

**ITEM****Residential development of 15 dwellings with access, landscaping and associated works on development land west of Loundsley Green Road, Loundsley Green for Strata.**

Local Plan: Unallocated  
 Ward: Loundsley Green  
 Plot No: 3513

Committee Date: 20<sup>th</sup> February 2023

**SUMMARY OF CONSULTATIONS**

DCC Policy	Comment made see report
DCC Rights of way	Comment made see report
Coal Authority	Based on submitted report – recommended conditions
Yorkshire Water	Recommended conditions
Lead Local Flood Authority	Recommended conditions
Highway Authority	Comment made see report
Derbyshire Wildlife Trust	Comment made see report
CBC Strategic Planning	Comment made see report
CBC Tree Officer	Comment made see report
CBC Climate Officer	Comment made see report
CBC Urban Design Officer	Comment made see report
CBC Environmental Health	Comment made see report
CBC Housing	Awaiting comments
CBC Design Services Drainage	Comment made see report
Representations	Two received summarised in section 6.0 below

**2.0 THE SITE**

2.1 The application site is an undulating parcel of land situated between the housing development of Loundsley Green to the south and east, Ashgate Plantation to the west and Holme Hall to the north. There is a

water course to the north and north eastern boundaries of the site and a public right of way leading along the north eastern border of the site.

2.2 The Ashgate plantation to the west is protected woodland and a wildlife site. The site itself is grassed and lowers to the northern boundary.

2.3 The site is served by public transport with a bus stop to the site frontage.  
Images:



### 3.0 SITE HISTORY

3.1 CHE/15/00835/OUT Proposed residential development - CMRA rec'd 17/03/2016 - Conditional Permission

3.2 CHE/19/00093/REM Reserved matters for CHE/15/00835/OUT - new build residential development consisting of 13 new build detached properties - revised plans received 27/08/2019, 03/09/2019, 04/09/2019, 06/09/2019 and 1/09/2019

### 4.0 THE PROPOSAL

4.1 Planning permission is sought for the erection of 15 dwellings at the site with access formed from Loundsley Green Road.



4.2 The layout of housing is a single road with turning head to the northern end. The housing is set to either side of the road with a footpath link to the north eastern tip of the site.



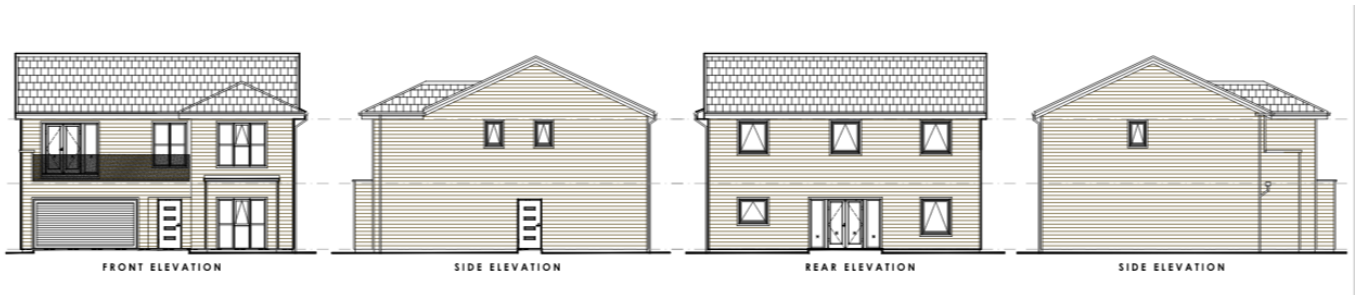
Link to adjacent public right of way which leads into Holme Hall centre

The houses to the eastern side of the site would be rear facing to the footpath and road. The most visually prominent housing Plots 1 and 15 are proposed to front the site entrance.

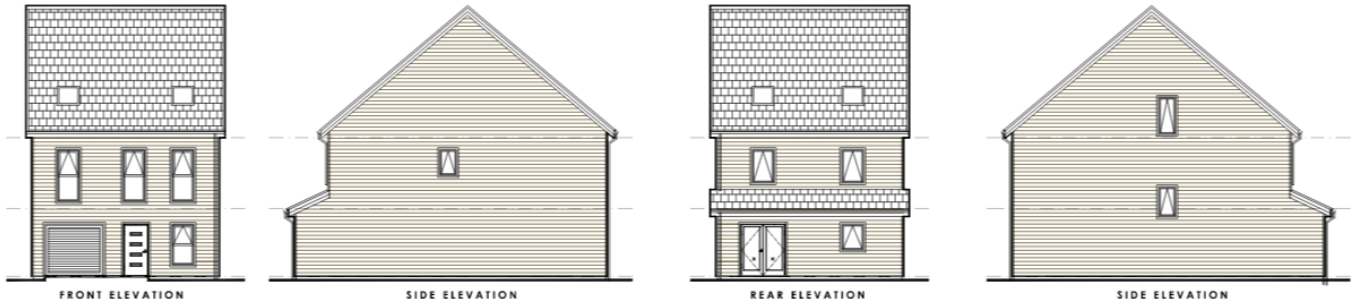
An area of open space would be formed to the site frontage where the site narrows to a triangular parcel adjacent to the woodland.

4.3 Two house types are proposed, the Valencia (x7) and the Naples (x8), with 15 dwellings proposed altogether.

Valencia: A 5 bedroom dwelling with integral double garage and balcony to the front elevation.



Naples: A 5 bedroom dwelling with integral garage



4.4 A street scene of the proposed scheme as a section through the site showing the level changes has been provided:



4.5 Whilst a detail for the front of the site has not been provided it is known from the levels information provided that the first unit adjacent to Loundsley Green Road, Plot 1, will be elevated from the adjacent verge level by around 1 to 1.5m. the land would then fall away from this plot as demonstrated in the detailed section above.

4.6 The design of the units is somewhat different to housing in the area due to these being of timber construction, factory made to maximise sustainable credentials in the build, with the intention of achieving net zero carbon:





4.7

The application is accompanied by a sustainability statement, the key points of which are:

- Talo method of construction – factory production allowing greater quality control.
- This modern method of construction is designed to be as thermally efficient as possible with the lowest carbon footprint practically possible to respond to the climate change emergency declared in 2019.
- A typical 4 bed house superstructure will be erected to watertight with windows and doors installed, insulated and plaster boarded within 4 days with wider process taking 8 weeks from delivery to completion.
- The units are made of timber from sustainable forest.
- The factory is carbon neutral, utilising waste material from the sawmill to heat and provide power.
- The levels of insulation will significantly exceed the building regulations.
- Highly efficient space and water heating system coupled with an intelligent home management system, will be installed, allowing control over heating and lighting to maximise efficiency.
- A mechanical ventilation heat recovery system will be utilised to recover heat and maintain an appropriate indoor climate in a highly efficient manner.
- EV charging will be provided for each dwelling.
- Photovoltaic panels will be installed as part of the zero carbon strategy.
- Award energy has compared the specification that will achieve minimum compliance with building regulations with the intended enhanced specification:

Element	Value required by Part L1a 2013* (u-value)	Enhanced specification (u-value)	% Improvement over Building Regulations Requirements
Walls (w/m <sup>2</sup> k)	0.30	0.14	53.33%
Roofs (w/m <sup>2</sup> k)	0.20	0.10	50%
Floors (w/m <sup>2</sup> k)	0.25	0.12	52%
Windows (w/m <sup>2</sup> k)	2.0	0.80	60%
Doors (w/m <sup>2</sup> k)	2.0	0.70	65%
Design air pressure test (m <sup>3</sup> /h/m <sup>2</sup> )	10	0.60	94%
Additional Specification Items			
Ventilation	Mechanical Ventilation with Heat Recovery		
Energy Generation	7.5 kWp of Photovoltaic Panels per plot (112.50 kWp in total)		

\* For U-values: See Approved Document L1a 2012

The following table shows the predicted carbon emission for the house types against the building regulations:

House Type	Carbon Emissions (KgCO <sub>2</sub> /Year/m <sup>2</sup> ) Baseline TER	Carbon Emissions (KgCO <sub>2</sub> /Year/m <sup>2</sup> ) Enhanced DER	% reduction in Carbon Emissions	Carbon Emissions per plot t/year	Total Carbon Emissions t/year
MY-505 (x 8)	23.20	0.00	100%	-0.25	-2.00
MY-502 (x 7)	24.56	0.00	100%	-0.22	-1.54

\*calculated using SAP2012 software

- Water consumption is intended to be below the 110 policy requirement.
- This demonstrates that the proposed Talo construction dwellings will be Net Zero Carbon

## 5.0 **CONSIDERATIONS**

### 5.1 **Planning Policy**

5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that, ‘applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise’. The relevant Development Plan for the area comprises of the Chesterfield Borough Local Plan 2018 – 2035.

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

CLP1 Spatial Strategy (Strategic Policy)  
CLP2 Principles for Location of Development (Strategic Policy)  
CLP3 Flexibility in Delivery of Housing (Strategic Policy)  
CLP4 Range of Housing  
CLP11 Infrastructure Delivery  
CLP13 Managing the Water Cycle  
CLP14 A Healthy Environment  
CLP16 Biodiversity, Geodiversity and the Ecological Network  
CLP17 Open Space, Play Provision, Sports Facilities and Allotments  
CLP20 Design  
CLP21 Historic Environment  
CLP22 Influencing the Demand for Travel

## **5.3 Other Relevant Policy and Documents**

National Planning Policy Framework (NPPF)

Part 2. Achieving sustainable development

Part 4. Decision-making

Part 5. Delivering a sufficient supply of homes

Part 8. Promoting healthy and safe communities

Part 9. Promoting sustainable transport

Part 11. Making effective use of land

Part 12. Achieving well-designed places

Part 14. Meeting the challenge of climate change, flooding and coastal change

Part 15. Conserving and enhancing the natural environment

Part 16. Conserving and enhancing the historic environment

Supplementary Planning Document - Successful Places' Residential Design Guide

## **5.4 Key Issues**

- Principle of development
- Design and appearance of the proposal;
- Impact on neighbouring residential amenity;
- Highway safety
- Biodiversity
- Trees
- Ground conditions
- Drainage



- CIL liability

## 5.5 Principle of Development

- 5.5.1 The application site is an unallocated parcel of land where planning permission for residential development has previously been approved but has since expired. The site is immediately adjacent to the allocated GW2 green wedge and the Holme Hall Regeneration Priority Area. The site is within the area noted to be the built-up area to which policies CLP1 and 2 relate.
- 5.5.2 Policies CLP1 and 2 direct new development to locations within walking access to a range of key services. The application site is well related to the Holme Hall local centre and local schools with public transport routes available and where there is a bus stop immediately to the frontage of the site. The proposal includes the provision of footpath improvements via a contribution of £21,000 with 10% contingency, along with a new footpath from the site into the adjacent public right of way, in order to improve connectivity. Subject to this upgrading of the footpath which can be secured via S106 agreement, it is considered that the site is easily accessible being within a sustainable location and therefore meets the requirements of policies CLP1 and 2.
- 5.5.3 Subject to more detailed consideration the principle of the development is in line with Adopted Local Plan policy.
- 5.5.4 Affordable Housing:  
Policy CLP4 states in part that: In order to increase local housing choice, respond to emerging needs and promote the creation of sustainable communities, in new housing developments the council will seek a range of dwelling types and sizes based on the council's most up to date evidence of housing needs and the location and characteristics of the area.  
The policy goes on to note that the percentage requirement aligns with the CIL charging zones of the Borough.
- 5.5.5 The Council's Housing Delivery Officer has negotiated the affordable housing provision in this case, concluding: *As 10% of the units should be affordable a contribution or single unit with 0.5 contribution would be appropriate, at a total contribution of £397,471.* This will be secured via S106 agreement.

- 5.5.6 This off-site provision is considered appropriate in this case as an RSL would not wish to manage a single unit on a site, this financial contribution will be used for the provision of affordable housing within the borough and as such meets the requirements of policy CLP4 of the Adopted Local Plan.
- 5.5.7 Adaptable and accessible housing:  
Policy CLP4 also requires that: On sites totalling 10 or more dwellings (including phases of those sites) 25% of dwellings should be built to building regulations standard M4(2).
- 5.5.8 The 25% requirement would equate to 3.75 dwellings. The submission relates to the 7 Valencia units which is above the 25% provision, more than meeting the policy requirement.
- 5.5.9 Climate change:  
In regard to climate change Policy CLP20 requires that: Major development should, as far as is feasible and financially viable minimise CO2 emissions during construction and occupation, and also maximise both the use of and the generation of renewable energy. Planning applications for major new development should be accompanied by a statement (as part of or in addition to a design and access statement) which sets out how the development would do this in terms of:  
i. following the steps in the energy hierarchy by seeking to use less energy, source energy efficiently, and make use of renewable energy before efficiently using fossil fuels from clean technologies;  
ii. optimising the efficient use of natural resources;  
iii. reducing emissions through orientation and design.
- 5.5.10 The Council's Climate Officer was consulted on the application noting: Impressed with the quality of the building specification and low climate impact.  
Query clarity over solar PV panels.  
Query whether there will be a gas connection.  
Query biodiversity net gain.  
Query good connectivity, including connections to the plantation.  
Query cycle infrastructure.  
Query cumulative impact of this and adjacent scheme on Linacre Road.
- Following further information the climate officer again reiterated the need for connectivity including to the east and west of the northern end of the site.

- 5.5.11 The issues of connectivity are considered under the highway section of the report below and are noted in para 5.5.2 above.
- 5.5.12 The consideration of climate change in this submission is fundamental to the design and construction method proposed and is a welcome carbon neutral scheme which will be a good example to other house builders in the locality and is a factor substantially in favour of the development.
- 5.5.13 Other matters:  
To address the need to provide local skill strategy requirement a detailed employment and training scheme has been submitted and will be conditioned.
- 5.5.14 DCC policy have noted:  
Education provision will be via the CIL provision. There is capacity within Holme Hall Primary school for additional pupils. However, there would not be that capacity at the normal area secondary school Outwood Academy in Newbold.  
The digital ambition is that 98% of homes and business in Derbyshire will have broadband speeds of at least 24 Mbps by the end of 2020s]. Therefore, the development should provide NGA broadband infrastructure, but it is acknowledged this is not required to make the development acceptable in planning terms.  
The mix of housing is not appropriate being all 5 bedroom units, 15 dwellings on this parcel of land is not considered to be efficient use of land. The need for older peoples accommodation does not appear to have been taken into account.
- 5.5.15 In response to the comments from DCC it is noted that there is a limited mix of housing types on the site and that this is a development of only 15 units specifically seeking a type of family house that meets the climate agenda.  
Policy CLP4 does refer to seeking a mix of housing and then specifically refers to the affordable housing and accessible and adaptable housing requirements as set out above, these are met within the development. There is no specific requirement for housing for older people to be provided on sites other that the accessible and adaptable housing noted above. Equally the policy does not require a specific housing mix on sites.

## **5.6 Design and Appearance**

- 5.6.1 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.
- 5.6.2 The proposed development being substantial dwellings of timber construction and with a dark clad finish are somewhat different to the nearby housing of Loundsley Green. However, this site sits in a relatively isolated setting adjacent to woodland where the design approach is considered to be suitable for this setting. The dark cladding to the buildings will minimise their visual impact within the wider area ensuring the development assimilates well with this sylvan setting.
- 5.6.3 The Council's Urban Design Officer recommended the provision of hedging to the frontage boundary which has now been provided and recommended the footpath link to the northern tip of the site which has also been provided. It was also suggested that the blank side elevations of Plots 1 and 15 should have windows. However, due to the factory build of the units individual design changes to the house types cannot be made and therefore this change has not been made. Nevertheless, the design overall is considered to be acceptable.
- 5.6.4 There is a listed building to the opposite side of the road and to the south of the site close to the roundabout with Ashgate Road, it is not considered that this development will impact upon the setting of that heritage asset being remote from the site with the plantation and existing housing forming the intervening gap.
- 5.6.5 Subject to appropriate boundary details and landscaping it is considered that the scheme is acceptable in terms of design in line with policy CLP20.

## **5.7 Impact on Residential Amenity**

- 5.7.1 Policy CLP14 requires that: All developments will be required to have an acceptable impact on the amenity of users and adjoining occupiers, taking into account noise and disturbance, dust, odour, air quality, traffic, outlook, overlooking, shading (daylight and sunlight and glare) and other environmental impacts.

- 5.7.2 There are no immediately adjacent properties to this site and therefore no adverse impacts in terms of overlooking or overshadowing. The separation distances at the closets points face to face between the new dwellings are approximately 17.5m to 19.5m. These distances are across the highway and are considered to meet the requirements set out in the Council's SPD which sets a minimum of 12m minimum.
- 5.7.3 The Council's Environmental Health Officer initially raised concern regarding noise from the highway and required a noise assessment to be carried out. This was completed and submitted, the noise report notes that the higher specification of the dwellings means that further measures to the dwellings are not required. For the gardens to the eastern boundary a 2m high close boarded fence without gaps is recommended. It is noted in the report that the acoustic fence detailed by Strata will meet these requirements.
- 5.7.4 Environmental Health has also recommended conditions relating to lighting, EV charging, minimising air borne dust, contaminated land and hours of operation. The applicant has requested earlier start times on site for staff to arrive at 0730 with operations and deliveries from 0800. The normal Saturday hours of 0900 to 1300 are considered too limited for workers to shifts and therefore an 0800 to 1400 time is preferred. Given the specifics of the build in this case and the likely shorter time period for construction along with the relatively isolated nature of the site these times are considered reasonable. The Environmental Health Officer raised concern about an earlier start time on Saturdays as this is a standard for construction but considering the merits of this case the earlier times are within reasonable limits however it is noted that this may not apply to other developments.
- 5.7.5 Subject to conditions relating to lighting, operating times, dust and noise fencing the proposal is considered to be appropriate in terms of amenity impacts for future and neighbouring residents in line with policy CLP14.

## **5.8 Highways Safety and Parking Provision**

- 5.8.1 Policy CLP22 requires that: Development proposals will not be permitted where they would have an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. In terms of parking the policy goes on to note that; The level of vehicle and cycle parking provision appropriate to any individual proposal will take into account the circumstances of the particular scheme, including in particular:

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

5.8.2 The application site is well connected to public transport routes to the north and south of the site. Parking for 2 vehicles plus garaging is proposed for each dwelling and this is considered to be appropriate for the type of development.

5.8.3 The Highway Authority has been in discussion with the applicant's agent regarding the proposal and has concluded that:  
*"You will be aware of the Highway Authority's previous consultation response raised a number of issues and in the intervening period discussions have taken place to resolve the highway issues, which has culminated in the recently submitted revised drawings, so from a highways aspect the drawings are now considered acceptable in principle.*

*As the access road is proposed to be adopted by the County Council, the highway Authority will need to ensure the streets are appropriately constructed and maintained to a satisfactory standard.*

*Therefore, it is considered that the remaining issues may be addressed by appropriate conditions appended to the consent issued for this development."*

Those initially recommended conditions have been discussed and amended with the applicants agent and the conditions which are considered to be in accord with that discussion and which meet the tests for planning conditions are contained within the recommendation.

5.8.4 On this basis the proposal is considered to be acceptable in terms of highway safety in line with policy CLP22.

#### 5.8.5

Matters of connectivity have been discussed above. Comments from the Public Rights of Way officer have been received in regard to the adjacent footpath routes:

*“Chesterfield Public Footpath No. 66 runs adjacent to the application site, as shown on the attached plan. This public right of way connects to two unnumbered footpaths that cross the site, and are visible on the ground and on aerial photography. These can also be seen on the attached plan. It is likely that these footpaths have acquired rights along them through established use. These paths then connect to other established routes through Ashgate Plantation, and beyond to residential areas. The unnumbered paths that cross the application site are vital for connectivity in the area. This is an area that has seen public rights of way obstructed by the building of large housing developments in the past, including parts of Chesterfield Public Footpath No. 66. It is therefore all the more important to retain the remaining network of paths. The Rights of Way Section therefore objects to the proposed layout of the development. I should be grateful if you would advise the applicant as follows: -*

- The unnumbered footpaths that cross the site must remain open, unobstructed and on their current alignments.*
- There should be no disturbance to the path surfaces without prior authorisation from the Rights of Way Section.*
  - Consideration should be given to the safety of members of the public using the paths during the works. A temporary closure of paths will be permitted on application to DCC where the path(s) remain unaffected on completion of the development.*
- There should be no encroachment of the path, and no fencing should be installed, or hedgerow planted without consulting the Rights of Way Section.*
- In planning the incorporation of the footpaths into the development, preference should be given to the use of made-up paths through landscaped or open space areas away from vehicular traffic.”*

#### 5.8.6

Following these comments and in line with other comments received it has now been agreed with the applicant's agent that a sum of money is provided to ensure the upgrading of the public footpath route adjacent to the site. It has also been agreed that an informal link to this footpath will be provided to the northern tip of the site. This is considered to ensure appropriate connectivity. However, the suggestion that a footpath link should also be provided onto the adjacent Ashgate plantation is inappropriate due to other land ownership rights likely to come forward and due to this being a wildlife site with protected trees,

for these reasons a connection into that land is not considered appropriate or necessary to ensure the connectivity of the site.

## **5.9 Biodiversity, impact on protected species, enhancement and Trees**

5.9.1 Policy CLP16 requires that; The council will expect development proposals to:

- protect, enhance and contribute to the management of the borough’s ecological network of habitats, protected and priority species and sites of international, national and local importance (statutory and non-statutory), including sites that meet the criteria for selection as a local wildlife site or priority habitat; and
- avoid or minimise adverse impacts on biodiversity and geodiversity; and
- provide a net measurable gain in biodiversity.

5.9.2 The strategic planning officer has commented on the case regarding biodiversity noting in part that;

*“Although a revised assessment using the Defra metric has been submitted, as currently proposed the application does not demonstrate a net gain in biodiversity and is therefore in conflict with policy CLP16 of the adopted Local Plan. A scheme to demonstrate a net gain that accords with the council’s policy should be provided before the application is determined. The payment of a commuted sum towards off site provision should be the last resort in such circumstances. As I understand that the applicant also owns the adjacent Ashgate Plantation, which is an LNR, I would strongly recommend that, if the applicant cannot achieve a net gain on the application site, improvements to the quality and management of the Plantation should be investigated in preference to payment of a commuted sum for an unspecified off site provision.”*

5.9.3 Derbyshire Wildlife Trust has also commented on the proposal:

*“We previously responded to this application on 28th March 2022 raising some questions regarding the Biodiversity Metric. The information now submitted includes a Biodiversity Metric and a revised Ecological Impact Assessment (Whitcher Wildlife Ltd, May 2022). The EIA and the metric are considered to provide sufficient information for the Council to understand the likely biodiversity impacts at the site. Whilst the development does include proposals for habitat retention, enhancement and creation on site there is still a small net loss of biodiversity at the site due to the loss of grassland and hedgerow. In relation to the loss of the grassland habitat there is a net loss of 2.5 units. Hedgerow loss is*



*calculated to be 0.05 units. As far as we are aware the applicant has not proposed any off-site compensation scheme or reached any kind of agreement with the Council regarding the biodiversity loss. The Council is advised to seek an off-site compensation scheme or contribution to address the net loss of biodiversity at the site. Without this the development does not fully comply with the NPPF or the Councils Biodiversity Policy CLP16 requiring a measurable gain in biodiversity.. If the Council is minded to approve the application we would advise that conditions will be needed to ensure that mitigation and enhancement measures are fully implemented.”*

5.9.4 It is always the intention with biodiversity enhancement to provide these on site and if not possible then on other land owned by the applicant and only where this is not possible by another provider such as the Council or Derbyshire Wildlife Trust. It was concluded that biodiversity was maximised appropriately on site but known that the applicant owns the Ashgate Plantation as this was considered the best place to off set the enhancement.

5.9.5 Following discussion with the applicant’s agent it was confirmed by them that; *“We looked into whether BNG credits could be offset into the adjacent woodland. However, given the woodland’s well-established nature and the habitats within the woodland being of a very high quality it was considered that it will not be possible to enhance the Ashgate Plantation enough to offset the required biodiversity units here. See attached email from our Ecologists.*

*In addition to this, following numerous site visits it is clear that the woodland is well used by the public with several well-trodden paths within it. Therefore, any works to the woodland to improve biodiversity (if this was possible) would be negatively impacted by the public use of this woodland. In addition, our private management company have advised that if Strata were to retain ownership of the woodland, due to public access, residents would be subject to an annual management fee of more than Strata would feel comfortable with residents paying.”*

5.9.6 After receiving confirmation from their ecologist that this was not feasible it has been agreed that an alternative off site contribution is appropriate in this case. This will be provided to CBC as part of the Biodiversity Net Gain project where an initial number of sites have been selected as being appropriate for off site enhancements. Not all schemes are detailed as yet but this will happen as the project gathers pace.

5.9.7 The submitted metric for Biodiversity shows the baseline of the undeveloped site to be (5.70 habitat units, 0.44 hedgerow units, 0.01 river units) 6.15 units. The post site intervention will be (3.19 habitat units, 0.39 hedgerow units, 0.01 river units) 3.59 units. A net gain of 10% on site would require 6.76 units, which leaves a 3.17 unit requirement, which at £20k per unit would equate to a contribution of £63,400. This contribution will then be used to provide the biodiversity net gains over a 30 year period on sites within the Borough. A condition will be required to secure the net gains on site which are provided by planting and bat and bird boxes over a 30 year period. On this basis it is considered that the proposed development secures a net gain as required by policy CLP16 thereby addressing the concerns of the Trust.

5.9.8 The submitted ecological report notes that; the application site is mainly semi improved natural grassland with some tall ruderal species to the boundary and dense scrub forming some of the boundary with woodland to the edge and scattered trees to the frontage. The report recommends sensitive lighting so as not to impact the Plantation woodland and appropriate planting through the site to enhance biodiversity with clearance outside of the bird breeding season. Bat boxes are recommended to be fitted to plots 1 and 15, and swift boxes to the remaining buildings. These matters can be secured by condition.

5.9.9 On this basis it is considered that subject to conditions and the contribution the proposal meets the requirement to mitigate against ecological impacts and provide a net gain in biodiversity as required by CLP16.

## **5.10 Trees**

5.10.1 Policy CLP16 notes that: Development proposals resulting in the loss or deterioration (including fragmentation) of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) will be refused, unless there are wholly exceptional reasons and the need for, and public benefits of, the development in that location demonstrably outweigh the loss or harm, and a suitable compensation/off-setting strategy has been secured with planning conditions or obligations.

5.10.2 There are two Tree Preservation Orders reference 4901.64 Ashgate Plantation (1969) and 4901.342 Land to the West of Sedgemoor Close and Loundsley Green, Road, Loundsley Green (2016) that may be affected by the proposed application.

Tree Preservation Order 4901.64 'Ashgate Plantation' is a mixed species woodland to the west and on the boundary of the site reference W1 on the Order map.

Tree Preservation Order 4901.342 'Land to the West of Sedgemoor Close and Loundsley Green, Road, Loundsley Green' consists of 4 individual London Plane trees located in the extensive grass verge off Loundsley Green Road adjacent to the east boundary of the site.

The Council's Tree Officer has therefore commented on the case but remains concerned that the scheme will have an adverse impact on the protected woodland of the Ashgate Plantation, the initial concern being: *"Plots 11-15 are too close to the woodland edge and every effort should be made to conserve the woodlands integrity and provide a clear and extensive buffer zone. The proposals offer no effective buffer zone which increases pressure on the trees to have them pruned back or even felled. The woodland trees will also restrict any natural light and sunlight into the rear gardens and properties putting pressure on the trees to be heavily pruned back on a regular basis which would place a financial burden on the households.*

*Further details are also required for the new access as highlighted by Derbyshire County Council Highways and a revised arboricultural impact assessment carried out if the proposal affect the protected trees to the frontage. Once these details have been submitted I can comment further and any impacts assessed.*

### Recommendations

*In view of my previous objection to application CHE/19/00093/REM and the location of plots 11 – 15 with no suitable buffer zone between the development and woodland I recommend that any decision on the application is deferred, and the plots moved further to the east away from the woodland edge.*

*To the frontage of the site there are also four significant London Plane trees on the grass verge which are all subject to TPO 342. These trees are to be retained in the scheme, however the outer canopies of T82 (TPO T2), T88 (TPO T3) and T80 (TPO T4) will overhang significantly into the proposed gardens of plots 1 and 2 and may also affect plots 3. There is therefore an opportunity to reduce any future risk or pressure to prune these trees at the design stage by moving the plots further away from the east boundary and trees.*

*It is also a proposed to install a sub-station to the south of the new access which is adjacent to T88 London Plane (TPO T1). From the information provided, no impacts to the trees are shown. Further details should however be submitted of any planned excavations for the underground services which should be outside the trees designated RPA."*

Following discussion and the receipt of amended plans the latest comments of the Tree Officer are;

“Ashgate Plantation/Buffer Zone/land levels

*No details have been submitted of the assessment and considerations given to the trees crown position in relation to the development/dwellings as stated in the Arboricultural Impact Assessment and the revised site layout drawing 21-CL6-SEGD-CHL-01 REV H does not address any of my comments made on the 25<sup>th</sup> July 2022 regarding the location of the plots along the woodland edge which remain the same.*

*The rear gardens of the properties will be shaded by Ashgate Plantation and the new dwelling structures to the frontage. The response that ‘Future plot purchasers will be made aware through sales information that the surrounding trees are covered by a Tree Preservation Order and they will be made aware that any required works to the trees will require Local Authority consent which will allow Chesterfield to retain control over the future of these trees’ does not provide a solution to the inevitable problem the woodland trees will cause to the rear gardens and it is not acceptable to place pressure to have the trees pruned or even felled when the problem could be resolved at the design stage.*

Plots 1 & 2 and T1 – T4 London Plane of TPO 4901.342 (T80, T82, T83 and T88 in the AIA).

*The revised layout drawing and the external works drawings now shows the retaining wall to the east of plots 1 & 2 outside the root protection areas of TPO trees T82 & T86 London Plane which is welcomed. The dwellings for plots 1 & 2 are however in the same location and moving plot 1 to the north-west and plot 2 slightly to the west would reduce any perceived nuisance through shading and future growth reducing any pressure to have the trees pruned unnecessarily. It is unclear from the applicant’s response how this would ‘lead to the RPAs of surrounding trees being negatively impacted by elevated levels’ when the dwellings would be moved further away from trees T82 & T86, and the roadway would stay in the same location as demonstrated in figure 1 of my previous comments of the 25<sup>th</sup> July.*

Retaining wall at Plot 11

*The retaining wall feature adjacent to Plot 11 previously located near to Ashgate Plantation has now been removed and will therefore will not impact the woodland although it is noted that a new connecting footpath is now shown. Any new construction within the designated root protection areas should be constructed above ground 'no dig' using an approved cellular confinement system.*

*Conclusion*

*The new information provided does not address the issues previously raised and my objection to the application therefore still stands due to the future impacts and perceived nuisance in relation to the protected trees to the frontage of the site and trees along the woodland edge of Ashgate Plantation."*

- 5.10.3 Despite some minor amendments and substantial discussion regarding the impacts of the proposed development to the adjacent trees the concerns remain and have not been fully addressed. Following negotiation the applicant's agent has now confirmed that no further changes will be made to the plans. It is therefore important to consider these impacts in detail.
- 5.10.4 As can be seen from this image the separation distances between the dwellings to the western side of the site and the plantation are limited, with the least being plot 14 which is approximately 9.6m from the woodland, with less distance when considering the canopy of the trees.

Measurements of distances from dwelling to woodland

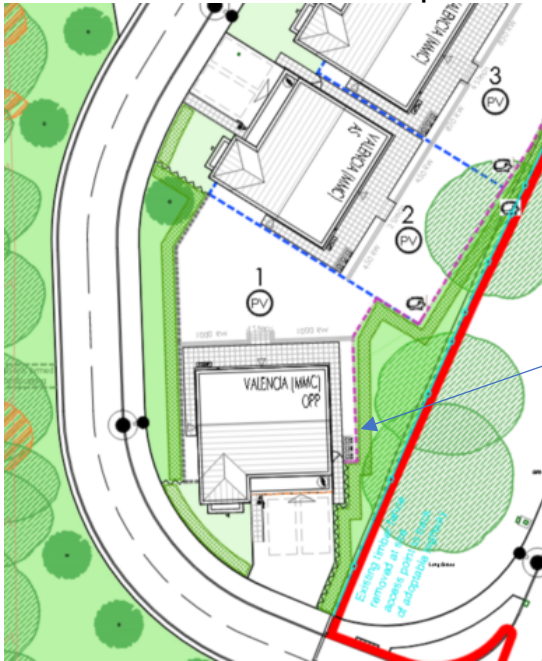


5.10.5

It is accepted that this close proximity will result in rear gardens being overshadowed by the woodland and will lead to possible pressure to prune or fell trees within the woodland edge. Whilst it is acknowledged that such works will be within the Council's control it becomes more difficult to argue against such proposals when the dwellings have been approved in such close proximity.

5.10.6

A further issue relates to plot 1 as can be seen from the image below:



As can be appreciated on this plan the side elevation of Plot 1 is close to the canopy of the adjacent trees on the site frontage and again, this will likely lead to pressure to prune or fell the adjacent trees.

- 5.10.7 It is the case however that the development retains all the protected trees on the site and which are provided with a similarly close separation distance to that previously agreed on CHE/19/00093/REM. Furthermore, the tree officer concern relates primarily to the pressure on the trees from occupants wishing to undertake pruning or removal however the Borough Council retains control over this. The potential impact on the trees to the west and frontage of the site is therefore a negative of the scheme but which needs to be considered in the wider planning balance and is not considered to be sufficient on its own to justify a refusal given what has previously been accepted on the site, the delivery of new houses and the fact that they will be carbon neutral units.

## **5.11 Ground conditions**

- 5.11.1 Policy CLP14 requires that; Proposals for development on land that is, or is suspected of being, contaminated or unstable will only be permitted if mitigation and/or remediation are feasible to make the land fit for the proposed use.

- 5.11.2 In terms of contamination the applicant has provided detailed information in regard to the recommended standard contamination condition noting:

*“Items a-c of the recommended condition can be satisfied:*

*The submitted reports (identified below and attached) provide all information requested via items a-c of the recommended condition.*

- *Phase 2 Geo-Environmental Assessment (Ref: NTE2269)*
- *Coal Mining and Geotechnical Appraisal (Ref: 4158/2 Date: November 2021)*
- *Earthworks Specification (Ref: 4158/4 Date: December 2021)*
- *Specification for the Treatment of Shallow Workings & Mine Entries (Ref: 4158/3 Date: December 2021)*

*The report titled Phase 2 Geo-Environmental Assessment (Ref: NTE2269) confirms that the site is classed as uncontaminated. Subsequently, no remediation strategy is required.*

*Strata inherited this report and therefore as standard practice instructed Lithos to carry out a peer review. The submitted Lithos report titled: Coal Mining and Geotechnical Appraisal (Ref: 4158/2 Date: November 2021)*

*therefore confirms and clarifies all matters identified within the report titled Phase 2 Geo-Environmental Assessment (Ref: NTE2269). Lithos and BWB have therefore confirmed that the only works required are earthworks to provide a suitable development platform - please find attached the following: Earthworks Specification (Ref: 4158/4 Date: December 2021) and Specification for the Treatment of Shallow Workings & Mine Entries (Ref: 4158/3 Date: December 2021)."*

- 5.11.3 The Council's Environmental Health Officer has considered this information and concluded that: *"I agree with the interim findings and look forward to the submission of the remediation strategy and subsequent validation on completion."* It appears from the comment of the applicant's agent that the remediation and mitigation is not required based on the report findings.
- 5.11.4 The submitted report relates to 12 trial pits, 5 dynamic samples boreholes and 6 rotary probe holes and 3 rounds of gas monitoring. This found evidence of coal workings and a risk of coal near the surface of the site. Foundation design and detailed engineering solutions will resolve these risks, it is noted that excavation of the coal seam should be considered. Contamination findings it notes can be mitigated through basic gas protection measures and further chemical testing will clarify these requirements. Testing of removed waste from site will also be needed. Further gas monitoring is recommended to inform the gas protection measures and foundation design. The made ground is to be treated as a hotspot for arsenic.
- 5.11.5 The Lithos peer review report concludes that there are likely to be unknown mine entries/bell pits across the site and that works to remediate will be necessary.
- 5.11.6 It is clear from these reports that an amount of mitigation and further testing is required and that this needs to be secured via a suitably worded condition. An appropriate condition is included within the recommendation below.
- 5.11.7 In terms of coal mining risk the Coal Authority have advised imposing standard conditions, these are also included within the recommendation.
- 5.11.8 Subject to condition matters of ground conditions have been appropriately considered in line with policy CLP14.



## 5.12 Drainage

- 5.12.1 Policy CLP13 requires that; The council will require flood risk to be managed for all development commensurate with the scale and impact of the proposed development so that developments are made safe for their lifetime without increasing flood risk elsewhere. Sustainable Drainage Systems (SuDS) and clear arrangements for their ongoing maintenance over the lifetime of the development should be incorporated into all major development, unless it can be demonstrated that this is not appropriate in a specific location. The council will seek the maximum possible reduction in surface water run-off rates based on the SFRA or most recent national guidance. Development proposals will be expected to demonstrate that water is available to support the development proposed and that they will meet the optional Building Regulation water efficiency standard of 110 litres per occupier per day.
- 5.12.2 Yorkshire Water raised no objection to the scheme but requested conditions be imposed, these are included in the recommendation.
- 5.12.3 The Lead Local Flood Authority similarly raised no concerns with the proposal subject to standard conditions. Again, these conditions are included in the recommendation.
- 5.12.4 It is noted that the applicant has submitted additional information to limit the conditions required by the LLFA and Yorkshire Water unfortunately as no further comments regarding these matters have been received it will be necessary to impose the originally recommended conditions albeit with reference to below ground attenuation.
- 5.12.5 It was noted that originally the submission seemed to include above ground attenuation for surface water that would have been within the turning head area of the site. This has now been amended to have water storage below ground to the east and western sides of the northern end of the site. There is also proposed to be a connection on the adjacent CBC owned land which has been the subject of discussion with our estates team as a matter separate to this application. This was initially the cause of concern for the Council's Design Services Drainage Team as follows;  
*"We have some major concerns about the route of the foul and surface water sewers for the Section 104 agreement that is currently planned. The route appears to run straight through the middle of Chesterfield Borough Council's surface water attenuation basin. The basin retains*

*surface water to the West of Loundsley Green Road preventing flooding further downstream in the Loundsley Green area.*

*The retention basin discharges to the Yorkshire Water public surface water sewer at regulated rate through a small diameter pipe in the headwall and a higher level overflow structure.*

*The Section 104 sewers would bypass the surface water storage basin entering the YWS sewer directly bypassing the storage area.*

*Also both the foul and surface water sewers in the storage area could be susceptible to both infiltration and surcharging in and also potentially a pollution issue. Any infiltration into the Section 104 sewers would in the end compromise the flood storage area.*

*It is noted from the FRA that the levels would preclude the discharge of the surface water directly into the ordinary watercourse by the site, has the option to discharge directly into the basin or further downstream been investigated.”*

- 5.12.6 However, the details of this have now been amended with connections shown from the northern end of the site into the adjacent land to the east, which addresses the concerns raised with the latest comments from the drainage team being;

*“In regard to the above planning application, we have no objections in principle to the revised drainage layout submitted on the 25th January 2023 on the condition that manhole S5 and F5 are constructed so that the cover levels are 500mm above the maximum fill level of the storage basin.”*

As these specific requirements relate to land outside of the application site it is not necessary to condition this element.

- 5.12.7 Subject to conditions it is considered that the application is acceptable in regard to drainage matters in line with policy CLP13.

## **5.13 Development Contributions and CIL Liability.**

- 5.13.1 The proposed development is liable for the Community Infrastructure Levy (CIL), subject to any exemptions that may be applied for. The site is located within the medium CIL charging Zone as set out in the Council’s Charging Schedule ([Community Infrastructure Levy \(CIL\) \(chesterfield.gov.uk\)](http://chesterfield.gov.uk)). The CIL charge is calculated as follows:

Net Area (A) x CIL Rate (B) x BCIS Tender Price Index (at date of permission) (C) = CIL Charge (E)

BCIS Tender Price Index (at date of Charging Schedule) (D)

			A	B	C	D	E
Development Type	Proposed Floorspace (GIA in Sq.m)	Less Existing (Demolition or change of use) (GIA in Sq.m)	Net Area (GIA in Sq.m)	CIL Rate	Index (permission)	Index (charging schedule)	CIL Charge
Residential (C3) or Class E/Retail (former A1-A5)	2,863	0	2,863	£50 ( <i>Medium</i> )	355	288	<b><u>£176,452</u></b>

## 6.0 REPRESENTATIONS

6.1 Two received which are summarised:

6.2 Section 106 impact on health to be considered. Initial modelling suggests that the impact of this development is up to £38k.

6.3 Derbyshire Swift Conservation Project:  
The ecologist recommends two non-species specific bird boxes. The creation of new urban habitat presents an opportunity to provide nesting sites for the rapidly declining Sparrow, Swift, Starling and House martin. Swift provision is considered a universal next site. The build is unsuitable for bricks being integrated into the walls of the dwelling so externally located swift boxes could be specified at 1 per dwelling.

6.4 ***Officer response:***  
***The contribution request for the Chesterfield Hospital is misplaced and cannot be secured via S106 as central government funding of the NHS is provided for such physical infrastructure to regionally and sub regionally important health provision. The CCG regarding GP practice contributions do not make requests on schemes below 50 units.***

***The ecological enhancements suggested are covered by the conditions.***

## 7.0 HUMAN RIGHTS ACT 1998

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

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

7.2 It is considered that the recommendation is objective and in accordance with clearly established law.

7.3 The recommended conditions are considered to be no more than necessary to control details of the development in the interests of amenity and public safety and which interfere as little as possible with the rights of the applicant.

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

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

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

8.3 The applicant /agent and any objectors/supporter 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.

## **9.0 CONCLUSION**

9.1 Planning permission has been granted for the development of this site previously. The enhanced connectivity to come from the upgrading of the existing public right of way and connection to this from the northern end of the site will ensure that the nearby services and facilities are

accessible. Therefore, as the site is within close proximity of local services and facilities and bus routes it is considered a sustainable location for residential development in line with policies CLP1 and 2.

Affordable housing will be provided by an off site contribution.

The proposal will not result in any adverse impacts in terms of noise and nuisance or impacts to the amenity of neighbouring residents.

Biodiversity will be enhanced as far as possible on site with an off site contribution proposed via CBC.

There will be potential adverse impacts on trees to the site frontage and to the edge of the adjacent plantation from future pressure to prune or fell due to the proximity of the dwellings particularly plots 1, 12, 13 and 14. This is a negative of the scheme to be considered in the planning balance.

The scheme is the first carbon zero housing scheme proposed in the Borough. Whilst it is anticipated that such housing will become common place in years to come, this will provide an early exemplar for sustainable housing at this time and which weighs heavily in favour of the proposal.

Therefore, considering the planning balance which weighs heavily in favour of a zero carbon housing scheme the proposal is recommended for approval subject to a S106 legal agreement and conditions.

## **10.0 RECOMMENDATION**

10.1 It is therefore recommended that the application be **GRANTED** subject to securing the following via a s106 legal agreement:

- A commuted sum of £21,000 to CBC with 10% contingency, to be paid on commencement for upgrade of footpath to the east of the site.
- Payment of an affordable housing contribution of £397,471 in lieu of onsite provision to be paid prior to first occupation.
- A commuted sum Biodiversity net gain of 3.17 habitat units at £20,000 per unit to CBC = £63,400 to be spent within the Borough and paid prior to first occupation.

### **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 or conditional requirement below. All external dimensions and elevational treatments shall be as shown on the approved plan/s (listed below).

- Location plan: received 29.1.2021 received 29.11.2021
- Site layout: 21-CL6-SEGD-CHL-01 Rev G 23.11.2022
- House Type Naples: TA-(21)-501 received 29.11.2021
- House Type Valencia: TA-(21)-502 received 29.11.2021
- Landscaping plan: P21-2648.001 Rev E received
- Off site drainage connections 0461 Rev P2 received 25.01.2023
- Off site drainage connections 0460 Rev P3 received 25.01.2023
- Materials plan: plan no. 21-CL6-SEGD-MBSP-01 Rev B received 29.06.2022
- Boundary plan SD10.EX.24 Rev A acoustic fence received 29.06.2022
- Knee rail SD10.EX.22 Rev S received 29.06.2022
- Fence detail Destination 18 EX.17 received 29.06.2022
- Street scene Rev A received 29.06.2022

Reason: In order to clarify the extent of the planning permission.

3. Works shall be completed on site in full accord with the submitted construction management and mitigation plan and the production management plan no. BM00108-PMP Rev A.

Reason: In order to ensure the construction works do not adversely impact on highway safety or local residential amenity in accordance with policies CLP14 and 22 of the Adopted Local Plan.

4. Within 2 months of the commencement of development details of all the highway works (including; finished levels, gradients and

surfacing) shall be submitted to and approved in writing by the Local Planning Authority. Works shall be completed in accordance with the agreed details.

Reason: In the interests of highway safety in accordance with policy CLP22 of the Adopted Local Plan.

5. The carriageways and footways shall be constructed in accordance with the details approved plans, up to and including binder course surfacing, to ensure that each dwelling, prior to occupation, has a properly consolidated and surfaced carriageway and footway between the dwelling and the existing/proposed public highway. Until final surfacing is completed, the footway binder course shall be provided in a manner to avoid any upstands to gullies, covers or other such obstructions within or abutting the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surface course within twelve months (or three months in the case of a shared surface road) from the occupation of such dwelling, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety in accordance with policy CLP22 of the Adopted Local Plan.

6. The dwellings, the subject of the application, shall not be occupied until the site has been provided with suitable turning arrangements to enable service and delivery vehicles to turn, all as may be agreed in writing with the Local Planning Authority in writing. In the case where interim turning arrangements are constructed these must remain available until any permanent turning head is available, in accordance with the approved designs.

Reason: In the interests of highway safety in accordance with policy CLP22 of the Adopted Local Plan.

7. No dwelling shall be occupied until space has been provided within the site curtilage / plot for the parking and manoeuvring of residents and visitors vehicles associated with that dwelling, all to be laid out, constructed and approved in writing by the Local Planning Authority. The facilities shall be retained throughout the life of the development free from any impediment to their designated use.

Reason: In the interests of highway safety in accordance with policy CLP22 of the Adopted Local Plan.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification)

a) no means of enclosure (other than those hereby permitted) shall be erected within the curtilage of any dwelling where it is in line with or forward of the principal elevation of that dwelling, and

b) no outbuildings or extensions shall be erected to the side or rear of plots 1, 11, 12, 13, 14 and 15;

without the prior written approval of the Local Planning Authority upon an application submitted to it.

Reasons: To safeguard the adjacent woodland and in the interests of highway safety, in accordance with policies CLP16 and 22 of the Adopted Local Plan.

9. The development shall be completed in full accordance with the sustainability statement dated November 2021, including the provision of solar PV and EV charging to each dwelling hereby approved.

Reason: In accordance with policy CLP20 of the Adopted Local Plan.

10. Prior to the installation of services and lighting fixtures, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. The woodland edge habitats shall be protected from lightspill, as far as practicable. The Strategy should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. A lux contour plan will be required to demonstrate acceptable levels of lightspill to sensitive ecological zones/features. Guidelines can be found in Guidance Note 08/18 - Bats and Artificial Lighting in the UK (BCT and ILP, 2018). Such approved measures will be implemented in full.

Reason: In the interest of protecting habitats and species throughout the construction process in accordance with Policy CLP16 of the Adopted Local Plan.

11. The development shall be constructed and completed in full accordance with the submitted ecology report and enhancements



- bat boxes to Plots 1 and 15.
- swift boxes to all remaining plots.
- gaps 130 mm x 130 mm in garden fencing to maintain connectivity for hedgehogs.

Reason: Reason: In the interest of enhancing habitats in accordance with Policy CLP16 of the Adopted Local Plan.

12. Prior to the commencement of the development tree protection measures shall be installed on site in strict accordance with the submitted Arboricultural Method Statement dated November 2021 and under the supervision of a suitably qualified tree specialist. Such measures shall be retained in place throughout construction works. The development shall be completed in full accordance with the AMS.

Reason: Required prior to commencement of development to satisfy the Local Planning Authority that the trees to be retained will not be damaged during 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 and policy CLP16 of the Adopted Local Plan.

13. The soft landscaping of the site shall be completed in full accordance with plan P21-2648.001 Rev E, all completed prior to final occupation of the development.

Reason: In the interests of visual amenity and biodiversity in accordance with policy CLP16 of the Adopted Local Plan.

14. 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 Ecological Impact Assessment by Whitcher Wildlife Ltd dated 18.05.2022, to meet the habitat gains set out in the Biodiversity metric calculation and landscaping of the site agreed under condition 13 above. 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.

15. In line with the proposed street scene sections a scheme detailing all proposed finished floor and land levels, with street scene and sections provided across the site frontage and within the site, shall be submitted to and approved in writing by the Local Planning Authority prior to development platforms being completed. The development shall be carried out in accordance with the approved scheme.

Reason: To ensure a satisfactory landform in the interests of visual amenity in accordance with policy CLP20 of the Adopted Local Plan.

16. The pedestrian link to the adjacent public right of way shall be installed on site and be available for use prior to the occupation of the 5<sup>th</sup> unit on the site.

Reason: to ensure appropriate connectivity of the site in accordance with Policies CLP1 and 2 of the Adopted Local Plan.

17. All external materials and hard surfacing shall be in line with the details on plan no. 21-CL6-SEGD-MBSP-01 Rev B.

Reason: To ensure an appropriate finished appearance for the development in accordance with Policy CLP20 of the Adopted Local Plan.

18. The development shall be completed in accordance with the recommendations of the noise impact assessment dated 30.05.2022 by ENS Ltd.

Reason: To ensure appropriate noise attenuation in accordance with policy CLP14 of the Adopted Local Plan.

19. a) Boundary treatments shall be in accordance with the details on plan no. 21-CL6-SEGD-CHL-01 Rev G.  
b) In line with the above plan and prior to their installation, details including materials, of all retaining boundary walls shall be submitted to and agreed in writing by the Local Planning Authority. Works shall be completed in accordance with the agreed details.

Reason: To ensure an appropriate finished appearance for the development in accordance with Policy CLP20 of the Adopted Local Plan.

20. Construction work shall only be carried out between the hours of 8:00 am to 6:00 pm Monday to Friday and 8:00 am to 2:00 pm on a Saturday. Staff shall be allowed access only onto site Monday to Friday from 7.30am. 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: To protect residential amenity in accordance with Policy CLP14 of the Adopted Local Plan.

21. No development above ground shall commence until; 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 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: To ensure a safe development, safeguarded from former mining activity in line with policy CLP14 of the Adopted Local Plan.

22. Prior to the occupation of the development or it being taken in 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: To ensure a safe development, safeguarded from former mining activity in line with policy CLP14 of the Adopted Local Plan.

23. No individual dwelling hereby approved shall be occupied until the optional requirement for water consumption (110 litres use per person per day) in Part G of the Building Regulations has been complied with for that dwelling.

Reason: To protect the water environment in accordance with policy CLP13 of the of the adopted Chesterfield Borough Local Plan and to accord with paragraph 149 of the National Planning Policy Framework.

24. The site shall be developed with separate systems of drainage for foul and surface water on and off site. In addition, the peak pumped foul water discharge shall not exceed 4.75 litres per second.

Reason: In the interests of satisfactory and sustainable drainage in line with policy CLP13 of the Adopted Local Plan.

25. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority.

Reason: To ensure that the site is properly drained and in order to prevent overloading, surface water is not discharged to the public sewer network in line with policy CLP13 of the Adopted Local Plan.

26. 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. The Site Specific Flood Risk Assessment Dated November 2021, Doc Ref: P21025- SsFRA\_A Loundsley Green Strata “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 in line with policy CLP13 of the Adopted Local Plan.

27. 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 in line with policy CLP13 of the Adopted Local Plan.

28. The above surface water attenuation should not be brought into use until such a time as it is fully designed and constructed in line with a

scheme to be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed attenuation pond does not increase flood risk, that the principles of sustainable drainage are incorporated into the proposal, the system is operational prior to first use and that maintenance and management of the sustainable drainage systems is secured for the future in line with policy CLP13 of the Adopted Local Plan.

29. Prior to the first occupation of the development, a verification report carried out by 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 in line with policy CLP13 of the Adopted Local Plan.

30. The development shall be completed in line with the submitted Employment and Training Scheme received 14.04.2022.

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.

31. Following completion of 50% of the dwellings and secondly at the stage of the final completion of the remaining 50% of the dwellings, a post construction Accessible Housing Certification Table containing the full details of the following matters shall be submitted to and approved in writing by the Local Planning Authority;
- Which and how many dwellings within the development have satisfied M4 (2)\* accessible and adaptable dwellings standards
  - Which and how many dwellings within the development have satisfied M4 (3)\* wheelchair adaptable dwellings standards
  - Which and how many dwellings within the development have satisfied M4 (3)\* wheelchair accessible dwellings standard.
- (\*contained within Part M Volume 1 (Approved Document) of The

Building Regulations 2010, or any such Approved Document or Regulations for the time being in force, including any modification, extension or re-enactment of the same and including all instruments, orders, regulations and directions for the time being made, issued or given under the Approved Document or Regulations (or deriving validity from the same.))

The accessible dwellings shall be provided in accordance with the agreed details and shall be retained as provided for thereafter.

Reason: In the interests of disabled people and access for all to comply with policy CLP4 of the Adopted Local Plan.

32.a) Works on site shall be undertaken in accordance with the recommendations of the following reports:

Phase 2 Geo-Environmental Assessment (Ref: NTE2269)

Coal Mining and Geotechnical Appraisal (Ref: 4158/2 Date: November 2021)

Earthworks Specification (Ref: 4158/4 Date: December 2021)

Specification for the Treatment of Shallow Workings & Mine Entries (Ref: 4158/3 Date: December 2021)

Including any additional chemical and gas testing for on site material or for material for movement and deposition off site along with the formulation of appropriate remediation based on the findings of the recommended assessments.

b) 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 above reports then the revised remediation shall be submitted to and approved in writing by the Local Planning Authority;

c) 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.

Reason: This 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 Policy CLP14 of the Adopted Local Plan.

### **Informatives:**

#### **Highways:**

- i. Pursuant to Section 38 and the Advance Payments Code of the Highways Act 1980, the proposed new estate roads should be laid out and

- constructed to adoptable standards and financially secured. Advice regarding the technical, financial, legal and administrative processes involved in achieving adoption of new residential roads may be obtained from the Strategic Director of the Economy, Transport and Communities Department at County Hall, Matlock. The applicant is advised to allow at least 16 weeks in any programme of works to obtain a Section 38 Agreement.
- ii. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
  - iii. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway, measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
  - iv. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Street-works Act 1991 prior notification shall be given to the Strategic Director of the Economy, Transport and Communities Department at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website:  
[http://www.derbyshire.gov.uk/transport\\_roads/roads\\_traffic/development\\_control/vehicular\\_access/default.asp](http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp), Email - [ETENetmanadmin@derbyshire.gov.uk](mailto:ETENetmanadmin@derbyshire.gov.uk) or telephone Call Derbyshire on 01629 533190.
  - v. Pursuant to Sections 219/220 of the Highways Act 1980, relating to the Advance Payments Code, where development takes place fronting new estate streets the Highway Authority is obliged to serve notice on the developer, under the provisions of the Act, to financially secure the cost of bringing up the estate streets up to adoptable standards at some future date. This normally takes the form of a cash deposit equal to the calculated construction costs of the street and may be held indefinitely. The developer normally discharges his obligations under this Act by producing a layout suitable for adoption and entering into an Agreement under Section 38 of the Highways Act 1980. Where the developer wishes for the development



- to remain private it is expected that the streets are constructed to an acceptable standard and a management company set up, by the developer, to take on the future maintenance responsibilities for the estate streets on the development.
- vi. 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 and the works being covered by the appropriate legal Agreement. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the Strategic Director of the Economy, Transport and Communities Department at County Hall, Matlock. The applicant is advised to allow at least 16 weeks in any programme of works to obtain a Section 278 Agreement.
  - vii. Pursuant to Section 50 (Schedule 3) of the New Roads and Street Works Act 1991, before any excavation works are commenced within the limits of the public highway (including public Rights of Way), at least 6 weeks prior notification should be given to the Strategic Director of the Economy, Transport and Communities Department at County Hall, Matlock (telephone: 01629 533190 and ask for the New Roads and Street Works Section).
  - viii. Construction works will require Temporary Traffic Management and possibly road closures/diversions. Advice regarding procedures should be sought from David Nicholson, Traffic Management - telephone 01629 538685.
  - ix. Under the provisions of the New Roads and Street Works Act 1991 and the Traffic Management Act 2004, all works that involve breaking up, resurfacing and / or reducing the width of the carriageway require a notice to be submitted to Derbyshire County Council. Works that involve road closures and / or are for a duration of more than 11 days require a three month notice; developers' works will generally fall into this category. Developers and Utility companies (for associated services) should prepare programmes for all works that are required for the development, such that these can be approved through the coordination, noticing and licencing processes. This will require developers and Utility companies to work to agreed programmes and booked slots for each part of the works. Discussions should therefore take place with Derbyshire County Council's Highway Noticing Section, at County Hall, Matlock at the earliest stage possible.

- x. The applicant is advised to obtain a technical approval for all drainage within the proposed adopted highway by obtaining details from the Local Highway Authority prior to the submission of such approved details to the Local Planning Authority to discharge Condition (5) of this consent.
- xi. Any affected Highway Maintainable at Public Expense (HM@PE) on the Derbyshire Definitive Map) must remain unobstructed on its legal alignment at all times and the safety of the public using them must not be prejudiced either during or after development works take place. Please note that the granting of planning permission is not consent to divert or obstruct the HM@PE. If it is necessary to temporarily obstruct the HM@PE to undertake development works then a temporary closure/diversion is obtainable from the County Council. If the HM@PE is required to be permanently diverted then the Council that determines the planning application (The Local Planning Authority) has the necessary powers to make a diversion order. Any development insofar as it will permanently affect a HM@PE must not commence until a diversion order (obtainable from the planning authority) has been confirmed. A temporary closure of the HM@PE to facilitate public safety during the works may then be granted by the County Council.
- xii. Any affected Public Right of Way (PROW) on the Derbyshire Definitive Map) must remain unobstructed on its legal alignment at all times and the safety of the public using them must not be prejudiced either during or after development works take place. Further advice can be obtained by calling 08456 058058 and asking for the Rights of Way Duty Officer. Please note that the granting of planning permission is not consent to divert or obstruct a public right of way. If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from the County Council. Please contact 08456 058058 for further information and an application form. If a right of way is required to be permanently diverted then the Council that determines the planning application (The Local Planning Authority) has the necessary powers to make a diversion order. Any development insofar as it will permanently affect a public right of way must not commence until a diversion order (obtainable from the planning authority) has been confirmed. A temporary closure of the public right of way to facilitate public safety during the works may then be granted by the County Council.
- xiii. The developer must contact Derbyshire County Council's Public Transport Unit for advice by emailing [ETC.PublicTransport@derbyshire.gov.uk](mailto:ETC.PublicTransport@derbyshire.gov.uk). Should the development be approved and necessitate the creation or re-siting of a bus stop/shelter all relevant costs of these works will be recharged to the developer.

- xiv. All highway-related structures, whether to be adopted or not, shall be designed and constructed in accordance with current relevant Highways England standards, codes of practice and technical memoranda unless agreed otherwise. Design is normally subject to the technical approval procedure set out in BD 2/12 within DMRB and in the context of this design guide, the technical approval authority is the relevant LHA. The applicant must employ a qualified civil or structural engineer with experience in highway structures, with approval from the relevant LHA, to carry out design and oversee construction. Prior to construction, the applicant shall provide the LHA with a programme of supervision for approval. This programme shall give details of the level and amount of supervision provided and contain proposals for materials testing. The works will then be audited by the LHA at regular intervals for compliance with the construction programme.

Yorkshire Water:

If the development is looking to have new sewers included in a sewer adoption agreement with Yorkshire Water (under Section 104 of the Water Industry Act 1991) he/she should contact our Developer Services Team (tele: 03451 208 482, email: [technical.sewerage@yorkshirewater.co.uk](mailto:technical.sewerage@yorkshirewater.co.uk)) at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with the WRc publication 'Code for Adoption – a Design and construction guide for developers' as supplemented by Yorkshire Water's requirements.

Lead Local Flood Authority:

- 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