

## PLANNING COMMITTEE – 23<sup>rd</sup> April 2024

**Reference Number:** 22/01090/FL

**Application expiry:** expired

**Application Type:** FULL

**Proposal Description:** S73 application to vary condition 4 (parameters plan) pursuant of planning approval 20/00532/OL to rearrange the uses on parcels 7, 8A, 9 and 11 (Major Development/Affecting Setting of Listed Building/Affecting Public Rights of Way)

**At:** Egstow Park, Clay Cross

**For:** St Modwen Homes Ltd

**Third Party Reps:** 3 objections

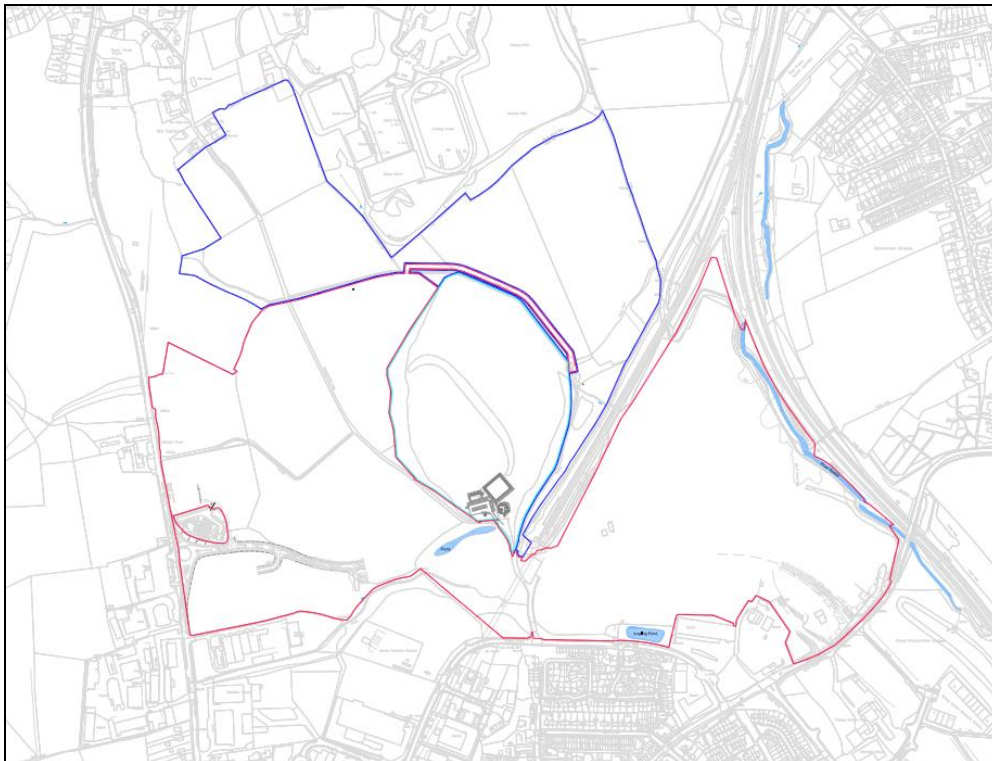
**Parish:** Clay Cross

**Ward:** Clay Cross North

**Report Author:** Graeme Cooper

**Date of Report:** 12<sup>th</sup> April 2024

**MAIN RECOMMENDATION:** Grant permission, subject to conditions



*Figure 1: Location plan, with site edged in red*

## **1.0 Reason for Report**

- 1.1 As determined by the Planning Manager, this application is being considered at planning committee due to the strategic importance of the proposed development.

## **2.0 Proposal and Background**

### **Site Description**

- 2.1 The application site forms the former BiWater site, now marketed and referred to in this report as Egstow Park, which is located to the north of Clay Cross. Phase 1 is complete, with Phases 2, 3 and 4 along with some of the western commercial land uses and link road well under construction, with the public house and McDonalds complete. The link road is almost complete with the exception of a short section near the Clay Cross tunnel, and which will connect the A61 with the A6175.
- 2.2 Most of Egstow Park, with the exception of Phase 2, sits in a bowl of the former industrial site. Brassington Lane runs from the north through Egstow Park and extends to the southeast onto Furnace Hill Road. A formal recreation site sits centrally between the two developable areas of Egstow Park. The midland rail mainline cuts the site in two, with it extending below the site through the Clay Cross tunnel.
- 2.3 The eastern part of Egstow Park is framed by mature woodland which screens views to the east back towards the Church of St. Lawrence, North Wingfield, which is a Grade I listed building. Land levels along the southern extent of Phase 2 are positioned higher in most parts to those on Phase 1.
- 2.4 The site is identified as a Strategic Site Allocation in the Local Plan.

### **Proposal**

- 2.5 This application seeks to amend condition 4 of planning approval NED/20/00532/OL to replace the Illustrative Masterplan with an updated Parameters Plan showing rearranged uses on the outstanding development parcels 7, 8A, 9 and 11.
- 2.6 It is proposed to amend the wording of the condition to read:

“Development shall proceed in accordance with the broad parameters identified in the Parameters Plan (7184-L23-A) and no buildings on Greenfield land to the north of the Derby Road site, heading toward Tupton, with the exception of those plots, which are 2.5 storeys in scale, outlined in red on drawing R9076-RPS-20-00-DRA-0235 Rev P01 dated June 2020 shall have accommodation over two-storeys”.

Parcel	Parcel Size (ha)	Approved Use	Proposed Use
7	0.3	Local Centre (A1, A2, A3, A4 and A5)	Residential (10 dwellings)
8A	0.22	Open Space	Ground Floor Level - Local Centre (E(a), E(b) and E(c) plus Drinking Establishments or Hot Food Takeaways (now sui generis) and First Floor Level – Residential (5 units)
9	3.15	Employment	Residential (106 units)
11	1	Employment	Open Space

Figure 2: Existing and proposed land uses

- 2.7 Figure 2 above illustrates a comparison between the approved uses at Egstow Park and the proposed land uses, along with the size of each parcel of land in question.
- 2.8 Figure 3 below illustrates the current approved land uses parameters plan for Egstow Park. The orange zones are identified to be allocated for housing, blue for employment, red for retail/local centre uses, purple for a care home/hotel and green for open space.



Figure 3: The approved land use parameters plan

- 2.9 Figure 4 below provides an illustration as to the proposed changes requested as part of this application submission. The beige colour is to be allocated for housing, orange for local centre uses, purple for the care home/hotel, light purple for the

public house and the light green between the brown and orange sites for commercial uses.



Figure 4: Proposed parameters plan

## Amendments

2.12 None.

### 3.0 Relevant Planning History (not the full site history)

- 3.1 17/00666/OL - Outline application for a mixed-use development, comprising: residential use (C3), employment-generating uses with employment (B1, B2, B8), local centre (A1, A2, A3, A4 and/or A5), hotel (C1) and/or care home (C2); and public open space, landscaping, highway works and associated infrastructure. Detailed approval is sought for principal access arrangements from A6175 Market Street, with all other matters to be reserved. (Major development/ Environmental statement/Affecting setting of a listed building/Departure from development plan) (Conditionally Approved - S106 complete)
- 3.2 20/00532/OL - Application to vary condition 4 (Land Use Parameters/Accommodation over two storeys) of planning approval 17/00666/OL to allow 2.5 storey dwellings (29 units in total) (Major Development/Affecting Setting of Listed Building/Affecting Public Rights of Way) (Conditionally Approved)

3.3 22/00936/EIA - EIA scoping opinion for redevelopment of Egstow Park to amend site parameters plan to include residential (25ha), care home/hotel, public house, reduced commercial area, retail, amended local centre, link road, attenuation ponds and public open space (EIA Required).

#### 4.0 Consultation Reponses

4.1 **Ward member** raised no comments.

4.2 **Parish Council** raised no comments.

4.3 **Highways Authority** provided the following response:

4.4 Transport Assessment - The above-referenced application is S73 application to vary condition 4 (parameters plan) pursuant of planning approval 20/00532/OL to rearrange the uses on parcels 7, 8A, 9 and 11. In support of this proposal a Transport Assessment and Travel Plan has been submitted. The Highway Authority has the following comments:

4.5 It is proposed to develop Parcel 7 to provide 10 residential dwellings, Parcel 9 to provide 106 residential dwellings, and to develop Parcel 8A to provide a local centre and five dwellings. The site has a consent to provide a maximum of 825 dwellings, however due to the minor amendments only 783 dwellings could be provided. As a result of the revised proposal maximum quantum of employment development would reduce from 5ha to 1.41ha. However due to a number of environmental related constraints as indicated above, the developer is not able to deliver the 825 dwellings set out in the 2018 planning application 'envelope'. Consequently, with these changes in place, there will be an overall slight reduction in traffic generation.

4.6 Travel Plan - At the moment, the condition cannot be discharged as the submitted Travel Plan does not include a stated target (i.e. percentage reduction over x years) for SOV or car driver journey reductions.

4.7 Furthermore, the Travel Plan should be active throughout the build out and first occupation of the whole development (i.e. residential and employment) plus one year. This should be explicitly stated in the Plan, with a monitoring regime to follow suit. Assuming a fifteen year build out programme as stated, every reasonable step should be taken to ensure the Travel Plan does not expire before the development is complete and occupied.

4.8 In the event of a S106 for this particular application, the usual considerations apply, i.e. Travel Plan monitoring fee: @ £1,110.00 pa x five years = £ 5,550.00. (nb. Applies to these specific developments only). [*officer note: the outline permission requires the submission of a Travel Plan prior to the occupation of each phase of development and not at this outline stage*]

- 4.9 **Environmental Health Officer (EHO)** - The EHO initially confirmed no objections regarding noise but requested more information relating to land contamination. The EHO considered the additional information and noted the existing conditions in the previous decisions on this site. The EHO agreed that no additional conditions were required and that the relevant conditions would need to be addressed before any work commences on this new residential area (phase 9).
- 4.10 **DCC Planning Policy (Infrastructure)** raised no comments.
- 4.11 **NEDDC Housing** raised no comments.
- 4.12 **NEDDC Drainage** raised no comments.
- 4.13 **Lead Local Flood Authority (LLFA)** raised no comments.
- 4.14 **Yorkshire Water Authority** raised no objection to the variation of condition 4. It is noted from other application details that surface water will discharge to watercourse. Yorkshire Water fully endorse this mean of surface water disposal.
- 4.15 **The Coal Authority** note that they were not consulted on planning application 20/00532/OL, which stands to reason on the basis that the application type was listed as exempt from Version 5, 2019 of the Coal Authority's Resources for Local Planning Authorities. Notwithstanding the above, and whilst the Coal Authority has no comments to make on this application, as the condition is not coal mining related, I note that we were previously able to recommend the discharge of Condition 23. On account of the above, the Coal Authority has no comments to make in relation to this planning application and Condition 23 does not need to be duplicated on any reissued consent.
- 4.16 **Derbyshire Wildlife Trust (DWT)** reviewed the Ecological Appraisal (FPCR, 2022), the Planning Statement and Covering Letter, plus the updated Illustrative Masterplan (7184-L-05F) and the Amended Parameters Plan Ref. 7184-L-23 as shown in the Planning Statement. Full comments are available online, below is a summary of their comment.
- 4.17 DWT support the change in land use of Parcel 11 as it will retain woodland and increase habitat provision. This strengthens the central corridor. There is some uncertainty about the habitat that would be lost on Parcel 8a. DWT support retention where possible and offsetting can be done elsewhere on site. DWT recommend that measures to prevent amphibians becoming trapped in the road network. Overall, the proposed working methods to safeguard amphibians, reptiles, birds and badgers detailed in the Ecological Appraisal are acceptable and should be secured via conditions, which cover a LBEMP and CEMP: Biodiversity.
- 4.18 **DCC County Archaeologist** raised no comments.

- 4.19 **Derbyshire Police** raised no comments.
- 4.20 **NEDDC Economic Development Unit** raised no comments.
- 4.21 **NEDDC Planning Policy and Environment Team (PPET)** provided comments on 16/03/2023 and note that the proposal will amend the provision on site as per the table below:

	<b>Outline permission</b>	<b>S73 proposal</b>
Dwellings	825	783
B & E(g) uses	5ha	1.36ha
Local Centre	2ha	1.92ha
Open Space		Additional open space on parcel 11, partially offsetting 0.22ha to be lost at Plot 8a

- 4.22 Policies SS1, SS2, SS4, LC1, LC4, WC2 and WC3 are considered relevant to the decision process. The comments below focus on the proposals compliance with the policies in the Local Plan.
- 4.23 The strategic policies in the Local Plan aim to support sustainable growth which brings about regeneration and helps to balance housing and employment growth and integrate these alongside services and facilities in the most accessible locations. Growth should be focussed on strategic sites. SS4 allocates land on Egstow Park comprising 8ha of employment and up to 1000 dwellings. Paragraph 4.47 of the Local Plan explains further that outline permission was granted for 825 homes and approximately 8 ha of employment generating uses. It explains that this incorporated up to 5ha of B1 (now E(g), B2 and B8 uses, up to 2ha local centre and up to 0.8 ha hotel/care home.
- 4.24 The proposed changes at parcels 9 and 11 would result in less B and E(g) use employment provision on site (loss of approx. 3.6ha). The Local Plan employment allocations provide for 35.74ha of employment land on sites described in table 6.1. A proportion of this provision is on the strategic sites, including 5ha at Egstow Park. The Plan acknowledges that this provision, together with the take-up from 2014-17, results in a shortfall against the Plan target of 43ha, as set out in Policy SS2. The Local Plan Inspector considered this to be justified, in particular due to potential land at Dronfield Regeneration Area and Coalite Priority Regeneration Area coming forward, and the Council's commitment to robust monitoring of employment land supply.
- 4.25 The Council's Annual Monitoring Report published in December 2022 is based upon the 2021-2022 monitoring period and sets out the latest position on employment land supply. It reports that 26.17ha of employment land is still available and 10.30ha has been taken up. Furthermore, the rate of losses has been lower than predicted, with 2.99ha of employment land lost to other uses since 2014 (average

0.37ha/yr), compared to the predicted 8ha (1ha/yr). On this basis 5.01ha of employment land remains within the supply, rather than lost as predicted. The overall employment land supply at 31/03/2022 is therefore 26.17 + 10.30 + 5.01 = 41.48ha, against a requirement of 43ha.

- 4.26 Furthermore, there is increased certainty that employment land will come forward on land at the Coalite Priority Regeneration Area (Policy SS6). On the 4th November 2022, reserved matters approval was granted further to outline planning permission for B1c, B2 and B8 uses on plots 1 and 2 of the Coalite site. Due to this reserved matters approval, together with evidence in the form of a marketing brochure and website, there is now more confidence that this site will come forward for employment uses. This would result in approximately 15ha of additional available employment land supply. In overall quantitative terms, this additional supply would, in principle, cover both the current shortfall, as set out in the AMR, and the proposed 3.6ha loss on Egstow Park parcels 9 and 11.
- 4.27 The Local Plan seeks to secure and retain existing employment sites and allocations which have been identified as the most appropriate employment locations and safeguard them from potential redevelopment to a non-employment use. Those sites listed under policy WC2 are identified as being particularly important for the retention of the District's B-class employment base, either strategically or locally for a particular settlement. Egstow Park is one of these sites. The Plan clarifies that the strategic sites in particular will provide a significant improvement to the quality of the employment land portfolio of the entire District, and that delivery of B-class employment uses (including Class E(g)) should be prioritised on these sites due to their access to the strategic road network.
- 4.28 Evidence from the AMR shows that employment development has solely taken place at Coney Green Clay Cross and Markham Vale, demonstrating the importance of the sites listed under policy WC2 in Clay Cross. Furthermore, from an occupation perspective, there appears to be a strong level of demand for light industrial/warehousing units in the Clay Cross area, such as at Wingfield Court and Railway View at Coney Green Business Park and also at Egstow Park. Therefore, there is no reason why parcels 9 and 11 would not be reasonably expected to receive sufficient market interest to deliver development of this nature in the short, medium or longer term. 5ha of employment land is protected in line with WC2 and loss of this land would be contrary to the Local Plan.
- 4.29 Egstow Park is also listed within Policy WC3. This Policy will consider redevelopment of employment land for other appropriate employment generating uses, recognising the wider definition of economic development, which retail and commercial uses, and care homes account for, as explained in paragraph 6.33 of the Plan. The Policy states that the precise areas of land set aside for general employment purposes on the former Egstow Park site are not identified by a boundary on the Policies Map, to allow for flexibility of layout.



- 4.30 Egstow Park is included within Policy WC3, alongside Policy WC2, with the intention that the local centre and care home/hotel use could be located flexibly within the site, such as that proposed to parcels 7 and 8A for example. Officers consider that the proposals for parcels 7 and 8A do not result in a significant change to the overall provision of local centre uses in principle and are in line with Policy WC3. The Local Plan makes it clear that B-class employment uses (including Class E(g)) at the strategic sites, such as Egstow Park, are important and should be prioritised. This is done through the protection of policy WC2. In contrast, Policy WC3 intends to provide flexibility of layout for the employment generating uses that have been granted planning permission, specifically the 3 hectares with permission for retail and commercial uses and a care home/hotel. Similarly, the reference to 'up to 8ha' of employment generating land uses in Policy SS4 was included to reflect the more flexible mix of employment uses that had been granted planning permission. Table 6.1 and Policy WC2 make clear that 5 ha of B-class employment uses (including Class E(g)) is expected to be provided.
- 4.31 Policy SS2 also requires that new employment development will be focussed on Principal Employment Areas as identified in Policy WC2 and on Strategic Sites at the Avenue, Egstow Park and Markham Vale. The PPET do not consider that provision of only 1.36ha of E(g) and B-class employment uses can be regarded as an employment development focus on a Strategic Site.
- 4.32 The PPET are aware that the applicant has submitted an employment land statement, in which they set out that parcels 9 and 11 are not suitable and that abnormal costs make industrial and warehousing developments unviable. In particular the focus is on the suitability and viability of parcel 9, based upon a notional scheme of industrial units for this parcel. The applicant finds that the mitigation measures required to address the constraints and the costs associated with this would rule out the viability of any scheme on this site. External advice would be needed to verify or otherwise these findings to understand to what degree the abnormal development costs are appropriate.
- 4.33 Furthermore, the size of the units in the notional scheme are bigger than the applicant's own evidence seems to suggest is appropriate for the market, and it is unclear how the applicant has assessed the provision for starter units and managed workspace, as is required by Policy SS4. A scheme focussing upon smaller units would be more suitable. Further advice on alternative mitigation measures and costs taking account of smaller commercial units would be necessary.
- 4.34 The Local Plan requires development proposals to contribute to sustainable development (Policy SS1) and locate development where there is access to a broad range of jobs, services and facilities which are accessible by foot, cycle or public transport with reduced reliance on the private car. The Strategic Sites at the Avenue and Egstow Park are designed to include a mix of uses, so that the residential development on site is in close proximity to a range of employment facilities and services, reducing the reliance on the private car. A reduction in employment land

provision, as proposed, will not achieve the benefits of a sustainable mixed-use development.

- 4.35 The proposals would result in the provision of further housing land supply. This provides some benefits and is within the 825 dwellings permitted at outline stage. These benefits would be to the housing land supply in the later years of the Local Plan period, rather than to the supply in the first five years, which is sufficient to meet the Local Plan requirement.
- 4.36 If the proposal were to be considered acceptable, the change of parameters plan and confirmation of fewer dwellings than permitted at the outline stage may trigger a review of the conditions, or legal agreements, in particular in relation to the requirement for 20% accessible and adaptable dwellings as set out in Policy LC4, and the timing of the provision of a through road from the A61 to Furnace Hill/A6175.
- 4.37 In summary, although the proposed reduction of employment land at Egstow Park would in principle not lead to an overall District wide shortfall of employment land, due to the detailed permission at the Coalite site, it is not in line with the aims of the Local Plan, in particular policies SS2 and WC2. The Local Plan is clear that the strategic sites are critical for achieving the Plan's strategy and that new employment development should be focussed on these strategic sites, creating sustainable mixed-use developments. The proposals for parcels 9 and 11 are therefore not in accordance with the policies of the Local Plan. The proposals for parcels 7 and 8A do not result in a significant change to the overall provision of local centre uses in principle and are in line with Policy WC3.
- 4.38 **NEDDC Parks Team** raised no comments.
- 4.39 **Environment Agency (EA)** note that the development site appears to have been the subject of past industrial activity which may pose a risk of pollution to controlled waters. However, the EA are unable to provide site-specific advice relating to land contamination. The EA recommend that the LPA refer to our published guidance [Land Contamination Risk Management](#) which outlines the approach that should be adopted when managing this site's risks to the water environment and the LPA consult the in house EHO on land contamination risk.
- 4.40 **DCC Rights of Way** raised no comments.
- 4.41 **Ramblers Association** raised no objection to the proposed changes.
- 4.42 **Peak and Northern Footpaths Society** raised no comments.
- 4.43 **Chesterfield Cycle Campaign** raised no comments.

4.44 **British Horse Society (BHS)** provided comprehensive comments, all of which can be found in full online, these can be summarised as follows. The BHS provided commentary on the traffic and transport impact of the development and considered the Key and Local Cycle Networks within the site should be upgraded accordingly and providing a link to the school. The BHS notes the importance of Brassington Lane and that walking and cycling should be encouraged and provided. Concern is raised about the length of time the Brassington Lane route remains closed. The materials used on the pathway should be reconsidered as the current materials are inappropriate.

4.45 **Historic England** raised no comments.

## **5.0 Representations**

5.1 The application was publicised by way of neighbour letters and the display of a site notice. A site notice was placed adjacent to the application site and expired on 25<sup>th</sup> November 2022.

5.2 3 local residents have made representations raising the following comments objecting to the proposed development:

- Loss of green space (opposite Phase 1, in parcel 8A)
- Negative effect on wildlife currently in the green space
- Increased light pollution
- Increased noise pollution
- Potential of commercial smells (if a takeaway opens)
- Potential of anti-social behaviour
- Increase in pollution from additional traffic
- Traffic issues
- Road not designed for additional traffic volumes
- Parcel 8A would be better used to enhance biodiversity
- Inappropriate location for commercial units (within parcel 8A)

## **6.0 Relevant Policy and Strategic Context**

### **North East Derbyshire Local Plan 2014-2034 (LP)**

6.1 The following policies of the LP are material to the determination of this application:

SS1 Sustainable Development  
SS2 Spatial Strategy and the Distribution of Development  
LC1 Housing Allocations  
WC2 Principal Employment Areas  
WC3 General Employment Areas  
SP2 Clay Cross  
SDC2 Trees, Woodlands and Hedgerows

SDC3 Landscape Character  
SDC4 Biodiversity and Geodiversity  
SDC6 Development Affecting Listed Buildings  
SDC7 Scheduled Ancient Monuments and Archaeology  
SDC9 Non-designated Local Heritage Assets  
SDC11 Flood Risk and Drainage  
SDC12 High Quality Design and Place Making  
SDC13 Environmental Quality  
SDC14 Land potentially affected by Contamination or Instability  
ID1 Infrastructure delivery and Developer Contributions  
ID2 Provision and Safeguarding of Transport Infrastructure  
ID3 Sustainable Travel  
ID7 Green Infrastructure  
ID8 Greenways and Public Rights of Way  
ID10 Open Space, Sports and recreation Facilities

### **National Planning Policy Framework (NPPF)**

- 6.2 The overarching aims of the National Planning Policy Framework (NPPF) have been considered in the assessment of this application. With specific reference to (but not limited to) the follow paragraphs.
- 6.3 Para 47. Requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 6.4 Para 123. States decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously developed or 'brownfield' land.
- 6.5 Para 126. Planning policies and decisions need to reflect changes in the demand for land. They should be informed by regular reviews of both the land allocated for development in plans, and of land availability. Where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan:
- a) it should, as part of plan updates, reallocate the land for a more deliverable use that can help to address identified needs (or, if appropriate, deallocate a site which is undeveloped); and
  - b) in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.

## Other Material Planning Considerations

- 6.6 **Clay Cross Regeneration Framework 2025**; published 2013. This highlights the importance of the redevelopment of Egstow Park as a mixed used development.

## 7.0 Planning Issues

### Principle of Development

- 7.1 The principle of development on the site was established through the granting of outline planning permission 17/00666/OL and most recently updated by a Section 73 application, 20/00532/OL.

### Section 73 Process

- 7.2 Section 73 of the Town and Country Planning Act 1990 allows applications to be made for permission to develop without complying with a condition(s) previously imposed on a planning permission. A Local Planning Authority can grant such permission unconditionally or subject to different conditions, or they can refuse the application if they decide that the original condition(s) should continue. The original planning permission will continue to subsist whatever the outcome of the application under Section 73.

### The Proposal

- 7.3 As discussed above, the proposal would provide the following comparison (See Figure 5 below) to that originally granted permission.

	<b>Outline permission</b>	<b>S73 proposal</b>
Dwellings	825	783
B & E(g) uses	5ha	1.36ha
Local Centre	2ha	1.92ha
Open Space		Additional open space on parcel 11, partially offsetting 0.22ha to be lost at Plot 8a

Figure 5: Comparison chart between outline approval and this S73 application

- 7.4 What should be highlighted is that the number of dwellings granted permission to date is 669. Officers are not aware of any scope to increase housing delivery on site due to site constraints so the 825 approved at the outline stage are unlikely to ever be achieved, meaning that the proposal falls 156 dwellings short of that figure and only achieves 81% of the expected housing delivery.
- 7.5 The proposal would result in a similar level of Local Centre delivery to that originally approved and the delivery of 1.36ha of B (industrial) and E(g) (commercial) uses, achieving only 27.3% of expected levels. The combined employment delivery at Egstow Park would be approx. 3.28ha, less than half the requirement.

- 7.6 To add clarity to the above table, the proposed development would lose 0.22ha of open space at Parcel 8A but would create an additional 1ha within Parcel 11.

### **Planning Policy Considerations**

- 7.7 Local Plan policies SS1 (Sustainable Development) and SS2 (Spatial Strategy and the Distribution of Development) support sustainable growth which brings about regeneration and helps to balance housing and employment growth and integrate these alongside services and facilities in the most accessible locations, with growth focussed on strategic sites such as this one at Egstow Park.
- 7.8 Local Plan policy SS4 states that Egstow Park is an allocated strategic site for mixed use development. SS4 states that Egstow Park shall provide up to 8 hectares of employment generating land uses and up to 1000 dwellings. It shall also protect and enhance open space, sport and recreation facilities, provide public open space and provide a through road from the A61 to the A6175. The exact location of any employment or residential uses at Egstow Park is not identified in the Local Plan.
- 7.9 Local Plan policy SP2 (Clay Cross) states that new housing and employment should be in line with policies SS2, WC2 and WC3 respectively.
- 7.10 Local Plan policy WC2 (Principal Employment Areas) identifies the Egstow Park as an important site to deliver B2, B8 and E(g) uses. In the Local Plan explanatory text, 5ha of employment land is identified as being required for these uses. The Local Plan seeks to secure and retain existing employment sites and allocations which have been identified as the most appropriate employment locations and safeguard them from potential redevelopment to a non-employment use. The Local Plan clarifies that the strategic sites in particular will provide a significant improvement to the quality of the employment land portfolio of the entire District, and that delivery of B-class employment uses (including Class E(g)) should be prioritised on these sites due to their access to the strategic road network.
- 7.11 The proposed changes at parcels 9 and 11 would result in less B and E(g) use employment provision (a loss of approx. 3.6ha). The Local Plan employment allocations provide for 35.74ha of employment land on sites described in table 6.1 of the Local Plan. 5ha is identified to be provided at Egstow Park.
- 7.12 As of March 2022, the Council's Authority Monitoring Report (AMR) shows an overall employment shortfall (41.48ha against a requirement of 43ha). The same figures from March 2023<sup>1</sup> show an oversupply of 15.23ha (58.23ha against a requirement of 43ha).
- 7.13 Nevertheless, the latest AMR illustrates that whilst 5ha of employment land remains available at Egstow Park, Coney Green only has 1.59ha available. Furthermore

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<sup>1</sup> Para 5.8 of the Authority Monitoring Report 2023

1.2ha at Egstow Park is currently being developed out for employment uses. As such there is no evidence to suggest that parcel 9 and 11 wouldn't reasonably be expected to receive sufficient market interest to deliver development of this nature in the short, medium or longer term. 5ha of employment land is protected in line with WC2 and loss of this land would be contrary to the Local Plan.

- 7.14 Local Plan policy WC3 (General Employment) also includes Egstow Park development in the wording, with the intention of allowing for a local centre and care home/hotel use on the site. Policy WC3 intends to provide flexibility of layout for the employment generating uses that have been granted planning permission, specifically the 3 hectares with permission for retail and commercial uses and a care home/hotel. Similarly, the reference to 'up to 8ha' of employment generating land uses in Policy SS4 was included to reflect the more flexible mix of employment uses that had been granted planning permission. Table 6.1 and Policy WC2 make clear that 5 ha of B-class employment uses (including Class E(g)) is expected to be provided.
- 7.15 Local Plan policy LC1 (Housing Allocations) allocates the Egstow Park development to deliver approx. 730 dwellings in the plan period. If granted permission, the proposal would result in the provision of a further (approx.) 106 dwellings in lieu of the lost employment uses. As noted above, the outline permission for the site is granted for up to 825 dwellings, with only 669 delivered and no further housing expected on the site as a whole. As such, the benefits of additional housing delivery would weigh in favour of the proposed development.
- 7.16 In view of the above, it is considered that although the proposed reduction of employment land at Egstow Park would, in principle, not lead to a District wide shortfall of employment land it is not in line with the aims of the Local Plan, in particular policies SS2 and WC2. The Local Plan is clear that the strategic sites are critical for achieving the Plan's strategy and that new employment development should be focussed on these strategic sites, creating sustainable mixed-use developments. The proposals for parcels 9 and 11 are therefore not in accordance with the policies of the Local Plan. As such, this weighs against the proposal. The proposals for parcels 7 and 8A do not result in a significant change to the overall provision of local centre uses in principle and are in line with Policy WC3.

### **Applicants Position**

- 7.17 A number of reasons for the proposed change to the scheme have been outlined by the applicant, these include the suitability of the site for employment use, market demand, employment land supply and need, marketing issues and viability issues with the site. Figure 6 below illustrates the proposed distribution of development at Egstow Park.



Figure 6: Proposed indicative layout (Labelling: Nos.1, 2, 3, 4 & 5 residential / No.6 care home / No.7 proposed housing / No.8 commercial / No.8A local centre / No.9 proposed housing / No.10 retail/employment / No.11 open space / No.12 public house)

- 7.18 The applicant states that Parcel 7 (0.3ha) was identified as a proposed local centre use but considers this would be better suited to residential uses and could accommodate 10 dwellings. The local centre would be retained on a new 0.22ha plot labelled 8A on Figure 6 above. The proposed siting is considered more central and accessible to residents. The lost open space would be redistributed in parcel 11.
- 7.19 The proposals involving parcels 9 and 11 would result in a loss of 3.59ha of employment land from Egstow Park but increase the delivery of homes by 106 dwellings. The reasons for these changes are identified as specific ground conditions and parcel characteristics. The applicant comments that the Local Plan allocates the Egstow Park site to deliver up to 8ha but that this is a ceiling and not a minimum. They also consider the term “employment generating uses” is not confined to Class B uses but takes in A Class and C Class uses as well. Furthermore, the quantum of B Class land refers to “up to 5 hectares” and is also not expressed as a minimum figure, but as a cap.
- 7.20 The applicant notes that parcel 9 measures 3.15ha in size and is of an irregular shape (as seen above in Figure 6). The parcel also has a close relationship with residential development opposite. It is also considered that the parcel is constrained by topography (the land rises steeply from north to south) and ground conditions (the previous coal mining legacy). The resulting abnormal costs associated with



remediating this parcel for employment uses would be much greater than required for housing.

- 7.21 Parcel 11 is a small 0.44ha site which is a thin triangular shape (as seen in Figure 6 above). It also contains underground utility constraints, is steeply sloped, and constrained by an extended attenuation basin to the north of the link road. As such it is not considered appropriate for employment uses.
- 7.22 In terms of market demand, the applicant points out that the Council has an over provision of employment land and that the proposal put forward as part of this application would only result in the loss of 3.6ha of employment land. It is therefore considered by the applicant that the loss of employment land can be sustained.
- 7.23 It is also stated by the applicant that Clay Cross is a secondary market for industrial and warehouse premises and has a local, rather than a regional or national reach. Coney Green Industrial Estate is a popular development and comprises small to medium sized units which attract strong interest from the market.
- 7.24 The applicant also points to efforts made to market the site. Since 2016 Commercial Property Partners (CPP) have been employed to lead a marketing campaign. A brochure from 2018 has been provided by the applicant. It is noted that 4 bids were received, but only parcel 8 was sold as a result to Roe Developments. All the bids were subject to further ground investigations. Since the sale of parcel 8, parcels 9 and 11 have not been marketed and a reassessment of these sites has been undertaken in light of the ground conditions.
- 7.25 Finally in viability terms, a development appraisal and abnormal costs assessment have been undertaken by the applicant. These outline significant abnormal costs relating to site conditions above and below ground. As mentioned above, the applicant believes that the resulting abnormal costs associated with remediating the site for employment uses would be much greater than required for housing.

### **Delivery Considerations and Assessment**

- 7.26 In light of the applicant's case as set out above, the main issues appear to be:
- Ground conditions,
  - Parcel characteristics,
  - Market Demand,
  - Marketing,
  - Abnormal costs, and
  - Viability.
- 7.27 Officers had concern at the high level of abnormal costs set out by the applicant and how the ground conditions had been identified as impacting development. As such, to assist in considering the key points set out by the applicant the Council employed

the services of Fisher Hargreaves Proctor (FHP) to review market conditions, costings and viability and EMCUS to look at the geotechnical and geo-environmental matters.

- 7.28 Clearly the development is on land which was a former industrial use with historic coal mining activity having taken place. There is a highwall within the boundary of parcel 9 and services impacting parcel 11. The advice provided confirmed that even with the highwall this would not be a constraint to development and that there would be an engineering foundation solution. It was also advised that there could be flexibility in how the site is delivered in terms of its layout.
- 7.29 Officers do not agree with the applicant that parcel 9 is of a shape that would limit development. Furthermore, it is considered that the proximity of residential uses to the north would not necessarily restrict development as there is already employment uses to the south and this arrangement is similar to Coney Green not far from the application site. Officers do however note that parcel 11 is of an unusual size and has been constrained further by the approval of the large attenuation basin (21/00162/FL) to the north of the link road. Officers also note that a large number of trees may have to be removed to accommodate any employment development and that this site perhaps lends itself more to an enhanced area of public open space.
- 7.30 FHP confirm that it is clear that there is a strong local demand for small and medium sized industrial units in Clay Cross, as seen at Coney Green which is only a short distance away from the application site. Officers are of the view that the indicative scheme costed up and marketed by the applicant illustrated one large unit (44,000sqft), would be a wholly inappropriate form of development for this site. Officers are of the view that small/medium units would be more feasible and that perhaps marketing activity should have been more appropriately undertaken.
- 7.31 Regardless of the final layout of any employment use, abnormal costs (£1.4m) are extremely high, particularly for parcel 9. Included in this figure was dealing with a large volume of reclaimed spoil/earthworks which has been taken from the wider Egstow Park site (circa £3.6m). FHP and officers considered that it would not be appropriate to include the removal of all spoil/earthworks from plot 9 within the viability assessment. It was agreed that the figure of £3.6m was too high and that a much lower figure be considered. A figure of £135,000 for reclamation and earthworks was suggested by St Modwen but was considered highly optimistic and FHP were advised by JLL (viability consultants used by St Modwen) that this figure was inaccurate and should be disregarded. As is considered below in 7.36, several different approaches to abnormal, reclamation and earthworks were explored.
- 7.32 A number of foundation solutions were considered to overcome the highwall and ground conditions on plot 9, including raft and pile foundation options. It was agreed to use a pile foundation solution as this would provide some cost certainty during the viability appraisal and bridge the highwall. The use of pile foundations was

included in the viability appraisal by FHP and it was advised that regardless of the foundation solution to bridge the highwall, this would still render the site unviable for commercial development.

- 7.33 An assessment of the abnormal costs and wider scheme viability was undertaken by FHP. It is confirmed that the price paid for the land by St Modwen is not factored into the viability assessment. The abnormal allowances, reclaimed spoil/earthworks and external works for parcel 9 were assessed.
- 7.34 FHP considered three eventualities; the first applying the abnormal allowances, reclamation and earthworks costs at the full value presented by the applicant, this concluded that a scheme of employment would definitely be unviable. The second approach was to reduce the abnormal allowances, reclamation and earthworks at a rate to 50% of the applicants costs, this would still in the view of FHP make the commercial scheme unviable.
- 7.35 FHP then assessed what would be required to make the scheme viable. It was considered that the reclamation and earthworks would need to be a relatively nominal amount (i.e. not more than £135,000) and also to give additional headroom, abnormal allowances of circa £1.4m would also need to be significantly reduced. As such FHP conclude that, the only way that this site becomes viable is if the reclamation and earthworks and abnormal costs are significantly reduced and based on the information they have assessed, that appears to be extremely unlikely. On this basis, FHP conclude that a commercial development on this site is unviable.
- 7.36 FHP also confirmed in their advice to the Council that there is ready demand in the market for commercial development of this site, but that demand was subject to ground condition reports. FHP consider that this was the case back in 2018 when offers for the site were considered and that would still be the case today. FHP advise that it is an industry standard for offers made on land to be subject to ground conditions, as such officers are confident that this assumption is reasonable.
- 7.37 As considered above, it was agreed between FHP and the applicant that the original layout marketed by St Modwen was not appropriate for this site or the local market, and that a scheme of small/medium units would be more suitable. An amended layout for small/medium units was factored into the viability appraisals and FHP advise that regardless of the scale and quantum of development, the money needed to be spent to overcome the ground conditions would in all likelihood render the site unviable for commercial development.
- 7.38 In view of the above and the evidence provided to the Council, officers are of the view that, whilst changes to the layout of the site may be beneficial and that the local market is strong for commercial development, the money needed to be spent to overcome the ground conditions would in all likelihood render the site unviable for any form of commercial development.

## Other Material Considerations

- 7.39 The proposal, if approved, would result in a greater retention of broadleaved woodland and an overall increase in the area of semi-natural habitats across the development site. Whilst 0.22 ha of open space on Parcel 8A would be lost to accommodate the changes, 1 ha would be created within Parcel 11 (see Figure 7 below). The changes would also strengthen the central (north to south) green infrastructure corridor.



Figure 7: Existing v proposed (Parcel 11)

- 7.40 Whilst this amendment would achieve a modest overall gain in biodiversity for the wider site, this would also create a more structured green corridor between the east and west elements of Egstow Park, along with providing a larger wildlife buffer and larger area of public open space. This, in the opinion of Officers, would weigh in favour of the proposal.
- 7.41 Another benefit of granting permission for the revised scheme would be an opportunity to update condition 3 of the original approval. Currently this condition requires the completion of the link road through from the site from the A61 to the A6175 no later than the occupation of the 800<sup>th</sup> dwelling. Local Plan policy SS4 seeks to provide a through road from the A61 to the A6175. The scheme as approved only delivers 669 dwellings, which means there is no requirement in the permission to ever deliver this link road.
- 7.42 It has been agreed between Officers and the developer to update this trigger to deliver the link road prior to the occupation of the 661<sup>st</sup> dwelling if permission is granted. If members are minded to support this application it will mean that up 783 dwellings will now be delivered at Egstow Park, meaning that the link road will be opened up well in advance of the completion of the wider scheme. This also weighs

in favour of the proposal as it would help alleviate traffic movements in the town centre and ensure the development accords with policy SS4(h) of the Local Plan.

### **Other Matters**

- 7.43 With regards to condition 1 (Time Limit) the original approval granted an 8 year permission, however, if approved, this application should not then grant a further 8 years and should only retain the 8 years period from the date of the original decision notice. In this instance a date of 10<sup>th</sup> August 2026 would align with the most recent approval.
- 7.44 Derbyshire Wildlife Trust (DWT) support changes in the land use for Parcel 11, but request that conditions be included in any decision to ensure that working methods safeguard amphibians, reptiles, birds and badgers. DWT also recommend that a revised CEMP and LBEMP for Parcel 11 be required. These matters are controlled by way of conditions on the outline permission and are proposed to be retained if permission is granted.
- 7.45 The Coal Authority note in their comments that condition 23 does not need to be duplicated on any approval. It is recommended that this condition is removed.
- 7.46 The EA in their comments note that a number of explanatory notes should be included in any decision.
- 7.47 The approved 2017 permission included a signed S106 agreement safeguarding a number of matters. Included in the agreement was the provision of ensuring that any future S73 application would be linked to the signed agreement. As such there is no requirement or need to revisit this matter.
- 7.48 If a resolution to grant permission is made by members of Planning Committee, officers will be revisiting the section 106 agreement with the applicant to ensure that adequate mitigation is secured for the uplift in the number of dwellings that would result from the approval of this application. It is proposed that these negotiations are delegated to the Planning Manager – Development Management in consultation with the Chair of the Planning Committee, with the application returned to committee if this matter cannot be resolved between officers and the applicant.

## **8.0 Summary and Conclusion**

- 8.1 Egstow Park was originally granted permission for a maximum of 825 dwellings, 8ha of employment generating uses, public open space and link road. The applicant seeks to amend the approved parameters plan to include additional residential units, lose some employment land, move the local centre and accommodate a larger area of public open space.

- 8.2 Whilst the proposed reduction of employment land at the Egstow Park site would in principle not lead to a District wide shortfall of employment land it is not in line with the strategic aims of the Local Plan, in particular policies SS2 and WC2.
- 8.3 The Local Plan is also clear that the identified strategic sites are critical for achieving the Plan's strategy and that new employment development should be focussed on the strategic sites, creating sustainable mixed-use developments. The proposals for parcels 9 and 11 are therefore not in accordance with the policies of the Local Plan.
- 8.4 The proposals for parcels 7 and 8A do not result in a significant change to the overall provision of local centre uses in principle, and so do accord with local plan Policy WC3.
- 8.5 The applicant sets out a case for the proposed changes and considers that ground conditions, parcel characteristics, market demand, marketing, abnormal costs and viability make the delivery of employment on parcels 9 and 11 unachievable. However, evidence of both the applicant and, more particularly, that obtained by the Council suggests that, whilst the local market is strong, the constraints and costs associated with the proposed (primary) employment use of the site would rule out the viability of any employment delivery on parcels 9 and 11.
- 8.6 If permission was to be granted as proposed, Egstow Park would deliver an additional 106 dwellings at the loss of the employment land. The delivery of additional housing is a benefit to the scheme and would show flexibility in line with the advice of para 126 of the NPPF.
- 8.7 Furthermore, amending parcel 11 from an employment use to public open space would strengthen the central (north to south) green infrastructure corridor, retain woodland and create a green wedge between the two halves of Egstow Park. There would also be some modest biodiversity gain from this amendment.
- 8.8 Finally, in granting permission it would create an opportunity to revisit the trigger for delivery of the link road between the A61 and A6175. At present the trigger is no later than the occupation of the 800<sup>th</sup> dwelling. Egstow Park at present can only deliver 669 dwellings in total. As such the applicant has agreed that the trigger can be amended downwards to give the Local Planning Authority certainty that the link road will be delivered.
- 8.9 In view of the above, whilst noting the proposal does not, as a whole, accord with the Development Plan, Officers consider that there are other material matters that indicate approval of the scheme should still be given and that they carry overriding weight. These are the overall viability of delivering employment uses on the site, the benefits of additional housing, the ecological enhancement that would follow and the certainty over delivery of the link road. As such, Officers are minded to

recommend that permission is granted to allow the amendments to the parameters plan.

## 9.0 Recommendation

- 9.1 That planning permission is **CONDITIONALLY APPROVED**, with the final wording of the conditions and any amendments to the section 106 agreement delegated to the Planning Manager (Development Management) in consultation with the Chair of Planning Committee: -

### Conditions

- 1 Applications for approval of reserved matters are required for each part of the site before development can start on that part of the site. The Application(s) for approval of reserved matters shall be made to the Local Planning Authority (LPA) before 10th August 2026. The development hereby permitted shall be started within three years from the date of approval of the last of the reserved matters to be approved.
- 2 Approval of the details of the layout, scale and appearance of the building(s) and the landscaping of the site (called "the reserved matters") for each part of the site shall be obtained from the Local Planning Authority in writing before any development is started on that part of the site.
- 3 The development hereby approved shall be restricted to the following land uses and maximum levels of development:
  - o 825 dwellings including a minimum of 11% affordable units (25.2 hectares of residential)
  - o Employment generating uses (B1, B2 and B8 uses (5 hectares); a local centre A1, A2, A3, A4 and A5 (2 hectares); Hotel and/or care home (C1 and C2)) totalling 8 hectares (including the existing pub/restaurant)
  - o Recreational uses and landscaping (totalling 21.5 hectares, including existing off-site public open space at the former Egstow Quarry)
  - o Associated highway works including a link road from the A61 to the A6175 (the link road should be complete not later than occupation of the 661<sup>st</sup> dwelling)
- 4 Development shall proceed in accordance with the broad parameters identified in the Parameters Plan (7184-L23-A) and no buildings on Greenfield land to the north of the Derby Road site, heading toward Tupton, with the exception of those plots, which are 2.5 storeys in scale, outlined in red on drawing R9076-RPS-20-00-DRA-0235 Rev P01 dated June 2020 shall have accommodation over two-storeys.

- 5 The phasing of the development in relation to the provision of affordable housing and highways infrastructure phasing programme for a link road from the A61 to the A6175 within the boundary of the site shall be completed within each phase of the development in accordance with the approved timescales hereby approved by 18/01205/DISCON.
- 6 As part of the reserved matters application for the Biwater Works site, in accordance with condition 2, a plan shall be submitted to show that development does not/will not preclude the future provision of access to a potential off-site railway station. Thereafter, the means to ensure future access to the potential off-site railway station as agreed shall be safeguarded.
- 7 The reserved matters submission for the residential development of the land to the north of the Derby Road site, as referenced in condition 4, shall include details and a timetable for delivering the pedestrian link to the boundary of Tupton Hall School for written approval by the Local Planning Authority. Thereafter, the pedestrian link shall be implemented in accordance with the approved timetable and be retained as such thereafter.
- 8 On any particular phase of development, as defined on the phasing plan agreed under condition 5, no development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) for that phase has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:
  - a) Risk assessment of potentially damaging construction activities.
  - b) Identification of "biodiversity protection zones".
  - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
  - d) The location and timing of sensitive works to avoid harm to biodiversity features.
  - e) The times during construction when specialist ecologists need to be present on site to oversee works.
  - f) Responsible persons and lines of communication.
  - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
  - h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period on that phase in accordance with the approved details.



- 9 On any phase of development, as defined on the phasing plan agreed under condition 5, no development shall take place (including demolition, ground works, vegetation clearance) until an Ecological Mitigation and Management Plan for that phase has been submitted to, and been approved in writing by, the Local Planning Authority, The plan shall set out details of biodiversity mitigation, compensation and enhancement based on the recommendations within Chapter 5 of the Environmental Statement (June 2017).
- a) Description and evaluation of features to be managed.
  - b) Aims and objectives of management.
  - c) Appropriate management options for achieving aims and objectives
  - d) Prescriptions for management actions.
  - e) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period)
  - f) Details of the body or organization responsible for implementation of the plan
  - g) Ongoing monitoring and remedial measures
  - h) A method statement to mitigate possible impacts on reptiles

The plan shall also include details of the legal and funding mechanism(s) by which the long- term implementation of the plan will be secured 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 plan are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved plan as part of that phase will be implemented in accordance with the approved details.

- 10 Development shall not take place on any phase of development until an invasive non-native species strategy is submitted and approved by the local planning authority, detailing the containment, control and removal of Japanese knotweed and Himalayan balsam on that phase. The measures shall be carried out on that phase in accordance with the approved scheme.
- 11 No removal of hedgerows, trees, shrubs or brambles shall take place between 1st March and 31st August inclusive on any phase, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on that phase during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to for that phase and approved in writing by the local planning authority and then implemented as approved.

- 12 Development shall not take place on any phase until an external lighting strategy has been submitted to and been approved in writing by the Local Planning Authority for that Phase. The approved measures must be implemented in full and maintained as such thereafter.
- 13 All planting, seeding or turfing in the approved scheme of landscaping for each phase of development shall be completed prior to 85% of occupation of the dwellings in that phase and the landscaping for each individual plot shall be completed prior to the first occupation of that dwelling. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 14 The reserved matters details on any phase of development as agreed under condition 5, shall include a scheme for the provision and management of the amenity space within that phase and such scheme shall be submitted to and be approved in writing by the Local Planning Authority. The scheme shall include:
- provision of play equipment on site;
  - details of footpaths and access furniture;
  - provision of cycle-ways;
  - identified means of managing and maintenance of public open space;
  - indicative uses e.g. play equipment, community woodland, green space;
  - detailed landscaping within the public open space.

Thereafter, the approved amenity space shall be laid out in accordance with the approved details for that phase and the agreed delivery timetable and managed as agreed thereafter.

- 15 Before development starts on each phase of the development as defined on the Phasing Plan agreed under condition 5, a plan to show the positions, design, materials, height and type of boundary treatment to be erected for each phase (as defined) shall be submitted to and approved in writing by the Local Planning Authority. The approved boundary treatment scheme for each building as part of the development hereby approved shall be carried out prior to the first occupation of that building and shall be retained as such thereafter.
- 16 Before development starts on each phase of the development hereby approved as defined on the Phasing Plan agreed under condition 5, details of the existing ground levels, proposed finished floor levels of the buildings and the proposed finished ground levels of that phase, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter that phase of the development shall be constructed strictly in accordance with the approved levels and shall be retained as such thereafter.

- 17 Development shall not take place on any phase (excluding those that already benefit from reserved matters approval) until a Phase I contaminated land assessment (desk-study) for that phase is undertaken and approved in writing by the local planning authority.

The contaminated land assessment shall include a desk-study with details of the history of the site use including:

- the likely presence of potentially hazardous materials and substances,
- their likely nature, extent and scale,
- whether or not they originated from the site,
- a conceptual model of pollutant-receptor linkages,
- an assessment of the potential risks to human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments,
- details of a site investigation strategy (if potential contamination is identified) to effectively characterise the site based on the relevant information discovered by the desk study and justification for the use or not of appropriate guidance. The site investigation strategy shall, where necessary, include relevant soil, ground gas, surface and groundwater sampling/monitoring as identified by the desk-study strategy.

The site investigation shall be carried out by a competent person in accordance with the current U.K. requirements for sampling and analysis. A report of the site investigation shall be submitted for that phase to the local planning authority for approval.

- 18 Development shall not take place on any phase until a detailed remediation scheme to bring that phase to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the local planning authority where the site investigation identifies unacceptable levels of contamination. The submitted scheme shall have regard to CLR 11 and other relevant current guidance. The approved scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria and site management procedures for that phase. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- 19 No dwelling or other building associated with the use hereby approved within any phase shall be occupied until the approved remediation works required by 18 above for that phase have been carried out in full in compliance with the approved methodology and best practice.

- 20 If during the construction works associated with any phase of development hereby approved any suspected areas of contamination are discovered, which have not previously been identified, then all associated works shall be suspended until the nature and extent of the contamination is assessed and a report submitted and approved in writing by the Local Planning Authority and the local planning authority shall be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination. The suspect material shall be re-evaluated through the process described in conditions 17 and 18 above.
- 21 Upon completion of the remediation works for any phase required by conditions 18 and 19 above a validation report prepared by a competent person shall be submitted to and approved in writing by the local planning authority. The validation report shall include details of the remediation works and Quality Assurance/Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology for that phase. Details of any validation sampling and analysis to show the site has achieved the approved remediation standard, together with the necessary waste management documentation shall be included.
- 22 Works on site and deliveries to the site during the construction phases shall be undertaken only between the hours of 07:30 to 18:00 Monday to Friday and 07:30 to 12noon on Saturday. There shall be no work undertaken on site or deliveries to the site undertaken on Sundays or public holidays.
- 23 Condition no longer required, but numbering retained for clarity.
- 24 For every reserved matters application seeking to deliver a dwelling(s) associated with this outline approval a scheme of sound insulation shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be designed following the completion of a sound survey (where necessary) undertaken by a competent person. The scheme shall take account of the need to provide adequate ventilation, which will be by a means to be agreed with the LPA, where an open window would not achieve the following criteria. The scheme shall be designed to achieve the following criteria with the ventilation operating:
- Bedrooms 30 dB LAeq (8 hour) (2300 hrs - 0700 hrs)
  - Living/Bedrooms 35 dB LAeq (16 hour) (0700 hrs - 2300 hrs)
  - All Other Habitable Rooms 40 dB LAeq (16 hour) (0700 hrs - 2300 hrs)
  - Bedrooms 45 dB LAm<sub>ax</sub> to occur no more than 6 times per hour (2300 hrs - 0700 hrs)
  - Any outdoor amenity areas 55 dB LAeq (16 hour) (0700 hrs - 2300 hrs)

The scheme shall include full details of all fences/barriers needed to achieve the outdoor amenity criteria set out in this condition. The scheme as approved shall be implemented in full and retained thereafter.

- 25 Prior to the first occupation of any building on the Market Street part of the application site, the access as approved under permission 14/00586/RM, or other subsequent permission for the access so approved, shall be completed as approved.
- 26 Development shall not take place on any particular phase, as defined in the phasing programme subject of Condition 5 above, until a scheme for the safeguarding of footpaths or their temporary diversion is submitted to and approved in writing by the Local Planning Authority. If a temporary diversion is not required, footpaths shall be retained along their legal line at all times during and after construction works hereby approved.
- 27 Before commencing any works on a particular phase as defined on the phasing programme, the subject of Condition 5 above, a scheme shall be submitted to and approved in writing by the Local Planning Authority with details of the site compound for that phase. The scheme shall include details of site accommodation, storage of plant and materials, parking and manoeuvring areas for site operatives and visitors vehicles, loading/unloading and manoeuvring areas for the goods vehicles and wheel washing facilities. Thereafter, before any operations are commenced on that phase of the development, the scheme shall be implemented in accordance with the approved details and retained as such for the duration of works for that phase.
- 28 Before development commences on each phase of the development as defined on the phasing programme, the subject of Condition 5 above, a scheme for improvements to the pedestrian and cycle networks within that phase, along with a timetable for their implementation, shall be submitted to, and approved in writing by the Local Planning Authority. The approved scheme shall then be implemented in accordance with the agreed scheme of works and approved timetable and shall be retained as such thereafter.
- 29 Prior to occupation of any phase of the development a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include proposals to maximise the use of public footpaths, cycling and public transport. Thereafter the Travel Plan shall be implemented in accordance with delivery mechanisms included in the Plan.
- 30 Piling using penetrative methods shall not be carried out other than with the written consent of the local planning authority. If so agreed the development shall be carried out in accordance with the approved details.

- 31 No infiltration of surface water drainage into the ground at the site for any phase is permitted, other than with the written consent of the Local Planning Authority.
- 32 Development shall not commence until details of the means of protecting all waste water infrastructure, during all phases of the development, that is laid within the site boundary has been submitted to and approved by the Local Planning Authority. If the required protection measures to be achieved via diversion or closure of any part of the infrastructure, the details shall include evidence that the diversion or closure has been agreed with the relevant statutory undertaker for that phase. Furthermore, construction in the relevant section(s) of the site shall not commence until the approved measures have been implemented to the satisfaction of the Local Planning Authority.
- 33 No piped discharge of surface water from the application site shall take place for each phase until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water that has been informed by confirming the viability and location of SuDS techniques as outlined within the Flood Risk Assessment have been completed in accordance with details submitted to and approved in writing by the Local Planning Authority.
- 34 Development shall not commence on any phase of the development until a scheme to ensure that on-site and off-site foul water sewerage, designed to serve the whole development, is of adequate capacity to ensure proper disposal to the receiving public sewer network has been submitted to and approved in writing with Local Planning Authority. The approved scheme shall be fully implemented and subsequently maintained, in accordance with the timing/phasing arrangements embodied within the scheme and the number and type of properties to be constructed within that phase, or within any other period or number of properties as may subsequently be agreed in writing, by the Local Planning Authority.
- 35 Development shall not take place on any phase until a detailed design and associated management and maintenance plan of surface water drainage for that phase, in accordance with the principles outlined within:
- a. Land at Clay Cross, Derbyshire - Flood risk Assessment and Drainage Strategy (Revision 1.0, by St Modwen Developments Ltd.) dated June 2017,
  - b. DEFRA Non-statutory technical standards for sustainable drainage systems (March 2015),
  - c. And Technical Note 'Response to LLFA Comments' dated 22 Feb 2018 and referenced 5122281-ATK-NE-ZZ-TN-D-0001.

have been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in

accordance with the approved detailed design for that phase prior to the first occupation of any building within that phase.