

ITEM 8

Case Officer: EC

Application No: CHE/22/00272/FUL

**ERECTION OF ELECTRIC VEHICLE CHARGING STATION WITH
ANCILLARY USES INCLUDING RETAIL AND FOOD AND DRINK WITH
ASSOCIATED ELECTRICAL INFRASTRUCTURE, CAR PARKING AND
LANDSCAPING ON LAND AT ENTERPRISE WAY, DUCKMANTON,
CHESTERFIELD FOR GRIDSERVE SUSTAINABLE ENERGY LTD**

Planning Committee Date: 30th August 2022

1.0 CONSULTATION RESPONSES

Ward Members:	No comments received
Strategic Planning	The proposed development is likely to be acceptable in principle subject to conditions restricting floorspace, improved walking/cycling provision, biodiversity net gain. Elements of the proposed development are likely to be CIL liable.
Chesterfield Civic Society	No comments received
Conservation Officer	No comments received
Historic England	No comments required
DCC Archaeology	The development area has previously been terraced into the underlying slope removing part of Old Peveril Road and suspect any archaeology with it. No impact from the development on buried archaeology
Yorkshire Water	Submitted Flood risk and drainage strategy is acceptable, condition recommended
Lead Local Flood Authority	No comments received
Environment Agency	No comments received

Design Services Drainage	Comments made during application process on calculations, amendments made to strategy and supporting information provided. No further objections.
Local Highways Authority (DCC)	No objections subject to conditions
National Highways	No objection. Informative note for applicant regarding signage (signage does not form part of the application at this stage)
Environmental Health	No comments received
Derbyshire Constabulary	Requested details regarding tethering arrangements, security and cctv coverage
Derbyshire Wildlife Trust	Conditions recommended including an ecological enhancement plan and compliance condition for work in accordance with the revised appraisal
Tree Officer	No objections subject to conditions
Economic Development	Supportive of application, recommended a local labour/supply chain condition be agreed
North East Derbyshire Council	No comments – consideration of updated Design Framework required
Bolsover District Council	No objections
Representations	No representations received

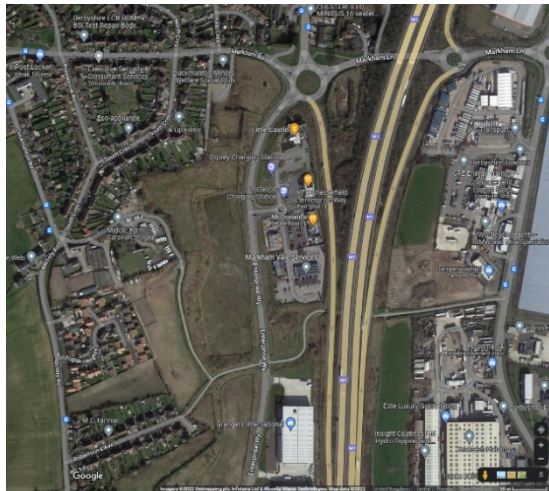
2.0 THE SITE

- 2.1 The site the subject of the application is a vacant parcel of land situated within Markham Vale. The plot is located to the west of Enterprise Way and comprises of part of the plot known as ‘Plot 7’ in the Markham Employment Growth Zone (MEGZ). The red line boundary of the application site is approximately 1.28 hectares in

area overall with the build area for the development occupies approximately 0.62 hectares (6,263 sq. m)

2.2 The application site occupies an elevated position above Enterprise Way. The site was previously cleared and regraded to create a level plateau development plot as part of the Markham Vale scheme with strategic landscaped embankments to the east and west. The settlement of Duckmanton is located to the west/north west of the site on a plateau with a landscaped escarpment forming the boundary to the application site.

2.3 To the east of the site is a mix of uses including a public house know as 'Little Castle', restaurants/coffee shops with drive thru facilities including KFC, McDonalds and Costa Coffee and a fuelling station operated by Euro Garages. The wider site encompasses the Markham Employment Growth Zone (MEGZ 'Markham Vale').



Aerial photograph of application site from Google ©



Extract of submitted site location plan ©





3.0 SITE HISTORY

Original outline consent Markham Vale (MEGZ) Regeneration Scheme

- 3.1 CHE/0502/0312 - Commercial (not major retail), office, industrial and warehouse development; new and altered road (including a new motorway junction); land reclamation, ground re-modelling, drainage, landscaping and re-use of railheads on 360 hectares of land in Bolsover, Staveley, Sutton-cum-Duckmanton on both side of the M1 in the vicinity of the former Markham Colliery, A632 (Chesterfield Road), Erin Road, Lowgates, Eckington Road, Hall Lane and the A619 south of Staveley at land off Chesterfield Road, Erin Road, Lowgates and Eckington Road – CONDITIONAL PERMISSION (16.05.2005)
- 3.2 CHE/13/00781/EOT - Extension of time to CHE/0502/0312 for 'Commercial (not major retail) office, industrial and warehouse development new and altered roads (including a motorway junction) land reclamation, ground re-modelling, drainage landscaping and re-use of railheads on 360 hectares of land in Bolsover, Staveley and Sutton-cum-Duckmanton on both sides of the M1 in the vicinity of the former Markham Colliery A632 (Chesterfield Road) Erin Road, Lowgates, Eckington Road, Hall Lane and the A619 south of Staveley and land off, Chesterfield Road, Erin Road, Lowgates, Eckington Road – CONDITIONAL PERMISSION (12.05.2014)

Relevant reserved matters and variations

- 3.3 CHE/13/00014/REM1 - Variation of conditions 7, 11, 20, 21, 47, 49 and 50 of CHE/0502/0312 - Markham Vale (MEGZ) Regeneration Scheme - conditions 12 and 23 removed from application by letter dated 6th June 2013 – CONDITIONAL PERMISSION (24.09.2013)

- 3.4 CHE/09/00778/REM1 - Variation of Condition 21 of Planning Permission CHE/0502/0312 (MEGZ) – CONDITIONAL PERMISSION (23.04.2010)
- 3.5 CHE/15/00291/REM1 - Variation of conditions 6, 7, 9, 13, 18, 20, 21, 31, 32, 34, 37 and 39 of CHE/13/00781/EOT - additional information received on 12/10/2015 and 15/10/2015 (including addition of condition 39) - CONDITIONAL PERMISSION (17.11.2015)

Applications in the immediate vicinity of site

- 3.6 CHE/20/00631/FUL - Erection of a fish and chip shop restaurant, Drive Thru and take away, car parking and associated access, landscaping and drainage works. Revised drawings received 30.11.2020 – CONDITIONAL PERMISSION (12.02.2021)
- 3.7 CHE/13/00539/OUT- Outline planning permission (with all matters reserved) for the proposed erection of retail units (Use Class A1), restaurant with drive thru facility (Use Class A3), and public house (Use Class A4), and associated infrastructure – CONDITIONAL PERMISSION (19.11.2013)
- 3.8 CHE/13/00846/REM - Application for approval of reserved matters for access, appearance, landscaping, layout, scale for public house/restaurant - Planning Application CHE/13/00539/OUT – CONDITIONAL PERMISSION (11.04.2014)
- 3.9 CHE/13/00322/FUL - Proposed erection of petrol filling station (sui generis) with ancillary retail floorspace (for the sale of convenience goods including food, cards and newspapers, stationary and a sandwich shop) and drive thru cafe/restaurant (Use Class A3), with associated car parking, access arrangements and landscaping works – CONDITIONAL PERMISSION (23.07.2013)
- 3.10 CHE/11/00566/FUL - Proposed erection of a restaurant with drive through facility, car parking and associated access, landscaping and drainage works – CONDITIONAL PERMISSION (01.11.2011)

4.0 THE PROPOSAL

- 4.1 The application proposes the erection of an of electric vehicle charging station with ancillary uses including retail and food and drink with associated electrical infrastructure, car parking and

landscaping. The premises would be operational 24 hours a day 7 days a week and create 9 full time jobs.

- 4.2 The GRIDSERVE Electric Forecourt® will include 30 electric vehicle charging points, including: 22 high powered charging units; 5 lower power charging units; and, 3 high powered HGV charging units, and associated roads/parking/electrical infrastructure. The development proposes a two storey structure with ancillary uses at first floor and parking with charging facilities at ground floor. The first floor incorporates a customer lounge, including a coffee shop, retail space, toilets, seating areas and workspace. The retail space at first floor would not exceed 244 sq. m.
- 4.3 The building has a contemporary design and external materials include vertical cladding. The main panel is a Kingspan Evolution Axis smooth panel, colour - Altaris dark copper metallic. Feature cladding panels to either end of the building, signage zones and areas below the windows will be clad using both Kingspan Evolution and Euroclad Vieo, colour Onyx to RAL 7016 (dark grey) and Moonstone to RAL 7035 (light grey). The glazing will be a frameless curtain walling system and a living green wall façade system will clad the fire exit stair to the west. A large solar array is planned on the roof space to reduce the electricity demand of the building.



Indicative visualisation of proposed building



Indicative visualisation of proposed site layout

4.3 Vehicular access to the site will be taken from Enterprise Way via a 'one-way' system, the entrance 'in' to the south eastern corner of the site and exit 'out' to the north eastern corner. Highway alterations will be required to the existing road. Dedicated pedestrian access will be provided at each access point. Cycle parking is indicated, however full details have not been provided.

4.4 The application proposes a detailed landscaping scheme covering 1333sqm of the site with a mix of new planting, trees, hedges and a living green wall to the western elevation of the building. Measures to enhance biodiversity have been considered and discussion regarding biodiversity net gain will be set out in the following sections.

4.5 Signage is indicated, however this does not form part of the submission and would require a separate application for advertising consent

5.0 PLANNING POLICY

5.1 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.

5.4 Chesterfield Borough Local Plan 2018 – 2035

- CLP1 Spatial Strategy (Strategic Policy)
- CLP2 Principles for Location of Development (Strategic Policy)

- CLP6 Economic Growth (Strategic Policy)
- CLP9 Retail
- CLP11 Infrastructure Delivery
- CLP13 Managing the Water Cycle
- CLP14 A Healthy Environment
- CLP16 Biodiversity, Geodiversity and the Ecological Network
- CLP20 Design
- CLP21 Historic Environment
- CLP22 Influencing the Demand for Travel
- SS4 Markham Vale (Strategic Policy)

5.5 National Planning Policy Framework 2021

- Part 2. Achieving sustainable development
- Part 4. Decision-making
- Part 6. Building a strong, competitive economy
- Part 7. Ensuring the vitality of town centres
- Part 8. Promoting healthy and safe communities
- Part 15. Conserving and enhancing the natural environment.

6.0 CONSIDERATION

6.1 Principle of Development

6.1.1 In assessing the principle of the proposed development two key areas of policy are relevant in particular whether the proposal accords with the strategic allocation of Markham Vale as an employment location under policy SS4, and whether the retail element accords with the sequential and retail impact tests as set out in the NPPF and policies CLP8 and CLP9 of the adopted Local Plan.

6.1.2 The Council's Strategic Planning team reviewed the scheme and provided the following comments;

SS4 – Markham Vale

The proposed use is not covered by the existing outline permission for the Markham Vale development. Policy SS4 sets a number of criteria by which proposed uses that fall outside the outline should be considered:

“...permission for works or development not covered by the existing outline planning permission (and any subsequently approved amendments) will only be granted where they can demonstrate that they:

- a) *support the principal objectives of the Markham Vale development and the advanced manufacturing sector in particular; and*
- b) *support job creation; and*
- c) *meet the needs of businesses on the site; and*
- d) *minimise any adverse impact on the local and national highways network; and*
- e) *make appropriate provision for walking and cycling access to development in accordance with policy CLP22;*
- f) *have no unacceptable impacts upon heritage assets, their settings and key views outside of the Borough at Bolsover Castle and Sutton Scarsdale Hall, through submission of a Heritage Impact Assessment where appropriate; and*
- g) *accord with the approved design framework for the site; and*
- h) *meet the requirements of other relevant policies in the plan.”*

I note that National Highways have raised no objection, partly satisfying criteria (d).

The application site is part of Plot 7, which was envisaged in the masterplan as delivering a range of supporting uses for Markham Vale, including a Hotel/conference centre in the location of the application. The proposal would not therefore compromise the land available to deliver the core employment and commercial floorspace of Markham Vale and would expand the range of uses supporting the wider development.

There is also a benefit to expanding the range of EV charging facilities available in the borough, in accordance with national and local policies.

I am therefore satisfied that the principle of the proposal does not conflict with policy SS4, subject to consideration of detailed matters such as the submitted heritage assessment, appearance and the Markham Vale design framework.

Sequential and Impact tests

The site is within 500m of Duckmanton Local Centre. Policy CLP9 allows for local shops of up to 200sqm in such locations without having to satisfy the sequential and impact assessments, providing they are serving local day to day needs (which is not the case with this application, the applicant highlighting that the commercial uses are intended to be used by customers of the EV charging primarily).

The applicant has included consideration of the impact and sequential assessments in their Planning Statement, but I note have not submitted any assessment of alternative sites, as would normally be required for a sequential assessment, or any detailed analysis of potential impact on Duckmanton Local Centre. I will address whether this approach is suitable below.

There is some lack of clarity about the amount of commercial activity proposed, the application form refers to 815 sqm of development falling into use class 'E', whereas the Proposed Plans (drawing 8308-BOW-A0-ZZ-DR-A-0200) indicated 244sqm of Retail/Café space. The Planning Statement also indicates "The GEA of the building at first floor is 815 sq. m including the circulation cores. The retail space 244 sqm and the Lounge areas, car display and office pods occupying the remaining". Regardless, the development would exceed the local impact and sequential test thresholds. However this will need to be clarified, particularly in respect of any potential CIL liability (see below) and it is recommended that any permission be subject to a condition limiting the floorspace that can be used for CIL liable uses (including shops, food and drink, financial and professional services).

There are a range of other uses allowed for by use class E, that are not suggested by the application, but which it would be appropriate to restrict either because they have not been considered in sequential or impact terms, or because the nature of the use would require further detailed consideration, these being: the provision of medical or health services, principally to visiting members of the public; creche, day nursery or day centre; and indoor sport, recreation or fitness.

There is no need to restrict other uses covered by use class E, specifically office or light industrial use, as these would be appropriate uses in this location under Strategic Site allocation SS4.

I note that the applicant make reference to the Council's previous comments regarding application of the sequential and impact tests with regard to planning application CHE/20/00631/FUL for a drive thru fish and chip restaurant. I do not agree that the two situations are entirely comparable – the previous application was within a plot of land that was surrounded on all sides by similar commercial

uses, accessed from the same point, whereas the current application is a stand-alone scheme on a separate plot of land.

Nonetheless, I am satisfied by applicant's argument that the scale of provision is limited, and (recognising that uses should not be artificially disaggregated for the purposes of the tests) suitable to support the main EV charging use in this location, subject to the amount of floorspace being limited by condition as set out above.'

- 6.1.2 Further comments provided in respect of biodiversity net gain (CLP16), traffic and transport (CLP20 and CLP22), design and appearance (CLP20) and the community Infrastructure levy (CIL) will be covered in the following sections.
- 6.1.3 The Spatial Strategy (CLP1) seeks to concentrate new development within walking distance of a range of Key Services as set out in policy CLP2, and to focus on areas that need regenerating, including the 'place shaping' areas set out in policies SS1 to SS6 and Regeneration Priority Areas. The application site is located with the existing Markham Employment Growth Zone (MEGZ) a key regeneration priority area SS4. It is acknowledged that the nature of the use will encourage car travel to the site to utilise the charging facilities, however, the proposal would accord with parts of CLP2 including c) helping to deliver wider regeneration benefits to the area including provision of dedicated facilities for electric charging for the highway network in accordance with national and local policies.
- 6.1.4 Consideration of Policy SS4 is required for development not covered by the existing outline consent. Policy SS4 requires all development within the Markham Vale area to contribute to the site as an area of strategic employment and planning permission will be granted for uses not covered by the outline on the basis that they meet requirements a to h. The proposal will result in the creation of jobs and provide additional facilities for existing businesses on the site (b and c), local community and the wider travel network. The proposal will not adversely impact the local and national highways network and opportunities are provided for cycling to the site (d and e). Due to the size and scale of the building it is not considered that the proposal will have an adverse impact on heritage assets, their settings or key views (f). The proposal will accord generally with the agreed design framework and meet other relevant policy requirement (g and h). The rest of the plot will remain available which further contributes to

development of this established business area (CLP6). The principle of development therefore accords with policy SS4.

- 6.1.5 The application site is located within 500m of Duckmanton Local Centre. Policy CLP9 allows for local shops of up to 200sqm in such locations without having to satisfy the sequential and impact assessments. The submitted Planning Statement includes consideration of the impact and sequential assessments however assessment of alternative sites any detailed analysis of potential impact on Duckmanton Local Centre has not been provided. Overall as the scale of provision is limited and necessary to support the main electric charging use the proposal is acceptable subject to a condition controlling the amount of floorspace.
- 6.1.6 The proposed development represents a sui generis use with ancillary E retail use at first floor in the building. The use is mixed and inherently linked. It is recommended that a condition be imposed requiring the development to remain primarily as a sui generis electric charging facility with ancillary E(a) and E(b) uses only, which restrict alternative uses within the E class use class which have not formed part of the sequential assessment.
- 6.1.7 The scheme supports the objectives and targets of the Government's 'Road to Zero Strategy' (July 2018), which include reducing emissions from the vehicles already on the UK's roads, and to drive the uptake of zero emission cars, vans and trucks. Chesterfield Borough Council declared a climate change emergency in 2019 and it therefore supportive of the principle of the development to facilitate the shift towards electric vehicles and provide the necessary infrastructure. The development requires site specific site conditions and infrastructure capacity to bring a new facility to the Borough. In addition the development also seeks to use only 100% renewable energy and includes solar array on the roof of the building
- 6.18 Subject to conditions the principle of development is considered to be acceptable in accordance with Local Plan policies CLP1, CLP2, CLP9 and SS4.

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. Policy CLP20 also requires consideration of reducing CO2 emissions through the use of renewable energy.

- 6.2.2 The application site occupies part of the plot and the proposed building is set back from the highway frontage. The building has a contemporary design with frameless curtain wall glazing. The structure is two storey in scale with the main built form at first floor level with an open arrangement at ground floor. The submitted plans include a solar array to the roof space. Visibility of the solar array is considered to be limited due to the design of the building.
- 6.2.3 The building will be clad in Kingspan cladding in predominately dark grey with a smaller copper accent. The use of cladding reflects the materials of the surrounding units at Markham Vale although variation is noted in the immediate streetscene. The main palette is dark grey with copper detailing part of the corporate brand/colours for Gridserve.
- 6.2.4 Markham Vale design framework stipulates a palette of materials for developments on the MEGZ site and which generally promotes darker recessive colours allowing the brighter colours for trims etc. The application is a standalone full application, rather than a reserved matters submission, however it is the case that the proposal accords with the materials specifications in the Design Frameworks and there will be no adverse impact on the setting of the nearby Heritage Assets (Bolsover Castle and Sutton Scarsdale Hall).
- 6.2.5 The associated infrastructure required to implement the development will be enclosed by 3m timber fencing to create compounds for battery storage, substation, refuse/retail storage and related plant. The fencing will be relatively prominent however it is considered necessary to secure the associated infrastructure. A detailed soft landscaping plan has been provided to enhance the setting of the development and contribute to biodiversity enhancements (see section 6.7)
- 6.2.6 The design of the building is considered to be acceptable in the site context and accords with the provisions of Local Plan policy CLP20.

6.3 Amenity, Noise and Nuisance

- 6.3.1 Local Plan policies CLP20 and CLP14 states that development will be expected to have an acceptable impact on the amenity of users and neighbours.
- 6.3.2 The nearest residential dwellings are located in Duckmanton to the west of the site with a significant separation distance and level change. The application is supported by a noise impact assessment which concludes that the levels of noise generated by the site at the closest residential dwelling would achieve the criteria where negligible noise impact is predicted. The proposal is therefore considered to be maintain acceptable levels of residential amenity. It is recommended that a condition controlling construction hours be imposed during the development build to prevent undue disturbance.
- 6.3.3 The application also includes a lighting scheme with lux contours. The spill from the site is indicated to be largely contained at the boundaries and is considered to be acceptable.
- 6.3.4 Derbyshire Constabulary raised no objections in principle and highlighted the risk associated with crime and disorder in respect of traditional service stations including queries regarding tethering, detail regarding security provision and unspecified CCTV system. guardianship brought by site staff isn't clear in hours of occupation, however if site is to operate on a 24 hour basis the risk is lessened – requested a technical plan for CCTV coverage and technical specification to support the application and controlled by condition. The Agent/Applicant provided a response to the consultee comments and confirmed that the charging units will be 'tethered', charging will be paid for by card reducing potential misuse and the site will be open 24/7 with staff on site. A CCTV system will be installed however it is not considered necessary for this to be approved by the LPA.
- 6.3.5 Subject to conditions the proposal is considered to accord with the provisions of policies CLP14 and CLP20 of the Local Plan.

6.4 Conservation and Historic Environment

- 6.4.1 The NPPF requires a positive approach to the conservation and enjoyment of the historic environment. Local Plan policy CLP21 requires consideration of designated heritage assets and their settings. Policy SS4 required development at Markham Vale to have no unacceptable impacts upon heritage assets, their settings and key views outside of the Borough at Bolsover Castle and

Sutton Scarsdale Hall, through submission of a Heritage Impact Assessment where appropriate (f)

- 6.4.2 The site is located to the west of Poplar Farmhouse (Grade II) which is screened from the development site by the existing built form. Bolsover Castle (Grade I) is located to the east of the site and Sutton Scarsdale Hall (Grade I) is located to the south. The application is supported by a heritage impact assessment with detailed assessment of the proposed development and impact on the identified assets.
- 6.4.3 The submitted heritage impact assessment reviews the significance of the assets and provides assessment of the long range views from the two sites. In both cases the application site is considered to be screened by the existing built form of large scale units at Markham Vale. The application site is not considered to contribute to the setting or significant of the assets and no harms has been identified. In addition, Historic England were consulted on the scheme and no comments to make.
- 6.4.4 The proposal therefore accords with the provision of the NPPF and Local Plan policies CLP21 and SS4.

6.5 Flood Risk and Drainage

- 6.5.1 Policy CLP13 requires consideration of sustainable drainage systems for major development unless it can be demonstrated that this is not appropriate in a specific location.
- 6.5.2 The site is in a low risk area in relation to risk of flooding (Flood Zone 1). As part of the wider MEGZ development the site was regraded with infrastructure networks installed.
- 6.5.3 The application is supported by a flood risk and drainage strategy. Yorkshire Water reviewed the submitted strategy and raised no objections, noting that foul water will discharge to a public foul sewer, the sub conditions do not support the use of soakaways and any surface water connections to the nearby watercourse will require agreement with relevant parties (Environment Agency, local land drainage authority, internal drainage board). Yorkshire Water recommended a condition be imposed requiring the development to be undertaken in accordance with the strategy as submitted.

- 6.5.4 The Council's Drainage Engineer reviewed the scheme and requested updated calculations for climate change allowances and peak flows. The strategy was updated along with additional commentary and no further objections were raised.
- 6.5.5 Subject to the condition as requested by Yorkshire Water it is considered that the proposal complies with the requirements of policy CLP13.

6.6 Highways Safety and Access

- 6.6.1 Local Plan policy CLP20 and CLP22 require consideration of parking provision, highway safety, cycle parking, appropriate connections and electric charging provision.
- 6.6.2 Access to the site will be taken from Enterprise Way with a dedicated one way system for vehicles and separate pedestrian access routes. Cycle parking is indicated on the layout plan, full details should be provided and controlled by condition. Application supported by a Stage 1 Road Safety Audit and associated drawings (including revisions) and a Transport Assessment. The assessment concluded that additional trips on the road network would not be significant and will not be perceptible to existing users of the network, no mitigation of any junctions will be required. Trips to the site will be self regulating and the trips generated solely to the ancillary facilities will be insignificant.
- 6.6.3 The Local Highways reviewed the submitted details and raised no objections subject to conditions covering the creation of the access, provision of parking in accordance with application drawings, pre-commencement scheme of highways improvement works including footway/road widening and implementation and completion of works along with a S278 agreement, no gates or barriers, gradient of access and provision of a highway construction management plan. It is recommended the condition wording be carefully considered to allow for works to be undertaken at the agreement of the LPA and it is anticipated that a phasing programme would provide a clear timescale for works to create an access during construction, highway works and the creation of the final access points.
- 6.6.4 As the proposal seeks to provide electric charging infrastructure the development aligns with the requirements of part e of policy CLP22.

6.6.7 Subject to conditions covering the details recommended the proposal is considered to accord with policies CLP20 and CLP22 of the Local Plan on this basis.

6.7 Biodiversity including trees and landscaping

6.7.1 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”.

6.7.2 The application is supported by a detailed Preliminary Ecological Appraisal which includes a Phase 1 Habitat survey and DEFRA metric 3.1 and proposed enhancement plans. The Derbyshire Wildlife Trust reviewed the submission and requested an updated metric be submitted along with commentary on open mosaic habitat. The Trust agree with the findings of the report and figures of the metric which result in the loss of -0.60 habitat units and +0.91 linear units. The biodiversity loss will be relatively small with no habitats of high distinctiveness impacted. The report found that on the basis of the initial site assessment no further survey works would be required with respect of protected species/priority habitats.

6.7.3 In partnership with Derbyshire Wildlife Trust and as part of the consideration of Policy CLP16 and the anticipated detail of the Environment Act the Strategic Planning Policy team have been looking into how biodiversity net gains can be off set within the Borough on areas of land controlled by the Council. These areas of land can be planted and differently managed to secure biodiversity gains where the extent of gain required cannot be achieved on development sites. This will come forward as Supplementary Planning Guidance in due course however that process has started and has initially sifted a number of sites within the Borough.

6.7.4 A piece of work has also been carried out by the Council's leisure services to provide a detailed assessment of the cost of providing such habitat units on land already used as open space within and controlled by the Council, this has taken place alongside a detailed ecological proposal for a receptor site giving appropriate accuracy

to the assessment. This has concluded that the cost per habitat unit for management, replanting and monitoring biodiversity receptor sites is £20,000 per habitat unit.

- 6.7.5 The Derbyshire Wildlife Trust consider a contribution of £20,000 an acceptable solution to be secured through a legal agreement. To truly offset and achieve net gain the Trust advise that the contribution should be spent on creating or significantly enhancing habitats such as low nutrient grassland or open mosaic habitat, as these are the key impacts of the development. Whilst it is considered preferable to determine the specific receptor site prior to determination as the proposal will result in the requirement for one habitat unit it is considered that this can be accommodated within the scoping sites identified through the scoping exercise by the Council and the monies should be directed towards the closest site where possible.
- 6.7.6 The application submission includes a biodiversity net gain plan for on site works which should be controlled by condition. The Derbyshire Wildlife Trust also requested that either a condition be imposed requiring a construction environmental management plan (CEMP) by condition of for the submission ecological appraisal to be updated to include precautionary measures for great crested newts and reptiles. The Ecological appraisal was subsequently updated by the applicant, therefore it is recommended that a compliance condition be imposed to ensure the development is undertaken in accordance with the measures outlined in the submitted appraisal.
- 6.7.7 The Council's Tree Officer reviewed the submitted Arboricultural Impact Assessment which estimates 52 trees will need to be removed classified as category C trees of low quality. New planting is proposed as part of the development to account for the loss of trees and hedgerow with heavy standard specimens and species rich hedgerows. The Tree Officer recommended a condition be imposed requiring the submission of tree protection plans and arboricultural method statements
- 6.7.8 Subject to the conditions as set out above and legal agreement the proposal accords with the provisions of policy CLP16 of the Local Plan.
- 6.8 Ground Conditions and Contamination including Air Quality**

- 6.8.1 Local Plan policy CLP14 requires consideration of air quality and land contamination and policy CLP22 requires the electric charging provision as part of developments.
- 6.4.2 The application site is located in an area considered to be covered by standing advice with regards to the coal mining legacy. Remediation works to address former land contamination were addressed as part of the wider MEGZ development.
- 6.4.3 As noted previously 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 2018), and a subsequently changed to a revised target date of 2035. The proposal will support this shift by provided the necessary infrastructure for electric vehicles which will also serve to help address air pollution nationally. The proposal complies with the requirements of Local Plan policies CLP14 and CLP22.

6.9 Community Infrastructure Levy

- 6.8.1 Having regard to the nature of the application which it is accepted comprises of the creation of new retail floorspace, the development may be CIL liable however further discussion is likely regarding the sui generis nature of the development proposed and the proposed limitations which are set out in the recommended conditions below.

Develop ment Type	Proposed Floorspace (GIA in Sq.m)	Less Existing (Demolition or change of use) (GIA in Sq.m)	A Net Area (GIA in Sq.m)	B CIL Rate	C Index permission	D Index charging schedule	E CIL Charge
Retail	244	0	244	£80 (Retail)	332	288	£25,502

$$\frac{\text{Net Area (A)} \times \text{CIL Rate (B)} \times \text{BCIS Tender Price Index (at date of permission) (C)}}{\text{BCIS Tender Price Index (at date of Charging Schedule) (D)}} = \text{CIL Charge (E)}$$

7.0 REPRESENTATIONS

- 7.1 No representations have been received as a result of the proposal

8.0 HUMAN RIGHTS ACT 1998

- 8.1 Under the Human Rights Act 1998, which came into force on 2nd October 2000, an Authority must be in a position to show:
- Its action is in accordance with clearly established law
 - The objective is sufficiently important to justify the action taken
 - The decisions taken are objective and not irrational or arbitrary
 - The methods used are no more than are necessary to accomplish the legitimate objective
 - The interference impairs as little as possible the right or freedom

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 The following is a statement on how the Local Planning Authority (LPA) has adhered to the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 in respect of decision making in line with paragraph 38 of 2021 National Planning Policy Framework (NPPF).

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

9.3 The applicant /agent will be notified of the Committee date and invited to speak, and this report informing them of the application considerations and recommendation /conclusion is available on the website.

10.0 CONCLUSION

10.1 Overall subject to conditions the proposal is considered to be acceptable in accordance with policies CLP1, CLP2, CLP6, CLP9, CLP11, CLP13, CLP14, CLP16, CLP20, CLP21, CLP22, SS4 and the wider NPPF.

11.0 RECOMMENDATION

- 11.1 It is therefore recommended that the application be **GRANTED** subject to securing the following via a legal agreement:
- Biodiversity net gain of 1 habitat unit at £20,000 per unit to CBC = £20,000

And subject to the following conditions:

11.2 Conditions

Time frame

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

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

Approved plans

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

Drawings

- Site Location Plan, drawing number BOW-A0-ZZ-DR-A-0101 Revision P3 and BOW-A0-ZZ-DR-A-0102 Revision P4 (Dated 30.07.2021)
- Proposed Electric Forecourt Block Plan, drawing number 8308-BOW-A0-ZZ-DR-A-0104 Revision P4 (dated 03.11.2021)
- Proposed Site plan, drawing number 8308-BOW-A0-ZZ-DR-A-0105 Revision P5 (dated 08.02.2022)
- Enterprise Way Western Edge Details, drawing number BOW-A0-ZZ-DR-A-0106 Revision P4 (dated 03.11.2021)
- Proposed Building GA Plans, drawing number 8308-BOW-A0-ZZ-DR-A-0200 Revision P4 (dated 15.11.2021)
- Proposed Building Roof Plan, drawing number 8308-BOW-A0-ZZ-DR-A-0201 Revision P1 (dated 06.10.2021)
- Proposed Building Elevations and Sections, drawing number 8308-BOW-A0-ZZ-DR-A-0300 Revision P1 (Dated 06.10.2021)
- Proposed Site Sectional Elevations, drawing number 8308-BOW-A0-ZZ-DR-A-0301 Revision P1 (dated 22.09.2021)

- Plan of coldstore, drawing un-numbered (received 10.06.2022)
- Proposed Access/egress works, drawing number 20/154/012/TR/008 Revision H (dated 25.05.2022)
- Swept path of max legal HGV accessing site, drawing number 8308-BOW-A0-ZZ-DR-A-0301 Revision B (dated 10.06.2022)

Supporting documents

- Design and access statement produced by Bowman Riley Document No: 8308-BOW-A0-ZZRP-A-0010_D&A Statement Revision P4 (Dated 28.03.2022)
- Arboricultural Impact Assessment BS 5837:2012 produced by Delta-Simons Project Number 21-0619.02
- Preliminary Ecological Appraisal produced by Delta-Simons Project No. 21-0619.01 – Revision 5 (dated 12.08.2022)
- DEFRA metric 3.1
- Flood Risk & Drainage Strategy Statement produced by CPA CONSULTING REF 2141/DSS/PL06 (Dated August 2022)
- Heritage Impact Assessment produced by HCUK Group Project Ref 7095A dated November 2021
- Noise Impact Assessment produced by Delta-Simons Project No. 21-0619.03 dated November 2021
- Planning Statement produced Peacock and Smith Job Ref. 5441 dated April 2022
- Proposed Electric Forecourt Markham Vale Stage 1 Road Safety Audit produced by Road Safety Initiatives LLP dated May 2022
- Transport Assessment produced by Bryan G Hall reference Ref: 20-154-012-02.02, dated November 2021

Construction hours

3. No construction or demolition works, external works, movement of construction traffic, or ancillary operations and deliveries to and from the premises shall be carried out only the hours 0800 and 1800 hours Monday to Friday, and 0800 and 1300 hours on Saturdays, and at no time on Sundays or Public Holidays.

Reason - To safeguard the privacy and amenities of the occupiers of residential neighbours in accordance with Local Plan policy CLP14 and CLP20.

Creation of access

4. No development, including preparatory works, shall commence until a phasing programme for the provision of the new vehicular and pedestrian accesses to Enterprise Way has been submitted to and agreed in writing by the Local Planning Authority. The junction and access shall be laid out in accordance with the approved programme lined, signed, constructed, drained and visibility sightlines of 120m measured in each direction to the nearside edge of the carriageway, as measured from a point located centrally and 2.4m back into the access. The area within the sightlines shall thereafter be kept clear of any object greater than 1m in height (0.6m in the case of vegetation) above the nearside carriageway channel level.

Reason – In the interests of highways safety and in accordance with Local Plan policy CLP20 and CLP22.

Highway improvement works

5. In accordance with the programme to be approved under condition 4 a detailed scheme of highway improvement works for the provision of a footway/road widening works together with a programme for the implementation and completion of the works has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be brought into use until the required highway improvement works have been constructed in accordance with the approved details. For the avoidance of doubt the developer will be required to enter into a 1980 Highways Act S278 Agreement with the Highway Authority in order to comply with the requirements of this Condition.

Reason – In the interests of highways safety and in accordance with Local Plan policy CLP20 and CLP22.

Construction Management Plan

6. No development shall start until a Highway Construction Management Statement / Plan has been submitted to and approved in writing by the Local Planning Authority. The statement / plan shall include details specifically relating to:
 - a) Temporary construction access
 - b) parking for vehicles of site personnel, operatives and visitor
 - c) site accommodation
 - d) storage of plant and materials

- e) routes for construction traffic to and from the site and measures to ensure adherence to the approved routing plan for vehicles under the applicant's / developer's control
 - f) provision of roadside boundary hoarding behind any visibility zones
 - g) any proposed temporary traffic management.
- Only the approved details shall be implemented, which shall be maintained throughout the construction period.

Reason - To ensure safe and suitable access for all users, in the interests of highway safety, recognising that initial preparatory works could bring about unacceptable impacts / inconvenience for existing highway users / nearby residents in accordance with Local Plan policy CLP22.

Cycle stands

7. Details of a covered cycle shelter shall be submitted to and approved in writing. The hereby approved cycle shelter shall be installed in accordance with the approved detail and made available to use prior to the first operation of the development and thereafter be retained available for use.

Reason – to ensure cycle parking provision is provided as part of the development in accordance with Local Plan policies CLP20 and CLP22.

Drainage

8. The development shall be carried out in accordance with the details shown on the submitted 'Flood Risk and Drainage Strategy Statement 2141/DSS/PL06 prepared by CPA dated August 2022' unless otherwise agreed in writing with the Local Planning Authority.

Reason – in the interests of satisfactory and sustainable drainage and in accordance with Local Plan policy CLP13.

Arboricultural – tree protection measures

9. Prior to the commencement of the development hereby approved (including all preparatory work), a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority.

Specific issues to be dealt with in the TPP and AMS:

- a) Details of any construction within the RPA or that may impact on the retained trees.
- b) a full specification for the installation of boundary treatment works.
- c) A specification for protective fencing to safeguard trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing.
- d) Tree protection during construction indicated on a TPP and construction and construction activities clearly identified as prohibited in this area.
- e) Methods to improve the rooting environment for retained and proposed trees and landscaping

The development thereafter shall be implemented in strict accordance with the approved details.

Reason - Required prior to commencement of development to satisfy the Local Planning Authority that the trees to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality pursuant to section 197 of the Town and Country Planning Act 1990

Environmental protection during construction

10. All works shall proceed strictly in accordance with the measures outlined in Section 6.2 of the Preliminary Ecological Appraisal (Delta-Simons, project number 21-0619.01, issue number 5 dated 12.08.2022) These comprise precautionary methods for site clearance to safeguard amphibians, reptiles, birds and hedgehogs. A short statement of compliance shall be submitted to the LPA upon completion of works to discharge the condition

Reason – in accordance with Local Plan Policy CLP16

Biodiversity enhancement plan

11. The approved biodiversity/ecological enhance plan 'Soft Landscaping Specification' drawing number MR21-103/101 (dated 03.08.2021 set out in the Preliminary Ecological Appraisal (Delta-Simons, project number 21-0619.01, issue number 5 dated 12.08.2022) shall be implemented during the first planting season (October to March) following commencement of the development unless otherwise approved in writing by the Local Planning Authority and maintained thereafter, with photographs

of the measures in situ submitted to the LPA to fully discharge the condition.

Reason – in accordance with Local Plan Policy CLP16

Landscape and Ecological Management Plan

12. A Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development. The LEMP shall cover all retained and created habitats, as identified in the agreed Biodiversity Net Gain Feasibility Assessment report to meet the habitat gains set out in the Biodiversity metric calculation and landscaping of the site agreed under condition 11.

The content of the LEMP shall include the following;

- (a) Description and evaluation of features to be managed;
- (b) Ecological trends and constraints on site that might influence management;
- (c) Aims and objectives of management;
- (d) Appropriate management options for achieving aims and objectives;
- (e) Prescriptions for management actions;
- (f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a thirty-year period);
- (g) Details of the body or organization responsible for implementation of the plan;
- (h) Ongoing monitoring and remedial measures,
- (i) Details of the company to be set up to manage the any private highways areas and the landscaped areas of the site in perpetuity,

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term (30 Years +) implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan shall be implemented in accordance with the approved details.

Reason - To ensure the long term management of the site including highways and open spaces and the protection of wildlife and habitat objectives, to secure opportunities for enhancing the

site's biodiversity value in the long term in accordance policy CLP16 of the Adopted Local Plan

Ancillary retail

13. The primary use of the site shall remain as an electric vehicle charging station with ancillary services with a retail floorspace (use class E (a) and E (b) only) of no greater than 244 square metres

Reason- In the interests of local Plan policy CLP9 and the NPPF.

Retail use only when charging points operational

14. The retail/cafe uses (Use classes E(a) & E(b)) of the hereby approved development shall only be used when the charging points of the main sui generis use are operational and available to use by the public.

Reason - In the interests of local Plan policy CLP9 and the NPPF.

Employment and Skills strategy

15. The development hereby permitted shall implement the Employment and Skills Strategy (dated August 2022). The strategy seeks to promote local supply chain, employment and training opportunities during the operation of the development. Prior to the first operation of the development an addendum to the strategy shall be provided to demonstrate how the development will engage with providers for low carbon technology and sustainable fuels and details of a local supply chain strategy with detail of how opportunities will be promoted locally.

Reason - in order to support the regeneration and prosperity of the Borough, in accordance with the provisions of Policy CLP6 of the Adopted Local Plan.

Lighting

16. The approved lighting scheme as detailed on drawing External Lighting Layout drawing numbers 21/3791/E63/EX01 Revision E and 21/3791/E63/EX02 Revision E shall be implemented prior to the first use of the development and retained as such thereafter

Reason – in the interests of the amenity of residents and safety of site users in accordance with Local Plan policy CLP14 and CLP20.

Boundary Treatments

17. Unless otherwise agreed in writing with the Local Planning Authority the development, including boundary treatments, hereby permitted shall be constructed entirely of the materials detailed and shown on plan number Site plan, drawing number 8308-BOW-A0-ZZ-DR-A-0105 Revision P5 (dated 08.02.2022) and 8308-BOW-A0-ZZRP-A-0010_D&A Statement Revision P4 (Dated 28.03.2022)

Reason - To ensure that the external appearance of the development is of an appropriate design and quality in accordance with Local Plan policy CLP20.

11.3 Informative Notes

1. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.
2. 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.
3. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the Executive Director of Economy Transport and Environment at County Hall, Matlock (tel: 01629 538658). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.

4. The Highway Authority recommends that the first 5m of the proposed access/driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users, the Authority reserves the right to take any necessary action against the householder.
5. Where the site curtilage slopes down towards the public highway provisions within Section 163 of the Highways Act 1980 requires measures to be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dished channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
6. Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
7. If construction works are likely to require Traffic Management, advice regarding procedures should be sought from Traffic Management, 01629 538628. All road closure and temporary traffic signal applications will have to be submitted via the County Councils web-site; relevant forms are available via the following link -
http://www.derbyshire.gov.uk/transport_roads/roads_traffic/road_works/default.asp
8. The applicant should be aware that if the any of the site is subject to a covenant which protects that land indicated on the attached drawing. obligations on the land owner and the protection of future access and maintenance rights for the Highway Authority which will pass with successors in title.
9. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority