWT therefore requested the submission of a preliminary bat roost assessment and a check for nesting birds is undertaken, as a minimum, to determine the buildings suitability to support roosting bats and nesting birds and to search for evidence of roosting bats and nesting birds.

6.6.3 An Ecological Survey was received by this LPA on 21/01/2021 in addition to a Biodiversity Net Gain Initial Assessment. DWT were consulted with again in response to this information provided and commented that the report, undertaken by Ecus Ltd., recommended further bat surveys. *“The report for this assessment has not been made available however as nocturnal surveys are required, these should be undertaken and a final report submitted for review.”* In response to the submitted Biodiversity Net Gain Assessment, also prepared by Ecus Ltd and dated December 2020, DWT remarked that *“it appears possible to secure a net gain of at least 10% through the incorporation of onsite landscaping. However we have the following comments which should be addressed:*

- *a copy of the metric should be made available so that we can review the assessment fully. Whilst a good summary has been provided in the report, some details are missing including full details of the existing habitats including their composition and condition.*
- *The proposal comprises the incorporation of introduced shrub planting to offset the loss of woodland and scrub. We are concerned that this may represent down-trading in terms of habitat value, which would be avoided as per the guidance for BNG assessment (CIRIA C776A, 2019). The principles of BNG specify that proposals should demonstrate net gain of the same habitat to be lost or of habitat that is of equal or higher biodiversity value than that to be lost. Providing the metric would help assess this further.*
- *It looks possible to retain some of the woodland on the western boundary but it is not clear if this has been included in the metric.”*

6.6.4 Further information was provided by the applicant (on 06/07/2021) and DWT commented (on 03/08/2021) in response to this that the further submission *“addresses our comments regarding the assessment in our letter dated 10<sup>th</sup> March 2021. The current proposals, which do not include the retention of existing woodland or any new landscaping, will result in a*

*net loss of 0.51 biodiversity units. However it is quite feasible to achieve at least a 10% net gain with new planting alone or a combination of new planting and retention of existing woodland. We recommend that Option 3, as detailed in the report, is chosen as this includes retention of existing habitat and therefore reduces overall impacts and time for new planting to establish. However all options outlines will arguably achieve net biodiversity gain. The chosen option should be reflected in the final layout to be approved.”*

6.6.5 A further Nocturnal Bat Survey Report was provided on 29/09/2021. DWT provided comments to this on 29/11/2011 in which they commented that the report “*now provides sufficient information to determine the application. A day roost of a single common pipistrelle bat has been recorded in Building 4 and therefore a licence will be required to enable demolition of this building. The rest of the buildings can be demolished without any further survey or licensing. We advise the following conditions are attached to any permission:*

*Bat Mitigation and Licensing*

*The demolition of Building 4 shall not take place until either a European Protected Species Licence has been obtained from Natural England or the site has been registered under a bat mitigation class licence (low impact). Upon receipt of a licence from Natural England / site registration, works shall proceed strictly in accordance with the approved mitigation, which should be based on the proposed measures outlined in the Nocturnal Bat Survey Report (Ecus Ltd. 2021) and amended as necessary based on any comments from Natural England. Such approved mitigation will be implemented in full in accordance with a timetable of works included within the licence and followed thereafter. A copy of the licence / confirmation of registration will be submitted to the LPA once granted.*

*Enhancement*

*Prior to building works commencing above foundation level, a bat and bird box plan shall be submitted to and approved in writing by the LPA to maximise site biodiversity. This shall include the bat boxes as recommended in Section 4.3.7 of the Nocturnal Bat Survey Report (Ecus Ltd., 2021), along with a range of suitable bird boxes for the site. Such approved measures shall be implemented in full and maintained thereafter, with photographs of the measures in situ submitted to the LPA to fully discharge the condition.*

*N.B. We have previously provided comments regarding Biodiversity Net Gain assessment of the site and these should also be considered when determining the application. Our most recent advice provided on 03/08/2021 was as follows: We recommend that option 3, as detailed in the report, is chosen as this includes retention of existing habitat and therefore reduces the overall impacts and time for new planting to establish. However all options outlined will arguably achieve net biodiversity gain. The chosen option should be reflected in the final layout to be approved.”*

6.6.6 Following receipt of the above comments, the applicant was requested to provide a revised site layout plan that was reflective of the proposed biodiversity net gain scheme to be implemented, in addition to the proposed phasing details being provided. A proposed phasing plan and site layout plan, including details of the biodiversity net gain option to be implemented was received by this LPA on 06/07/2022. The plan indicates that option 3 is reflected in the landscaping shown.

6.6.7 The suggested conditions from DWT are considered to be acceptable and reasonable given the information that has been provided by the applicant and what information is considered to remain outstanding in respect of enhancement measures. It is noted the site has evidence of roosting bats and therefore a licence must be applied for prior to demolition of the relevant building. Given the protected nature of bats, DWT have required the applicant to submit a copy of the relevant licence to the LPA to confirm compliance with this condition. This is also considered to be reasonable given the need for the LPA to have regard to the protected species on site. Conditions will be imposed as recommended therefore.

6.6.8 The Council's **Tree Officer** was also consulted with in respect of this application; the following comments were received on 20/10/2021:

*“Further my comments of the 5th & 29th October 2021 and the submitted Biodiversity Net Gain Initial Assessment by ECUS dated June 2021. The assessment provides 3 options for landscaping on the site which would all provide a net gain in biodiversity with options 1 & 2 gaining the most, however option 3 is preferred as it is stated that the site may be subject to further development in the future and the new landscaping for options 1 & 2 would have to be removed at a later date.*

*I am therefore in agreement with Derbyshire Wildlife Trusts comments of the 3rd August 2021 and ‘the chosen option should be reflected in the final*



*layout to be approved'. A landscaping condition should therefore be attached if consent is granted to the application.*

*Prior to completion or first occupation of the development hereby approved, whichever is the sooner; details of treatment of all parts on the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with and reflect the soft landscaping Option 3 in the submitted Biodiversity Net Gain Initial Assessment by ECUS dated June 2021 in the first planting season after completion or first occupation of the development, whichever is the sooner. Details shall include:*

*a) a scaled plan showing vegetation to be retained and trees and plants to be planted:*

*b) proposed hardstanding and boundary treatment:*

*c) a schedule detailing sizes and numbers of all proposed trees/plants*

*d) Sufficient specification to ensure successful establishment and survival of new planting.*

*Any new tree(s) that die(s), are/is removed, become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Replacement planting shall be in accordance with the approved details (unless the Local Planning Authority gives its written consent to any variation).*

*Reason: Required to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and bio-diversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality."*

6.6.8 The comments received from the Tree Officer are noted and having regard to the comments made in respect of the submitted Biodiversity Metric 2.0 Option 3, the metric notes that the woodland and forest and heathland and shrub habitats as existing are poor and therefore a higher distinctiveness of habitat is required to make an improvement. Given the metric (for option 3) suggests to include additional young trees to be planted (as well as introducing shrub) at the application site, it is considered reasonable to condition information regarding what species and size of shrub and trees, as well as numbers, will be planted at the application site in accordance

with Option 3 of the Net Gain Biodiversity Enhancement scheme. It is therefore considered a landscaping plan and schedule shall be submitted in respect of the application site, prior to the site being taken in to first occupation. This time scale is considered to be appropriate given an enhancement scheme has been agreed and the details to be provided will supplement this agreed enhancement scheme.

6.6.9 On the basis of the comments above, and subject to the development complying with the recommended conditions, the proposal is considered to accord with the provisions of policy CLP16 of the Local Plan.

## **6.7 Ground conditions and contamination including air quality**

6.7.1 Having regard to the provisions of Local Plan policy CLP14, the LPA is required to have regard to the quality of the environment at all levels of the planning and development process. The **Coal Authority** and **Environmental Health Officer** were therefore consulted with in respect of ground stability and land contamination respectively. The comments received from the **Coal Authority** are detailed below;

6.7.2 *“As you are aware, the application site falls within the defined Development High Risk Area. The Coal Authority records indicate that underground coal mining has taken place beneath the site at shallow depth. In addition, the site lies in an area where historic unrecorded shallow coal mining is likely to have taken place.*

*You will recall that the Coal Authority previously objected to the proposal in our initial consultation response of 25 September 2020 due to the lack of a Coal Mining Risk Assessment Report, or an equivalent report, to identify and assess the risks posed to the proposed development by coal mining legacy.*

*We are therefore pleased to note that the applicant has now submitted a Phase I Geotechnical and Geo-Environmental Site Investigation report (17 August 2020, prepared by Eastwood & Partners) in support of their planning application.*

*Based on a review of relevant sources of coal mining and geological information, the submitted report correctly identifies that the Deep Soft Coal seam has been worked at shallow beneath the site and that unrecorded shallow mine workings may also be present within the Chavery*

*Coal. It considers that these workings could pose a stability risk to the proposed development.*

*Accordingly, the report goes on to make appropriate recommendations for the carrying out of intrusive ground investigations, in the form of boreholes, in order to establish the depth and condition of shallow coal seams/workings and to inform any necessary remedial measures to ensure the stability of the development (drilling and grouting).*

*The Coal Authority welcomes the recommendation for the undertaking of intrusive site investigations. These should be designed by a competent person to properly assess ground conditions and to establish the exact situation regarding coal mining legacy which could pose a risk to the proposed development.*

*The findings of the intrusive site investigations should be interpreted by a competent person and should be used to inform any mitigation measures, such as grouting stabilisation works and foundation solutions, which may be required in order to remediate mining legacy affecting the site and to ensure the safety and stability of the proposed development.*

*The applicant is requested to note that Permission is required from the Coal Authority Permit and Licensing Team before undertaking any activity, such as ground investigation and ground works, which may disturb Coal Authority property, i.e. coal seams and associated workings.*

*The report identifies that mine gases pose a potential risk to the development and recommends that gas monitoring is carried out. The Coal Authority recommends that the LPA seek comments from the Council's Environmental Health / Public Protection Team on this matter and any resultant need for the incorporation of gas protection measures within the proposed development.*

#### The Coal Authority Recommendation to the LPA

The Coal Authority concurs with the recommendations of the Phase I Geotechnical and Geo-Environmental Site Investigation report; that coal mining legacy potentially poses a risk to the proposed development and that investigations are required, along with possible remedial measures, in order to ensure the safety and stability of the proposed development. As such, should planning permission be granted for the proposed development, we recommend that the following conditions are included on the Decision Notice:

1. No development shall commence (excluding the demolition of existing structures) until;

a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and

b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

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

The Coal Authority therefore **withdraws its objection** to the proposed development **subject to the imposition of the above conditions**. This is our recommendation for condition wording. Whilst we appreciate that you may wish to make some amendment to the choice of words, we would respectfully request that the specific parameters to be satisfied are not altered by any changes that may be made.

6.7.3 On the basis of the comments received from the Coal Authority, it is considered appropriate to impose the above worded planning conditions as recommended. It is considered appropriate to note that the Coal Authority were consulted prior to the application being accompanied by a Coal Mining Risk Assessment, hence the reason the Coal Authority refer to previous correspondence in their response.

6.7.4 With regard to land contamination, the **Environmental Health Officer** commented the following;

*“The site is located in an area of Chesterfield that could be affected by land contamination. Should planning permission be granted for this proposal, I would strongly recommend that the developer ensure the site is ‘suitable for use’ by completion of:-*

*a) a Phase 1/desk study*

- b) a Phase 2/intrusive site investigation
- c) a Remediation Strategy (if necessary) and
- d) a Validation report

*All the reports a) to d) shall be submitted to the Council and approved in writing by the Local Planning Authority prior to the development commencing.”*

6.7.5 Given the history of the application site, the recommended condition is considered to be appropriate to impose on any decision granted. Furthermore, following the comments received from the Coal Authority in respect of the potential mines gases that were identified in the Geotechnical and Geo-Environmental Site Investigation report, the **EHO** was consulted with again. The EHO comments (in correspondence dated 09/07/2021) indicate an agreement with the submitted report and the need for follow-up intrusive site investigations to be carried out. The site investigations will addressed through the submission of a phase 2 / intrusive site investigation report, which is required through the recommended condition as set out by the EHO earlier in the consultation process. It is considered the Geotechnical and Geo-Environmental Site Investigation report addresses part a) of the recommended condition set out by the EHO and this will therefore be reflected in any decision issued.

## **6.8 Flooding and drainage**

6.8.1 Local Plan policy CLP13 requires that flood risk is managed for all development and will be commensurate with the scale and impact of the proposed development. Developments will be required to be made safe for their lifetime without increasing flood risk elsewhere.

6.8.2 As such, the application was referred to the Council’s internal **Design Services** department, **Yorkshire Water Services**, the **Lead Local Flood Authority** and **The Environment Agency**. This is due to the application site being located withing flood risk zone 2 and 3. As noted in the comments from the **Strategic Planning Officer**, the submission of a sequential flood assessment is not required *“as the proposed uses are within those allocated for the site in the development plan (NPPF para 162 “Where planning applications come forward on sites allocated in the development plan through the sequential test, applicants need not apply the sequential test again”).* The application was therefore continued without a Sequential Flood Assessment.

- 6.8.3 Having accepted that the application site was sequentially acceptable, despite the Flood Risk following recent adoption of the Local Plan, the application was continued without a sequential assessment.
- 6.8.4 Initially, the **Environment Agency** objected to the scheme proposed due to the Flood Risk Assessment not complying with the requirements for site specific flood risk assessments. The EA noted the reasons for this objection and how the applicant could overcome the objection. The Council's **Design Services (Drainage)** department also their agreement with the response received from the EA, as well as noting that should the applicant determine to discharge surface water runoff to the public sewer system at a reduced rate from the existing run off, the Design Services team would need evidence to ensure that no flooding occurs on site during a 1 in a 100 year + 40% climate change rainfall event, prior to full approval. The **Lead Local Flood Authority** also objected due to the lack of information provided in the application to indicate how the site would drain and what consideration has been given to the space required on site for surface water storage. **Yorkshire Water Services** however returned comments that indicated should planning permission be granted, conditions as recommended by them should be imposed on any decision granted.
- 6.8.5 In response to the comments received above, a second Flood Risk Assessment (FRA) was submitted on 12/03/2021. This did not address the concerns raised by the consultees however and a further FRA was submitted on 04/10/2021. This was submitted to the above referenced consultees and the following comments were received;
- Design Services (19/10/21):**  
*“Prior to full approval being granted we would like to see drainage proposals for the site along with accompanying calculations in accordance with our flood and surface water management guidance. I would be satisfied with the drainage proposals to be conditioned in the decision.”*
- Yorkshire Water Services (21/10/21):**  
*“The submitted updated FRA prepared by Eastwood and Partners requires additional information in regards to the proposed surface water drainage strategy for the site. A CCTV/topographical survey is still required to prove any existing surface water points of connection from the site to either a sewer or watercourse.  
In addition to the above, the land drain to the north of the site has not been mentioned within the report. Said drain could prove to be a viable (and*

*more sustainable) point of connection for the re-developed site's surface water rather than the public sewer network.*

*Until the above points have been clarified, our stance on this matter remains the same. We refer to our previous comments and recommended conditions in our letter dated 8 October 2020.”*

**Lead Local Flood Authority (17/11/2021):**

*“Derbyshire County Council as the LLFA has reviewed the revised FRA (Issue 3 dated 1<sup>st</sup> October 2021) and information submitted for this application, which was received on 06/10/2021. Prior to conditioning this planning application, the LLFA requires a drainage proposal with the following information to be submitted:*

- Site plan and impermeable area*
- Appropriate evidence to support how the site will drain, including confirmation of where the surface water will outfall to (photographs / maps / a confirmation letter from a water company)*
- Storage estimates to show the required storage volume of surface water on site and an indication of the likely location*
- Calculations should include allowances for the current Environment Agency guidance for climate change and urban creep (Refer to Point J in the Advisory Notes)*
- Basic ground investigation (desktop survey as a minimum)*
- Major development should incorporate sustainable drainage system unless there is clear evidence that this would be inappropriate (as per National Planning Policy Framework 165).*

*The details are required at the early planning stage to demonstrate that the proposed site is able to drain and that due consideration has been given to the space required on site for surface water storage.*

*Please note the level of detail submitted should be proportionate to the size and scale of the development.”*

**Environment Agency (13/01/2022):**

*“We have reviewed the amended Flood Risk Assessment and consider that it satisfactorily addresses our earlier concerns. Subject to the condition below, we therefore withdraw our previous objection, dated 5 August 2021. The proposed development will only meet the NPPF requirements in relation to Flood Risk if the following planning condition is included.*

**Condition**

*The development shall be carried out in accordance with the submitted Flood Risk Assessment (ref. 45173-001, dated 01 October 2021, by Eastwood & Partners) and the following mitigation measures it details:*

- Finished floor levels shall be set no lower than existing ground floor levels*
- The development shall include flood resilient and resistant construction as detailed in the flood risk assessment.*

*These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.*

*Please note that, due to the large reduction in building footprint, we have accepted that flood compensatory storage is not required for this development.*

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

- 6.8.6 To address the outstanding matters raised by the LLFA, the applicant submitted a further drainage assessment document (received on 05/07/2022). The document was referred to the Design Services team, YWS, the LLFA, and the EA for comments. The following responses were received:

**Design Services (21/07/22):**

*“No additional comments to those made by the LLFA, YWS and the Environment Agency.”*

**Yorkshire Water Services (19/07/22):**

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

- 1. The site shall be developed with separate systems of drainage for foul and surface water on and off site. The separate systems should extend to the points of discharge to be agreed .  
(In the interest of satisfactory and sustainable drainage)*
- 2. Surface water run-off from hardstanding (equal to or greater than 800 square metres) and/or communal car parking area (s) of more than 50 spaces must pass through an oil, petrol and grit interceptor/separator of adequate design that has been submitted to and approved by the Local Planning Authority, prior to any discharge to an existing or prospectively adoptable sewer.*



*(To prevent pollution of the aquatic environment and protect the public sewer network)*

3. *The development shall be carried out in strict accordance with the details indicated within the submitted report, "Drainage Assessment prepared by Eastwood & Partners, dated 30 June 2022".  
(In the interest of satisfactory and sustainable drainage)"*

**Lead Local Flood Authority (29/07/2022):**

*"The LLFA has no objection subject to the conditions below.*

*To ensure adherence to the NPPF, DEFRA's Non-Statutory technical standards for sustainable drainage systems and local guidance, these recommended conditions should not be altered without consulting the County Council Flood Risk Management team.*

1. *"No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:
  - a. *Flood Risk Assessment Ref No: 45173-001, Issue No: 3, Dated: 01 October 2021, completed by Eastwood & Partners Consulting Engineers. Drainage Assessment Ref No: 45173, Issue No:1, Dated: 30 June 2022, completed by Eastwood & Partners Consulting Engineers "including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team"*
  - b. *And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015), have been submitted to and approved in writing by the Local Planning Authority."**

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

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

*works, which would lead to increased surface water run-off from site during the construction phase.”*

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

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

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

**Site specific comments**

*Applicant needs to apply to Environment Agency for consent to discharge into Ridding Brook”*

The comments received from the LLFA continue with advisory / informative notes which the LLFA comment that the information detailed in the notes will be required as an absolute minimum in order to discharge any of the drainage conditions set by the LPA.

**Environment Agency (26/07/2022):**

The Environment Agency indicated (following the case officer containing the EA directly) that the EA has no comments to make and no response is therefore to be provided to the LPA. No further comments are to be made to add to those contained within the letter dated 13/01/2022.

6.8.7 Having regard to the comments made by the LLFA, the advisory / informative notes can be added to any decision granted. It is the applicant’s responsibility to ensure the advisory notes are complied with when developing the site. The conditions recommended in the comments from the EA on 13/01/2022 (noted above in Section 6.8.5) are considered to be reasonable for the scale of the development and it is noted in the comments that the overall reduction in built footprint has led the EA to conclude that compensatory storage is not required for this development.

6.8.8 Having regard to the comments received from the above consultees, it is now considered the proposed development will, subject to complying with the conditions to be imposed on any positive decision, satisfactorily demonstrate compliance with Local Plan policy CLP13 and the wider NPPF.

## **6.9 Network Rail**

6.9.1 The application site is bound by the railway line that connects Chesterfield to Sheffield along the south west boundary of the application site. As such, Network Rail were consulted with to understand if any concerns were raised by them in respect of the development proposed. Network Rail responded to the consultation on 29/09/2020 with the following comments:

*“With reference to the protection of the railway, Network Rail has no objection in principle to the development, but below are some requirements which must be met,*

### Drainage

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

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

*It is expected that the preparation and implementation of a surface water drainage strategy addressing the above points will be conditioned as part of any approval.*

### Fail Safe Use of Crane and Plant

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

### Excavations/Earthworks

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

### Security of Mutual Boundary

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

### Armco Safety Barriers

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

### Fencing

*Because of the nature of the proposed developments we consider that there will be an increased risk of trespass onto the railway. The Developer must provide a suitable trespass proof fence adjacent to Network Rail's boundary (minimum approx. 1.8m high) and make provision for its future maintenance and renewal. Network Rail's existing fencing / wall must not*

*be removed or damaged. We note from the detail provided that the proposals include 2.4m palisade fencing which would meet this requirement.*

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

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

*Please note we will be unable to agree to discharge of a method statement condition without direct discussion and agreement with our Asset Protection Team and the developer entering into a Basic Asset Protection Agreement (where appropriate). We would advise that the developer discuss the proposals with Asset Protection prior to applying for the discharge of condition. Contact details for Asset Protection are below.*

#### *OPE*

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

#### *Demolition*

*Any demolition or refurbishment works must not be carried out on the development site that may endanger the safe operation of the railway, or the stability of the adjoining Network Rail structures. The demolition of buildings or other structures near to the operational railway infrastructure must be carried out in accordance with an agreed method statement. Approval of the method statement must be obtained from Network Rail's Asset Protection Project Manager before the development can commence.*

### Vibro-impact Machinery

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

### Scaffolding

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

### Cranes

*With a development of a certain height that may/will require use of a crane, the developer must bear in mind the following. Crane usage adjacent to railway infrastructure is subject to stipulations on size, capacity etc. which needs to be agreed by the Asset Protection Project Manager prior to implementation.*

### ENCROACHMENT

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

### Trees/Shrubs/Landscaping

*Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. We would wish to be involved in the approval of any landscaping scheme adjacent to the railway. Where landscaping is proposed as part of an application adjacent to the railway it will be necessary for details of the landscaping to be known and approved to ensure it does not impact upon the railway infrastructure. Any hedge planted adjacent to Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. Lists of trees that are permitted and those that are not permitted are provided below and these should be added to any tree planting conditions:*

*Acceptable:*

*Birch (Betula), Crab Apple (Malus Sylvestris), Field Maple (Acer Campestre), Bird Cherry (Prunus Padus), Wild Pear (Pyrs Communis), Fir Trees – Pines (Pinus), Hawthorn (Cretaegus), Mountain Ash – Whitebeams (Sorbus), False Acacia (Robinia), Willow Shrubs (Shrubby Salix), Thuja Plicatat "Zebrina"*

*Not Acceptable:*

*Acer (Acer pseudoplatanus), Aspen – Poplar (Populus), Small-leaved Lime (Tilia Cordata), Sycamore – Norway Maple (Acer), Horse Chestnut (Aesculus Hippocastanum), Sweet Chestnut (Castanea Sativa), Ash (Fraxinus excelsior), Black poplar (Populus nigra var, betulifolia), Lombardy Poplar (Populus nigra var, italica), Large-leaved lime (Tilia platyphyllos), Common lime (Tilia x europea)*

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

*Lighting*

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

*Network Rail is required to recover all reasonable costs associated with facilitating these works.*

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

*I trust full cognisance will be taken in respect of these comments. If you have any further queries or require clarification of any aspects, please do not hesitate to contact myself I would also be grateful if you could inform me of the outcome of this application, forwarding a copy of the Decision Notice to me in due course.*

*The method statement will need to be agreed with the Asset Protection Project Manager*

] 6.9.2 The comments received from Network Rail are noted and are considered to be reasonable to enable the safeguarding of the railway line to be achieved. It is noted that Network Rail comment that all drainage of the site shall be collected and directed away from Network Rail property and infrastructure. Having reviewed the submitted Flood Risk Assessment and Drainage Assessment, the Case Officer understands that no water will be drained towards the south west of the application site. It is noted the Drainage Assessment indicates that there may be opportunity / need to drain the site in to Riding Brook if no existing drainage is established at the application site. Riding Brook is located to the south / south east of the application site and is therefore away from the railway line infrastructure. It is also noted that Network Rail require surface water run off and sewage effluent to be handled in accordance with the Local Council and Water Company regulations. This is the case and this report has detailed the information provided from the applicant to accord with these standards. It is considered reasonable to reiterate through a condition however that there shall be no increase to average or peak flows of surface water run off leading towards Network Rail assets as it is noted in the comments from the LLFA the need for details regarding how additional surface water run off from the site will be avoided during the construction phase to be submitted to this LPA.

6.9.3 The applicant will need to have regard to the identified acceptable species of plants when submitting a landscaping scheme for approval. Network Rail will also be consulted on any information provided to ensure the



scheme proposed complies with the requirements as set by them with regards to safeguarding the rail lines.

- 6.9.4 The comments received from Network Rail indicate that any lighting (to be adjacent to the railway) not already indicated on the application may have potential to dazzle train drivers, or cause confusion if inappropriate in its siting or colour. It is therefore considered appropriate to condition any additional lighting at the application site to ensure Network Rail has opportunity to review any lighting proposed that is not detailed within this application.
- 6.9.5 Having regard to the above, and the recommended conditions set out by Network Rail, it is considered the proposed development will comply with Local Plan policy CLP14 (A Health Environment) and CLP20 (Design) subject to compliance with the conditions to be imposed on any decision granted.

## **7.0 REPRESENTATIONS**

- 7.1 The standard period of consultation has been carried out for this application and 3no. representations have been received from a local resident as a result. The representations have been received from the same persons and are summarised as detailed below;
- Querying the use of the application site – See *Section 6.1*
  - Potential harm of the uses encapsulated at the application site – See *Section 6.1*
  - Environmental impacts arising as a result of the proposal – See *Sections 6.1 – 6.8*
  - Impact of heavy traffic and good vehicles moving to and from the site – See *Section 6.5*
  - Concerns for development of the wider area – not a material planning consideration in this application.
- 7.2 The above concerns were raised in the initial representation received from the local resident and have been considered to be addressed in this report and discussion can be found in the sections marked next to each concern raised.
- 7.3 The remaining two representations received were noted to not be in relation to the proposal within the red line boundary relating to this application. The comments received raised concern for “preparation of land

and creation of a vehicular ingress” on land “that runs parallel to Holland Road”. Having regard to the current presentation of the application site, it is noted the application site has established vehicle access points and is not sited on the land that runs parallel to Holland Road. It is understood the comments related to the former Wagon Works site where no planning application has been submitted. The comments have been passed to the Enforcement Team to follow up for further investigation.

7.4 It is considered the matters raised in the representation that relates to this application site have been addressed in the report and due regard have been given to the matters.

## **8.0 HUMAN RIGHTS ACT 1998**

8.1 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

8.2 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.

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

9.1 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 and paragraph 38 of 2019 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.

9.2 The Local Planning Authority have during and prior to the consideration of this application engaged in a positive and proactive dialogue with the

applicant with regard to the flood risk assessment and drainage strategy at the application site in order to achieve a positive outcome for the application.

## **10.0 CONCLUSION**

- 10.1 Overall the proposal is considered to be acceptable in accordance with the above identified policies of the Local Plan. The application site is noted to have been developed since the mid-1960s and as a result, units within the site are aged and do not function to modern standards as well as being no longer fit for purpose. The proposed development therefore seeks to increase the number of units at the site whilst reducing the overall developed footprint of the site. The proposal will also result in an improvement to the drainage of the application site and enhancement measures to the biodiversity value of the application site.
- 10.2 It is considered the development proposed complies with the necessary policies and conditions have been used where appropriate to ensure compliance through the phased development of the site and during the lifetime of the development.

## **11.0 RECOMMENDATION**

- 11.1 It is therefore recommended that the application be **GRANTED** subject to the following conditions:

### **11.2 Conditions**

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

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

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

- Site layout / Block plan / BDNG – Drawing no. 002 Revision C – 1:500

- Proposed units 3 – 8 (Block B) Elevations and GA – Drawing no.004 – Scale 1:200
- Proposed 9 – 12 (Block C) Elevations and GA – Drawing no.005 – Scale 1:100
- Proposed 1 – 2 (Block A) Elevations and GA – Drawing no.003 – Scale 1:100
- Phasing Plan – Drawing no. 008 – 1:500
- Document: Flood Risk Assessment – Report no. 45173-001 – dated 01/10/2021 – Prepared by Eastwood and Partners for Walker Wood Ltd
- Document: Drainage Assessment – Report no. 45233-003 – dated 30/06/2022 – Prepared by Eastwood and Partners for Walker Wood Ltd
- Document: Biodiversity Net Gain Initial Assessment for W H Butler & Sons Founders Ltd – prepared by Ecus Ltd – dated June 2021
- Document: Nocturnal Bat Survey Report, Station Road, Chesterfield for W H Butler & Sons (Founders) Ltd – prepared by Ecus Ltd – dated September 2021
- Document: Further Ecology Surveys (Bats and Birds) – referenced 16254 – dated 07/02/2021 – prepared by Ecus Ltd for Walker Wood Ltd on behalf of W H Butler & Sons (Founders) Ltd
- Document: Phase 1 Geotechnical & Geo-Environmental Site investigation, Whittington Way, Chesterfield – Issue 1 – reference 45173-002 – dated 17/08/2020 – prepared by Eastwood and Partners for Arrow Butler Casting Ltd

**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.

3. No development shall commence in accordance with the submitted phasing plan (Phasing Plan – Drawing no. 008 – 1:500), (excluding the demolition of existing structures) until;
  - a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and
  - b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

**Reason** – This condition is imposed in order to enable appropriate investigation, remedial and mitigatory measures to be identified and carried out before building works commence on site. This condition is also in accordance with CLP14 and the NPPF.

4. In accordance with the phasing plan submitted, (Phasing Plan – Drawing no. 008 – 1:500), prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

**Reason** - This condition is imposed to enable appropriate investigation, remedial and mitigatory measures to be identified and carried out before building works commence on site. This condition is also in accordance with CLP14 and the NPPF.

5. With the exception of demolition of existing structures where appropriate and in accordance with the submitted phasing plan (Phasing Plan – Drawing no. 008 – 1:500), no works shall commence until:
  - a) detailed proposals in line with current best practice for the removal, containment or otherwise rendering harmless such contamination (the 'Contamination Proposals') shall be submitted to and approved in writing by the Local Planning Authority;
  - b) For each part of the development, 'Contamination Proposals' relevant to that part shall be carried out either before or during such development as appropriate;
  - c) If during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the 'Contamination Proposals' then the revised 'Contamination Proposals' shall be submitted to and approved in writing by the Local Planning Authority;
  - d) If during development work site contaminants are found in areas previously expected to be clean then their remediation shall be carried out in line with the agreed 'Contamination Proposals';

e) Prior to the commencement of any construction works in any area that has been subject to remediation, a verification report shall be submitted to and approved in writing by the Local Planning Authority. All reports a) to e) shall be submitted to the Local Planning Authority and approved in writing by the Local Planning Authority prior to the development commencing.

**Reason –** This pre commencement condition is required in the interests of safeguarding the proposed development and adjacent properties from the possible harmful effects of development affecting contaminated land, in accordance with Local Plan policy CLP14.

6. The demolition of Building 4 shall not take place until either a European Protected Species Licence has been obtained from Natural England or the site has been registered under a bat mitigation class licence (low impact). Upon receipt of a licence from Natural England / site registration, works shall proceed strictly in accordance with the approved mitigation, which should be based on the proposed measures outlined in the Nocturnal Bat Survey Report (Ecus Ltd. 2021) and amended as necessary based on any comments from Natural England. Such approved mitigation will be implemented in full in accordance with a timetable of works included within the licence and followed thereafter. A copy of the licence / confirmation of registration will be submitted to the LPA once granted.

**Reason –** This condition is imposed to ensure the correct licence is obtained prior to the demolition of the building to safeguard the protected species at the application site and in accordance with CLP16 of the adopted Local Plan.

7. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:
- a. Flood Risk Assessment Ref No: 45173-001, Issue No: 3, Dated: 01 October 2021, completed by Eastwood & Partners Consulting Engineers. Drainage Assessment Ref No: 45173, Issue No:1, Dated: 30 June 2022, completed by Eastwood & Partners Consulting Engineers “including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team
  - b. And DEFRA’s Non-statutory technical standards for sustainable drainage systems (March 2015), have been submitted to and approved in writing by the Local Planning Authority.

**Reason** – To ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems are provided to the Local Planning Authority, in advance of full planning consent being granted. The condition is also imposed in accordance with Local Plan policy CLP13.

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

**Reason** – To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development. The condition is also imposed in accordance with Local Plan policy CLP13.

9. Prior to the first occupation of the development in accordance with the submitted phasing plan (Phasing Plan – Drawing no. 008 – 1:500), a verification report carried out by a qualified drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

**Reason** – To ensure that the drainage system is constructed to the national Non-statutory technical standards for sustainable drainage and CIRIA standards C753. The condition is also in accordance with Local Plan policy CLP13.

10. The site shall be developed with separate systems of drainage for foul and surface water on and off site. The separate systems should extend to the points of discharge to be agreed.

**Reason** – In the interest of satisfactory and sustainable drainage and in accordance with adopted Local Plan policy CLP13.

11. Prior to any discharge to an existing or prospectively adoptable sewer, surface water run-off from hardstanding (equal to or greater than 800 square metres) and/or communal car parking area (s) of more than 50 spaces must pass through an oil, petrol and grit interceptor/separator of adequate design that has been submitted to and approved by the Local Planning Authority. Only the agreed details shall be implemented and retained at the application site.

**Reason** – To prevent pollution of the aquatic environment and protect the public sewer network. This condition is also in accordance with CLP13.

12. The development shall be carried out in strict accordance with the details indicated within the submitted report, "Drainage Assessment prepared by Eastwood & Partners, dated 30 June 2022".

**Reason** – In the interest of satisfactory and sustainable drainage and in accordance with adopted Local Plan policy CLP13.

13. The development shall be carried out in accordance with the submitted Flood Risk Assessment (ref. 45173-001, dated 01 October 2021, by Eastwood & Partners) and the following mitigation measures it details:
- Finished floor levels shall be set no lower than existing ground floor levels
  - The development shall include flood resilient and resistant construction as detailed in the flood risk assessment
- These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

**Reason** – To reduce the risk of flooding to the proposed development and future occupants and in accordance with Local Plan CLP13.

14. There shall be no increase to average or peak flows of surface water run off leading towards Network Rail assets, including earthworks, bridges and culverts.



**Reason** – To ensure Network Rail assets are protected and in accordance with adopted Local Plan CLP13.

15. The individual units hereby permitted shall only be used for the purposes of General Industry or Storage and Distribution (as defined by use classes B2 and B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended) or for Light Industrial Processes or Research and Development of products.

**Reason** – To protect the vitality and viability of existing centres and support sustainable economic growth in accordance with paragraphs 85 and 86 of the National Planning Policy Framework and policies CLP6 and CLP9 of the Chesterfield Borough Local Plan 2018-2035.

16. Construction work and demolition work shall only be carried out between the hours of 8:00 am to 6:00 pm Monday to Friday and 9:00 am to 5:00 pm on a Saturday. Construction work shall not be carried out on Sundays or Public Holidays. The term ‘construction work’ shall include mobile and fixed plant/machinery, (e.g. generators) radios and the delivery of construction materials.

**Reason** – This condition is imposed to safeguard the neighbouring residential amenity and in accordance with CLP14.

17. At all times during the demolition and construction phase, measures to minimise airborne dust arising from the site shall be in place throughout the construction period including demolition.

**Reason** – This condition is imposed to safeguard the neighbouring residential amenity and in accordance with CLP14.

18. Prior to building works commencing above foundation level, a bat and bird box plan shall be submitted to and approved in writing by the LPA to maximise site biodiversity. This shall include the bat boxes as recommended in Section 4.3.7 of the Nocturnal Bat Survey Report (Ecus Ltd., 2021), along with a range of suitable bird boxes for the site.

**Reason** – This condition is imposed to ensure the site delivers biodiversity net gain and is in accordance with adopted Local Plan policy CLP16.

19. Prior to completion or first occupation of the development hereby approved, whichever is the sooner; details of treatment of all parts on the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with and reflect the soft landscaping Option 3 in the submitted Biodiversity Net Gain Initial Assessment by ECUS dated June 2021 in the first planting season after completion or first occupation of the development, whichever is the sooner. Details shall include:
- a) a scaled plan showing vegetation to be retained and trees and plants to be planted:
  - b) proposed hardstanding and boundary treatment:
  - c) a schedule detailing sizes and numbers of all proposed trees/plants
  - d) Sufficient specification to ensure successful establishment and survival of new planting.

**Reason** – Required to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and biodiversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality. The condition is also in accordance with the requirement from Network Rail to approve the planting in proximity to the rail lines. The condition is therefore in accordance with adopted Local Plan policies CLP14 and CLP16.

20. Any new tree(s) that die(s), are/is removed, become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Replacement planting shall be in accordance with the approved details (unless the Local Planning Authority gives its written consent to any variation).

**Reason** - Required to safeguard and enhance the character and amenity of the area, to provide ecological, environmental and biodiversity benefits and to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality. The condition is therefore in accordance with adopted Local Plan policy CLP16.

21. All lighting shall be designed so as not to cause glare / overspill of the site.

**Reason** – This condition is in accordance with Local Plan policy CLP14.

22. Where new external lighting is to be installed (in addition to the lighting detailed in the approved plans), details of the external lighting shall be provided to the Local Planning Authority for approval. Only the approved lighting shall be installed at the application site.

**Reason** – To ensure the lighting is acceptable and does not cause harm particularly for the neighbouring residents and Network Rail. This condition is also in accordance with Local Plan policy CLP14.

23. An Armco or similar barrier shall be located in positions where vehicles may be in a position to drive into or roll onto the railway or damage the lineside fencing. At no time during demolition or construction shall Network Rail's existing fencing / wall must be removed or damaged. As a minimum, provision should be made at each turning area/roadway/car parking area adjacent to the railway.

**Reason** – This is in accordance with the new guidance for road/rail vehicle incursion NR/LV/CIV/00012 following on from DfT advice issued in 2003, now updated to include risk of incursion from private land/roadways and is also in accordance with Local Plan policy CLP14.

24. The proposed 2.4 metre high palisade fencing as shown in the approved site layout plan shall be retained unless an alternative / replacement is otherwise agreed in writing with the Local Planning Authority.

**Reason** – To ensure the site is secure and to mitigate trespass on to Network Rail's property and in accordance with Local Plan policy CLP14.

25. Prior to any works commencing within 10 metres of the railway boundary, a method statement shall be submitted to Network Rail for approval. The method statement shall include details regarding the proposed method of construction, risk assessment in relation to the railway and a construction traffic management plan. Works shall then be carried out in strict accordance with the details agreed in the method statement.

**Reason** – To ensure the site is developed to a satisfactory standard for Network Rail and in accordance with Local Plan policy CLP14.

26. A minimum of 6no weeks prior to works commencing on site, the applicant is required to make direct contact with the Asset Protection Project Manager (OPE) at Network Rail. The OPE will require to see details in respect of method statements, drawings relating to excavation, drainage, demolition, lighting and building work, or any other works that may affect the safety, operation, integrity and access to the railway.

**Reason** – To ensure the site is developed to a satisfactory standard for Network Rail and in accordance with Local Plan policy CLP14.

27. Prior to the occupation of the units hereby approved, and in accordance with the submitted phasing plan (Phasing Plan – Drawing no. 008 – 1:500), a minimum of 5no. Electric Vehicle Charging points shall be provided at the application site and shall be made available and maintained operational for the lifetime of the approved development.

**Reason** – In the interests of reducing emissions and in line with Policy CLP22 of the Adopted Local Plan 2020.

28. All surface water run-off and sewage effluent shall be handled in accordance with Local Council and Water Company regulations.

**Reason** – In the interest of satisfactory drainage and in accordance with Local Plan policy CLP13.

### **11.3 Informative Notes**

1. The Local Planning Authority have during and prior to the consideration of this application engaged in a positive and proactive dialogue with the applicant with regard to the flood risk assessment and drainage strategy at the application site in order to achieve a positive outcome for the application.
2. 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.

3. Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. In the event that you are proposing to undertake such work in the Forest of Dean local authority area our permission may not be required; it is recommended that you check with us prior to commencing any works. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at:  
[www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property](http://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property)

#### Disclaimer

The above consultation response is provided by The Coal Authority as a Statutory Consultee and is based upon the latest available data on the date of the response, and electronic consultation records held by The Coal Authority since 1 April 2013. The comments made are also based upon only the information provided to The Coal Authority by the Local Planning Authority and/or has been published on the Council's website for consultation purposes in relation to this specific planning application. The views and conclusions contained in this response may be subject to review and amendment by The Coal Authority if additional or new data/information (such as a revised Coal Mining Risk Assessment) is provided by the Local Planning Authority or the Applicant for consultation purposes.

In formulating this response The Coal Authority has taken full account of the professional conclusions reached by the competent person who has prepared the Coal Mining Risk Assessment or other similar report. In the event that any future claim for liability arises in relation to this development The Coal Authority will take full account of the views, conclusions and mitigation previously expressed by the professional advisers for this development in relation to ground conditions and the acceptability of development.

4. When you carry out the work, you must avoid taking, damaging or destroying the nest of any wild bird while it is being built or used, and avoid taking or destroying the egg of any wild bird. These would be offences (with certain exceptions) under the Wildlife and Countryside Act 1981, the Habitats Regulations 1994 and the Countryside and Rights of Way Act 2000.

5. When you carry out the work, you must not intentionally kill, injure or take a bat, or intentionally or recklessly damage, destroy or block access to any structure or place that a bat uses for shelter. These would be offences under the Wildlife and Countryside Act 1981, the Habitats Regulations 1994 and the Countryside and Rights of Way Act 2000.
6. The applicant is notified of the need to apply to Environment Agency for consent to discharge into Ridding Brook.
7. The Environmental Permitting (England and Wales) Regulations 2016 require a permit or exemption to be obtained for any activities which will take place:
  - on or within 8 metres of a main river (16 metres if tidal)
  - on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
  - on or within 16 metres of a sea defence
  - involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
  - in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activitiesenvironmental-permits> or contact our National Customer Contact Centre on 03708 506 506 (Monday to Friday, 8am to 6pm) or by emailing [enquiries@environmentagency.gov.uk](mailto:enquiries@environmentagency.gov.uk)

The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

8. The applicant/occupants should phone Floodline on 0345 988 1188 to register for a flood warning, or visit <https://www.gov.uk/sign-up-for-flood-warnings> It's a free service that provides warnings of flooding from rivers, the sea and groundwater, direct by telephone, email or text message. Anyone can sign up. Flood warnings can give people valuable time to prepare for flooding – time that allows them to move themselves, their families and precious items to safety. Flood warnings can also save lives and enable the emergency services to prepare and help communities.

9. For practical advice on preparing for a flood, visit <https://www.gov.uk/prepare-forflooding>. To get help during a flood, visit <https://www.gov.uk/help-during-flood>. For advice on what do after a flood, visit <https://www.gov.uk/after-flood>.
10. A. The County Council does not adopt any SuDS schemes at present (although may consider ones which are served by highway drainage only). As such, it should be confirmed prior to commencement of works who will be responsible for SuDS maintenance/management once the development is completed.
- B. Any works in or nearby an ordinary watercourse may require consent under the Land Drainage Act (1991) from the County Council. For further advice, or to make an application please contact [Flood.Team@derbyshire.gov.uk](mailto:Flood.Team@derbyshire.gov.uk).
- C. No part of the proposed development shall be constructed within 5-8m of an ordinary watercourse and a minimum 3 m for a culverted watercourse (increases with size of culvert). It should be noted that DCC have an anti-culverting policy.
- D. The applicant should be mindful to obtain all the relevant information pertaining to proposed discharge in land that is not within their control, which is fundamental to allow the drainage of the proposed development site.
- E. The applicant should demonstrate, to the satisfaction of the Local Planning Authority, the appropriate level of treatment stages from the resultant surface water discharge, in line with Table 4.3 of the CIRIA SuDS Manual C753.
- F. The County Council would prefer the applicant to utilise existing landform to manage surface water in mini/sub-catchments. The applicant is advised to contact the County Council's Flood Risk Management team should any guidance on the drainage strategy for the proposed development be required.
- G. The applicant should provide a flood evacuation plan which outlines:
- The flood warning procedure
  - A safe point of extraction
  - How users can safely evacuate the site upon receipt of a flood warning
  - The areas of responsibility for those participating in the plan
  - The procedures for implementing the plan
  - How users will be made aware of flood risk
  - How users will be made aware of flood resilience
  - Who will be responsible for the update of the flood evacuation plan

H. Flood resilience should be duly considered in the design of the new building(s) or renovation. Guidance may be found in BRE Digest 532 Parts 1 and 2, 2012 and BRE Good Building Guide 84.

I. Surface water drainage plans should include the following:

- Rainwater pipes, gullies and drainage channels including cover levels.
- Inspection chambers, manholes and silt traps including cover and invert levels.
- Pipe sizes, pipe materials, gradients, flow directions and pipe numbers.
- Soakaways, including size and material.
- Typical inspection chamber / soakaway / silt trap and SW attenuation details.
- Site ground levels and finished floor levels.

J. On Site Surface Water Management;

- The site is required to accommodate rainfall volumes up to the 1% probability annual rainfall event (plus climate change) whilst ensuring no flooding to buildings or adjacent land.
- The applicant will need to provide details and calculations including any below ground storage, overflow paths (flood routes), surface detention and infiltration areas, etc, to demonstrate how the 100 year + 40% Climate Change rainfall volumes will be controlled and accommodated. In addition, an appropriate allowance should be made for urban creep throughout the lifetime of the development as per 'BS 8582:2013 Code of Practice for Surface Water Management for Developed Sites' (to be agreed with the LLFA).
- Production of a plan showing above ground flood pathways (where relevant) for events in excess of the 1% probability annual rainfall event, to ensure exceedance routes can be safely managed.
- A plan detailing the impermeable area attributed to each drainage asset (pipes, swales, etc), attenuation basins/balancing ponds are to be treated as an impermeable area.

#### Peak Flow Control

- For greenfield developments, the peak run-off rate from the development to any highway drain, sewer or surface water body for the 1 in 1 year rainfall event and the 1 in 100 year rainfall event, should never exceed the peak greenfield run-off rate for the same event.
- For developments which were previously developed, the peak run-off rate from the development to any drain, sewer or surface water body for the 100% probability annual rainfall event and the 1%



probability annual rainfall event must be as close as reasonably practicable to the greenfield run-off rate from the development for the same rainfall event, but should never exceed the rate of discharge from the development, prior to redevelopment for that event.

### Volume Control

- For greenfield developments, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual rainfall event must not exceed the greenfield runoff volume for the same event.
- For developments which have been previously developed, the runoff volume from the development to any highway drain, sewer or surface water body in the 6 hour 1% probability annual rainfall event must be constrained to a value as close as is reasonably practicable to the greenfield runoff volume for the same event, but must not exceed the runoff volume for the development site prior to redevelopment for that event.

Note:- If the greenfield run-off for a site is calculated at less than 2 l/s, then a minimum of 2 l/s could be used (subject to approval from the LLFA).

- 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.
- Where cellular storage is proposed and is within areas where it may be susceptible to damage by excavation by other utility contractors, warning signage should be provided to inform of its presence. Cellular storage and infiltration systems should not be positioned within the highway.
- Guidance on flood pathways can be found in BS EN 752.
- The Greenfield runoff rate which is to be used for assessing the requirements for limiting discharge flow rates and attenuation storage for a site should be calculated for the whole development area (paved and pervious surfaces - houses, gardens, roads, and other open space) that is within the area served by the drainage network, whatever the size of the site and type of drainage system. Significant green areas such as recreation parks, general public open space, etc., which are not served by the drainage system and do not play a part in the runoff management for the site, and which can be assumed to have a runoff response which is similar to that prior to the development taking place, may be excluded from the greenfield analysis.

K. If infiltration systems are to be used for surface water disposal, the following information must be provided:

- Ground percolation tests to BRE 365.
- Ground water levels records. Minimum 1m clearance from

maximum seasonal

groundwater level to base of infiltration compound. This should include assessment of relevant groundwater borehole records, maps and on-site monitoring in wells.

- Soil / rock descriptions in accordance with BS EN ISO 14688-1:2002 or BS EN ISO 14689-1:2003.
- Volume design calculations to 1% probability annual rainfall event + 40% climate change standard. An appropriate factor of safety should be applied to the design in accordance with CIRIA C753 – Table 25.2.
- Location plans indicating position (soakaways serving more than one property must be located in an accessible position for maintenance). Soakaways should not be used within 5m of buildings or the highway or any other structure.
- Drawing details including sizes and material.
- Details of a sedimentation chamber (silt trap) upstream of the inlet should be included. Soakaway detailed design guidance is given in CIRIA Report 753, CIRIA Report 156 and BRE Digest 365.

L. All Micro Drainage calculations and results must be submitted in .MDX format, to the LPA. (Other methods of drainage calculations are acceptable.)

M. The applicant should submit a comprehensive management plan detailing how surface water shall be managed on site during the construction phase of the development ensuring there is no increase in flood risk off site or to occupied buildings within the development.

11. All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.
12. All excavations/ earthworks carried out in the vicinity of Network Rail property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by

Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Project Manager should be undertaken. Network Rail will not accept any liability for any settlement, disturbance or damage caused to any development by failure of the railway infrastructure nor for any noise or vibration arising from the normal use and/or maintenance of the operational railway. No right of support is given or can be claimed from Network Rail's infrastructure or railway land.

13. Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Project Manager.
14. Any demolition or refurbishment works must not be carried out on the development site that may endanger the safe operation of the railway, or the stability of the adjoining Network Rail structures. The demolition of buildings or other structures near to the operational railway infrastructure must be carried out in accordance with an agreed method statement. Approval of the method statement must be obtained from Network Rail's Asset Protection Project Manager before the development can commence.
15. Where vibro-compaction machinery is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement.
16. With a development of a certain height that may/will require use of a crane, the developer must bear in mind the following. Crane usage adjacent to railway infrastructure is subject to stipulations on size, capacity etc. which needs to be agreed by the Asset Protection Project Manager prior to implementation.
17. Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time

will any poles over-sail the railway and protective netting around such scaffold must be installed.

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