

PLANNING COMMITTEE – 15 December 2020

REFERENCE NUMBER: 20 / 00221 Application Expiry Date: 23 December 2020
Application Type: Full Planning Permission

Proposal Description: Residential Development of 34 dwellings with associated infrastructure (Major Development/Departure from Development Plan) (Amended Title/Amended Plans)

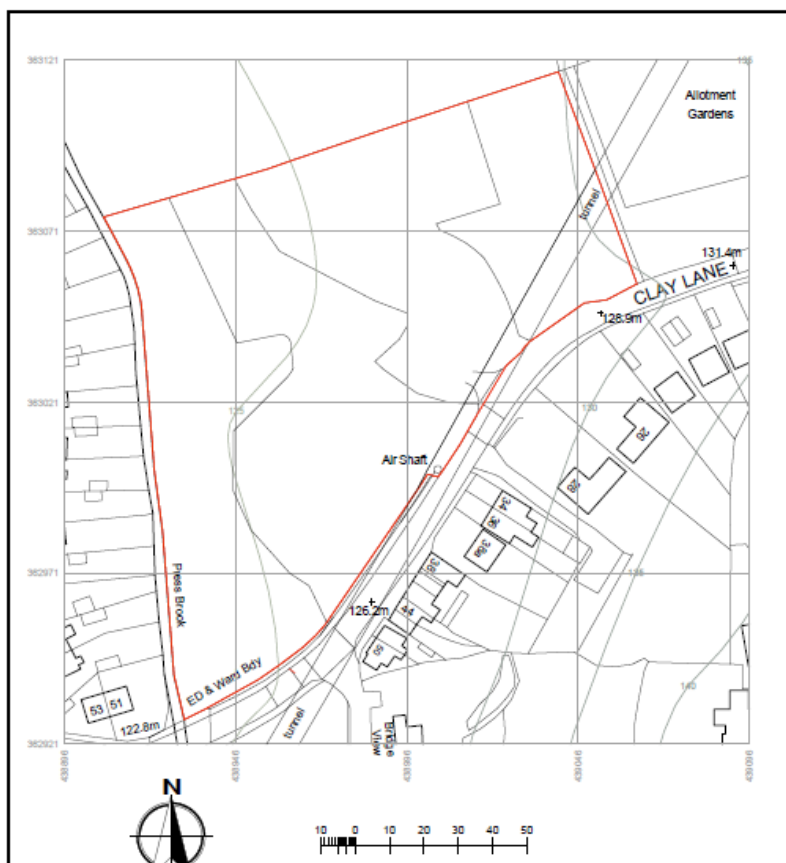
At: Land Opposite 24 To 44, Clay Lane, Clay Cross

For: Mr D Trowbridge

Third Party Reps: 73 **Parish:** Clay Cross
Ward Name: Clay Cross North

Author of Report: Case Officer Phil Slater **Date of Report:** 01 December 2020

MAIN RECOMMENDATION: GRANT (subject to S106 agreement)



1.0 Reason for Report

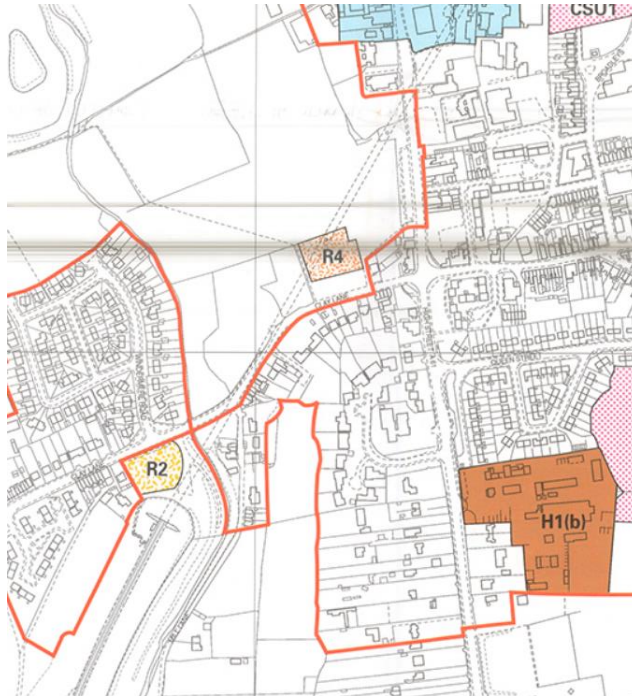
- 1.1 Councillor Reader has requested that the application be determined at Planning Committee, due to possible concerns around flooding at Press Brook, highway safety and impact on services such as local schools and GP practices. The Coal Authority have also raised concerns with historical mine works and there would be possible impact for wildlife.
- 1.2 The Planning Committee is required to determine the application.

2.0 Proposal and Background

- 2.1 The application site is a 1.54 ha parcel of vacant land to the north of Clay Lane in Clay Cross. The site is bound by Press Brook (also known as Smithy Brook) to the west and Clay Lane to the south (both with residential development beyond), with a public footpath running just outside the eastern boundary of the site. The northern boundary is bordered by agricultural land. The site is contained on all sides by a mix of existing field hedges, trees and domestic boundaries.



- 2.2 The site lies adjacent to the settlement development limit of Clay Cross and has existing residential development to the south and west. The site is located within 200m of a number of designated heritage assets: the Clay Cross Conservation Area; Grade II Listed St Bartholomew's Church and the Grade II Listed Clay Cross Tunnel South Portal. The Clay Cross Tunnel passes beneath the site and on the eastern boundary the site contains a brick built air vent.



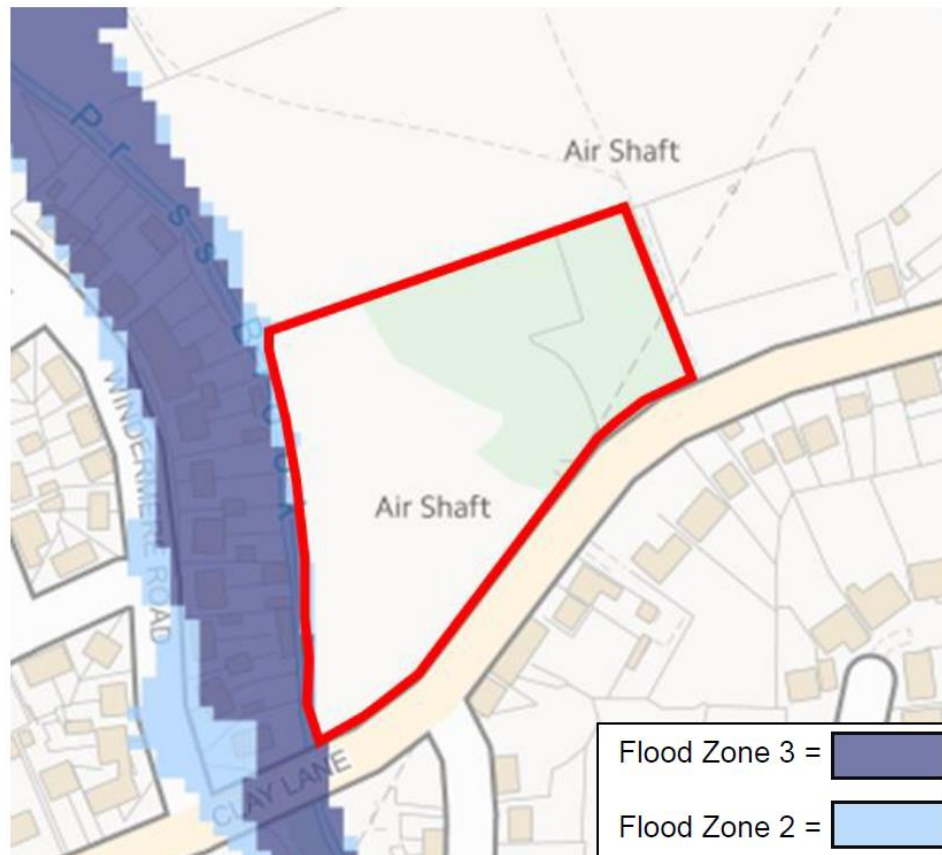
Extract from Adopted Local Plan

- 2.3 In the emerging Local Plan (2014-2034) (PDLP) the site is allocated for approximately 25 dwellings, and the settlement development limits re-drawn around the application site.



Extract from Emerging Local Plan.

- 2.4 The application site is predominantly located in Flood Zone 1, with a small portion of the site adjacent to Press Brook that is in Flood Zones 2 and 3. The existing residential properties and their gardens which bound the brook to the west are situated in Flood Zones 2 and 3.



- 2.5 This is a full application, and as originally submitted the application proposed the development of 35 dwellings with associated access, amenity garden space and parking. Six of the dwellings were proposed as affordable housing (17% of the total development).
- 2.6 The layout utilised the existing access from which dwellings were arranged in a series of perimeter blocks. A buffer was incorporated on the western boundary to ensure that built development was located solely in Flood Zone 1.
- 2.7 Public open space (POS) was proposed in the north eastern part of the site situated on a former orchard which would be reinstated as part of the proposed development.

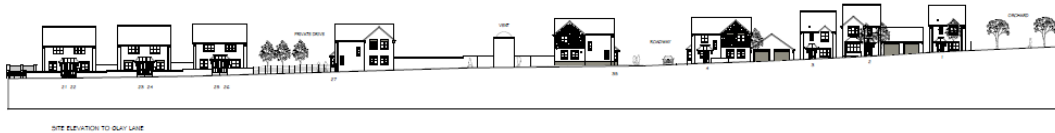
- 2.8 The proposed development consisted of a mix of dwellings and bungalows including detached and semidetached homes ranging from 2 to 4 bedrooms; with bungalows proposed on the northern boundary to create an interface with the surrounding countryside.

Amendments

- 2.9 Following discussions with officers and comments from consultees the application has been amended and the numbers reduced to 34 dwellings and an additional 3 bed affordable unit proposed at plot 33 bringing the total provision to 7 units (20% affordable units).
- 2.10 The south west corner of the site has been re-orientated so that properties are fronting onto Clay Lane, and the garden areas remain in accordance with council guidance. The rear boundary treatment has been enhanced and there is a footpath link introduced to Clay lane.



- 2.11 The agent has also submitted revised streetscene drawings including one showing the frontage to Clay lane.



3.0 Relevant Planning History

3.1 There is no recent relevant planning history for the site.

4.0 Consultation Responses

4.1 The **Parish Council** has objected to the original scheme on the following grounds (in summary):-

- The Parish Council supports the requirement for investigation to take place involving archaeological work as this site could provide valuable information regarding the construction and historical links with George Stephenson and Co and the tunnel. An opportunity to research the heritage of Clay Cross should not be overlooked including the possible link to Ryknield Street which is approximately 100 metres away.
- Clay Cross Tunnel passes directly adjacent to the development site and the Parish Council believe that insufficient easement has been allowed in the positioning of some of the properties on site. There would still seem to be an issue with the piece of land that fronts onto Clay Lane and adjacent to Clay Cross footpath 13 which still appears to be in the ownership of Network Rail.
- It is noted that the proposed development is outside the settlement limit within the present Local Plan. The emerging plan, which should have been in place but for the present administration at North East Derbyshire District Council 'pausing' the plan.
- Within the paused local plan the site was projected to accommodate 25 properties (CC2) with the present application listing a total of 35 homes of which 6 are designated as affordable and are closeted into the bottom corner of the site adjacent to the worst flood effected area with poor parking and close to Clay Lane. If the development were to go ahead the Parish Council suggest an increase in the amount of affordable housing and a better integration of properties.
- The application proposes that the site is serviced by mainly private or unadopted roads with one sited over the proposed SUDS drainage system for the storage of sub surface water. The Parish Council has a policy to alert all potential residents to the problems that other local residents have encountered when dealing with these cost saving attempts by developers. The Parish Council wish to highlight and

express their concerns over the number of properties that are not on adopted roads and share private drives. There needs to be substantial information regarding the impact of this planning decision cascaded to potential house buyers regarding ownership, maintenance, access and their responsibility

- Flooding in the area adjacent to Press Brook is, and always has been a major problem. Instances of flooding have been assessed at a level that the area will only flood to an excessive degree once in a hundred years. This is in fact not factual as the lower area of the site has flooded at least 4 times within last few years.
- In line with present conditions it would seem that present flood guidelines are irrelevant and should be reassessed and that building on this site will only exacerbate and contribute to the problems already endured by residents on Windermere Road with significant extra risk of flooding to Grasmere Avenue, Rydal Way, Coniston Drive and the whole of lower Clay Lane.
- It would seem unbelievable if conditions on Clay Lane had not changed since 1974 when planning permission was refused for the building a single bungalow on this site. The Parish Council believe that there still remains a hazard, in fact, it has increased over the passing years.
- The bus service via Clay Lane is infrequent and in winter it struggles to operate failing to reach the top of Clay Lane due to the steep hill and inclement weather.
- Clay Cross Parish Council agrees wholeheartedly with the comments/objections made by Mr. M. Stokes on the 7th April 2020 and included in the objections regarding the traffic and site safety and suggest that if the developers require a safe and effective cycling route then they should provide the necessary funds to facilitate and not provide a footway that ends up at Clay Cross footpath13.
- Clay Cross Parish Council own and manage Kenning Park and Meadow Farm Pond with the assistance of the Kenning Park Community Group which is approximately 200 metres to the north of the proposed site and believe that any development will have an adverse impact upon the site and on the long term development of a wildlife and biodiversity management policy for Kenning Park and Clay Cross.
- The application fails due to the 'up to datedness' of the local plan, appearance and design of development including layout, visual appearance, density of building, loss of outlook to the detriment of residential amenity, the lack of effective provision of affordable housing, traffic and parking issues, highway safety and its cumulative impact, loss or effect on trees, capacity of physical infrastructure, the adverse impact on the removal of trees, hedgerows and nature conservation interests plus biodiversity opportunities.

- 4.2 The **County Highway Authority** (HA) initially commented that the development is acceptable in principle from a highway safety viewpoint however there are a number of issues that would need to be addressed before the proposals may be considered to be fully acceptable.
- 4.3 The HA authority have commented that a Transport Statement has been submitted which considers the proposed trip generation likely from a development of this scale. The HA considers that the Transport Statement (TS) identifies fairly low levels of peak hour activity which is not considered to be significant and would not be expected to cause a material impact on the highway network. The development is not considered to warrant any further investigations or analysis to be carried out on the wider highway network.
- 4.4 Access to the site is proposed by a simple priority junction onto Clay Lane, a classified road subject to a 30mph speed limit, located to the western fringe of Clay Cross. The layout and geometry proposed for the access is generally acceptable to serve this size of development. The TS identifies that visibility splays of 2.4m x 43m can be achieved from the proposed site access, whilst such sightlines are considered appropriate, it should be noted that the site plan (Drg: 19-03-P01) demonstrates 2.4m x 42m taken to the nearside carriageway edge. However as part of the TS Drg: CLCC-BSP-ZZ-XX-DRD- 0001-P02 does demonstrate that splay lengths of 43m are achievable when measured to the nearside wheel-track (up to 1m into the nearside carriageway at the extremity of the splay).
- 4.5 Forward visibility for vehicles waiting to turn right into the site has not been demonstrated and due to the horizontal alignment of Clay Lane an amended plan should be provided demonstrating appropriate visibility sightlines are achievable along Clay Lane.
- 4.6 The internal adoptable highway areas are generally considered acceptable (Drg: 19-03- P01), being provided with 5.5m wide carriageway flanked by 2m wide footways for the majority of the development, with 1 small shared surface turning head. Together with the shared private driveways being provided with a width of 4.25m to allow two way traffic movement.
- 4.7 From a highways perspective the layout is generally acceptable, nevertheless, there are some issues that will need to be too given further consideration as these may have an impact on the layout presented.
- 4.8 The agent has submitted a revised site layout and the HA have commented that there will inevitably be a redistribution of traffic in this area, however, the Highway Authority is generally satisfied that there are no fundamental highway issues that would result in a severe impact of the surrounding highway network (with reference to Paragraph 109 of the National Planning

Policy Framework), or that would exacerbate existing highway safety concerns in the vicinity of the site.

- 4.9 Concerning access to the site, the amended plans retain the same vehicular access as previously proposed. Reiterating previous highway comments, whilst the amended site plan only demonstrates emerging visibility splays measuring 2.4m x 42m, it is considered that recommended splays (2.4m x 43m) are achievable when measured to the nearside edge of the vehicle track. Accordingly visibility from the site is considered acceptable. However forward visibility for vehicles waiting to turn right into the site has still not been demonstrated.
- 4.10 In addition to the above, the amended plans do not show the location of an existing speed hump in close proximity to the proposed access. A revised plan demonstrating the speed humps location, relative to the access, should be provided to ensure there is no conflict. For the avoidance of doubt the speed hump may require relocating, with any associated cost being at the applicant expense.
- 4.11 From a highways perspective the internal layout is generally considered acceptable (Drg: 19-03-P01 Rev E), being provided with 5.5m wide carriageway flanked by 2m wide footways for the majority of the development. Nevertheless, there are some issues that will need to be too given further consideration as these may have an impact on the layout presented. This includes the following issues:-
- The tactile crossing to the junction and to Clay Lane needs to be shown on the plans.
 - Footway to the eastern boundary does not follow the kerb line
 - The fronting footway adjacent Plot 23 appears narrow
 - The narrow maintenance margin to the north turning head should be widening to at least 1m, currently 0.5m
 - Shared private driveways should also be of sufficient width (4.25m) to allow two way traffic
 - Swept path analysis for refuse vehicle movements has been provided in Appendix C of the Transport Statement. However the length of refuse vehicle used is only 7.9m. A refuse vehicle length of 11.6m is recommended.
 - Swept path analysis for emergency vehicles is also required.
 - Parking for the majority of the site is considered acceptable. Limited parking is provided to plots 21-26.
- 4.12 The agent has submitted further amended plans to address the highway comments. The Highway Authority have commented that further comments are being sought from the Traffic and Safety section with regards to the existing speed hump located along the frontage of the site.

- 4.13 The HA have confirmed that they would not be in a position to sustain an objection in principle to the development proposals submitted but it would be prudent to resolve the above issue prior to determination of the application, Alternatively, should the Local Planning Authority be minded to approve the application as submitted it may be possible to secure further design information/ modifications by appropriate conditions. On this basis it is considered conditions be included in any consent issued in the interest of highway safety.
- 4.14 The **Derbyshire County Council Flood Team** as Lead Local Flood Authority (LLFA) initially commented that Paragraph 165 of National Planning Policy Framework (NPPF) states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate, and that these features should provide multifunctional benefits, such as Enhanced Amenity Value, Increased Biodiversity and improved Water Quality. The LLFA would expect consideration of the full range of SuDS features, including attenuation ponds/basins, swales, permeable paving etc.
- 4.15 The agent has submitted the requested cross section along with a Flood Risk Assessment and Drainage Strategy (June 2020) to address the initial LLFA comments.
- 4.16 The LLFA have been re-consulted and have commented that the updated FRA does not show full consideration of SuDS methods, including above ground features such as attenuation ponds/basins, swales and other SuDS methods. It also does not give any further details for the adjacent watercourse.
- 4.17 The agent has submitted further information and the LLFA have commented as follows:-
- The LLFA has observed in person how the ordinary watercourse, the Press Brook, which the site adjoins to is fully developed on the opposite bank and in the current layout this will become inaccessible for safe maintenance purposes in the future. Under Riparian landownership guidance the expectation would be that landowners should be able to safely maintain the safe passage of flow onwards to landowners at a lower elevation. The banks of and potentially the watercourse itself if fenced in will become inaccessible along significant stretches of the development. This is particularly the case behind plots 20 to 14 where this needs to be addressed, so that a suitable easement with access is in place for the potential lifetime of the development. The LLFA advise in our informative notes that no part of a proposed development shall be constructed within 3-8m of an ordinary watercourse. However, this ordinary watercourse shortly downstream

becomes a main river so would need this to be close to 8 metres from the bankside.

- The applicant has indicated that there are considerations for SuDS drainage features on the proposed site layout but also raised the quantum of viability regarding supplying further SuDS features. The LLFA is not in a position to determine whether viability would be an issue in relation to requiring more sympathetic SuDS features that would more closely mimic the existing nature of the site. Are the LPA able to assist further with whether viability would be a substantial constraint? Please note that the LLFA have understood that there are site limitations on the potential layout regarding the foul sewer and railway tunnel related easement requirements.

- 4.18 In response the agent has proposed as an alternative, such as an agreement for regular inspection and maintenance undertaken by hand. Any proposed solution would be accompanied by a suitable method statement. Having reviewed the flood maps and bank levels, they do not believe the development to be at risk of flooding from the watercourse as the eastern bank is currently significantly higher than the western bank, shown to lie within Flood Zone 3. Consequently, a maintenance strip would not offer any flood protection to either side of the bank in the event of flooding. Incorporating a maintenance strip will instigate redesign of the site layout.
- 4.19 With regards to the SuDS , the scheme currently proposes a combination of permeable paving, below-ground tanks and oversized pipes as well as a flow restriction to Qbar greenfield runoff rate as part of its sustainable drainage strategy. Given the constraints of the site, lack of open space and sewer adoption requirements, the use of basins, swales, filter drains or more extensive permeable paving has been deemed unviable.
- 4.20 The LLFA have commented on the additional information emailed on 23rd November 2020 to the LLFA by the applicant and have outlined that the watercourse adjacent to the development is to be maintained by hand with no permanent boundaries erected along the proposed top of bank. Any fences installed in rear gardens are to be concrete posts and removable fence panels – Woodall Homes are to form a management company who will maintain the bank and watercourse and inspect it every three months.
- 4.21 Following recent communication from the applicant, the LLFA additionally comment that there has been a report of at least a partially collapsed adopted sewer that Severn Trent Water have responsibility for managing and maintaining in relation to this site's potential foul sewer outfall. The LLFA expects Severn Trent Water to confirm that this issue will be satisfactorily addressed to ensure the proposed site's foul water can drain safely. Accordingly, as per the latest submitted details, the LLFA has no objections subject to conditions.

- 4.22 **NEDDC Engineers** have commented that for the management of surface water from the development, a lack of consideration has been given to the incorporation of SuDS features. Additional details will be required before this method of surface water disposal can be considered.
- 4.23 The **Derbyshire Wildlife Trust (DWT)** initially commented that an Ecological Appraisal has been submitted with the above application (Ramm Sanderson, October 2018). This included the results of specific protected surveys for reptiles and bats. The site is comprised wholly of semi-natural habitats, including woodland that includes or originates from former traditional orchard (both are habitats listed under Section 41 of the NERC Act 2006). The site will support a variety of local wildlife and contributes to the mosaic of habitats in the area, adjoining a stream and agricultural land. Whilst bats and reptiles have been assessed in detail, DWT are concerned about the lack of information on breeding bird populations in the woodland and hedgerows.
- 4.24 The current proposals appear to result in the loss of the majority of semi-natural habitats on site, including woodland. Reference is made in the ecology report and the Design and Access Statement to retaining and/or re-instating orchard/woodland and to a buffer zone along the adjacent stream, however the impacts are not clearly quantified or mapped and therefore it is difficult to make an assessment of the proposals.
- 4.25 Prior to determining the application, DWT advise that a clear plan is produced indicating the current habitats on site with an overlay of proposals to clearly show the extent of habitat loss. DWT would advise that the loss of habitat and mitigation/compensation should be assessed and quantified using Biodiversity Metrics so that all parties have a clear understanding of losses and gains. Compensatory measures, such as new hedgerow, woodland or orchard planting, should be clearly presented in terms of location and details of planting. Any ecological buffer zone or corridors should be shown and hedgerow loss should also be quantified. They add that existing features of ecological value should influence the development site layout and be retained or excluded from development in the first instance, with mitigation and compensation only accepted where necessary (mitigation hierarchy). DWT also consider that a breeding bird survey should be undertaken to quantify the use of the habitats by birds and to assess the breeding bird community.
- 4.26 The agent has submitted an Arboricultural Assessment and Biodiversity Metric Calculation, and a letter from Ramm Sanderson in respect of breeding birds, and Biodiversity Impact Assessment. The Derbyshire Wildlife Trust (DWT) have been consulted on the revised proposals and have commented that Press Brook adjacent to the western boundary of the site is used by otters based on recent survey by FPCR. There are also

multiple records of water vole made upstream (most current 2019) and DWT have recently had records of kingfisher using the Brook. It is essential that the functionality of the Brook and its riparian habitat is maintained for these species. To protect the network/corridor provided by the Brook, a suitable buffer zone must be provided. However, there is little in the way of standard buffer zone widths for otters in current guidance.

- 4.27 In the case of the Clay Lane site, there is already housing right up to the western edge of the Brook and therefore DWT would argue that a buffer greater than 10m should be maintained at the eastern side, within the proposed development. New development to the east will further compound existing disturbance pressures to the west and create a pinch point along the corridor. DWT would suggest that pushing development as close as possible to the watercourse is non-compliant with the aims of the NPPF and is at the detriment of the ecological network provided by the Brook and its riparian habitat. The guidance recommends 30 m as a distance between development and an otter holt and so DWT suggest that somewhere between 10 m and 30 m would be more suitable.
- 4.28 Following further discussions with officers, DWT and the agent; DWT have commented that the applicants are unwilling to increase the buffer zone to Press Brook any further and the scheme will be assessed based on current plans. Whilst DWT still consider that the scheme could be more sensitively designed, with fewer dwellings and a wider buffer with the brook, a refusal based solely on ecological grounds is unlikely and DWT have therefore provided the following advice to secure mitigation and compensation measures.

DWT advise that a minimum of 10 m should be maintained as far along the Brook as possible (from the bank top) but in some points accept that there may be a narrow part to 7.5 m which must be secured through a planning condition and should be measured from the bank top not the centre of the channel. A series of measures will be required to safeguard otters travelling along the Brook and these should be provided in an Otter Mitigation Strategy. A lighting plan will also be required, however retaining mature vegetation along the buffer will also help to shield the Brook from lightspill. These measures will help to maintain the functionality of the Brook for a range of wildlife, as well as otters.

Offsetting the biodiversity loss on another site will be necessary for this application and dialogue is currently ongoing between all parties regarding this approach. In addition to offsetting works, measures should be included within the scheme design to retain and enhance the biodiversity value of the site where possible and include the retention and enhancement of the eastern orchard, native landscaping and the incorporation of bat and bird boxes etc.

Should the LPA be minded to approve this application, DWT have suggested conditions to be included in the consent.

- 4.29 The **Councils Environmental Health Officer (EHO)** has commented the application is supported with a Phase I Desk Study Report & Coal Mining Risk Assessment completed by BSP Consulting referenced BSP Document Ref: CLCC-BSP-ZZ-XX-RP-C-001-P01 which seeks to provide a contaminations risk assessment for the development of this site based upon the detailed desktop study and site walk over undertaken.
- 4.30 Having reviewed this comprehensive report it is EHO opinion that the report adequately assesses likely presence of potentially hazardous materials and substances, their likely nature, extent and scale and they have assessed the potential risks to human health and property. This effectively satisfies the requirements of a phase I report and it will now be for the applicant to progress to a phase II report including details of a site investigation strategy to effectively characterise the site based on the relevant information discovered by the desk study. A report of the site investigation will then need to be submitted to the local planning authority for approval. No objections are raised subject to land contamination conditions.
- 4.31 **Severn Trent Water** have not commented. However the agent has provided a copy of correspondence from STW which confirms that a gravity foul flow from 38 dwellings is relatively low and can be accommodated in the public 600mm dia combined sewer.
- 4.32 **Designing Out Crime Officer** has commented that there are no objections to the principle of residential development, the revised layout is acceptable from the perspective of designing out crime and nuisance.
- 4.33 **Derbyshire County Council Community Infrastructure** have requested £181,612.51 towards the provision of enhanced education facilities for secondary and post 16 pupils at Tupton Hall School.
- 4.34 **NEDDC Housing Officer** has commented that the Strategic Housing Market Assessment OAN Update 2017 estimated that in order to fully meet the affordable housing need in the district, 172 affordable homes would have to be brought forward each year to 2035.
- 4.35 The proposal includes 6 x 2 bedroom houses which are to meet the NPPF definition of affordable; this is 17% of the total number on site. (*Officer note: this has increased to 20%*). There is a substantial demand in Clay Cross for affordable rented housing for those people who are not able to access the market, obtain mortgage finance, or save enough for a deposit. For those who are able to purchase, house prices are lower than the district average.

- 4.36 The offer of 6 x 2 bedroom houses to fulfil the affordable housing requirement is acceptable if these are provided as affordable housing for rent to meet housing need. The affordable housing is clustered together in one corner of the site rather than distributed throughout, but as there are only six houses this is reasonable and may prove easier for management by a Registered Provider. The affordable housing should be owned and managed by a Registered Provider, ideally with stock in this district, or in that of a neighbouring Local Authority. 100% of nominations to the homes should be through the council's choice-based lettings system operated by Rykneld Homes. The Housing Officer supports the inclusion of bungalows in the market housing range as there is a shortage of housing suitable for older people in this sector.
- 4.37 **NHS Hardwick Group** have confirmed that they will not be commenting on the application. No contribution is requested.
- 4.38 **Network Rail** (NR) initially commented that the proposed development would be in close proximity to the Clay Cross Railway Tunnel. In particular, NR have concerns that the site may impact on their ability to inspect and maintain the tunnel vent on Clay Lane. NR require a clearance around the vent of at least 3 metres to ensure that access and the installation of any required scaffolding or plant for maintenance purposes remains possible. In addition, it appears from the plans that it may be intended for the area around the vent to become part of the highway/footpath and they require clarity from the developer on this point before we can comment fully on this application.
- 4.39 In addition, the development as proposed appears to be partly located on an area of land still in the ownership of Network Rail. An attached plan shows the land in Network Rail's ownership.
- 4.40 The agent has submitted revised plans and NR have commented that following receipt of detail provided by the developer's agent, NR are able to withdraw the section of its comments relating to land ownership. This issue is now resolved. All remaining elements of their response remain applicable, including those in relation to works around the railway tunnel and associated shafts and the requested clarity regarding treatments around the tunnel vent.
- 4.41 Network Rail have been consulted on the revised details and have raised no objections and re-iterated their earlier comments regarding access to the tunnel vent.
- 4.42 **NEDDC Parks Officers** have commented with regards any section 106 monies from this development towards providing recreational facilities. They

make the following comments: Referring to the site plan (revision E), the proposed site now comprises of 6 two bed dwellings, 17 three bed dwellings and 11 four bed dwellings. This could attract an estimated £29,382.14 of section 106 monies towards existing off-site provision with a 10 year maintenance fee of approximately £9,026.72.

- 4.43 The nearest existing facilities to the proposed development is at Clay Lane, which is owned and maintained by North East Derbyshire District Council, and (a little further away) at Kenning Park, which is owned by Clay Cross Parish Council and maintained by North East Derbyshire both of which may benefit from additional / replacement equipment to increase the play value to local residents.
- 4.44 The Parks officers have commented on the tree survey and have suggested that some of the trees potentially should be kept although would they need some pruning works and the removal of ivy and epicormic growth:-
- T2 Beech *fagus sylvatica*
 - T13 Sycamore *Acer pseudoplatanus*
 - H1 (C) Sycamore *Acer pseudoplatanus* (it is not in the list of specimens)
 - G8 group Common Limes *Tilia x eurpaea*
- 4.45 **NEDDC Streetscene** have not raised an objections and have commented that access is required for a refuse collection vehicles which will not cross un-adopted roads unless an alternative solution is proposed by the developers.
- 4.46 The **Coal Authority** has commented that it concurs with the conclusion / recommendations of the Phase I Desk Study Report & Coal Mining Risk Assessment, dated March 2020 based on the professional opinion of BSP Consulting that there is currently a risk to the proposed development from former coal mining activity. In order to confirm the exact ground conditions present beneath / within this site to inform the remedial / mitigatory measures required to ensure that the development is safe and stable, intrusive site investigations should be undertaken prior to development. Accordingly, the Coal Authority has no objection subject to conditions.
- 4.47 The County Council Archaeologist has commented that the application is accompanied by a heritage statement which summarises archaeological and historic environment potential within the site. The site was associated with the construction of the Clay Cross Tunnel in the 1830s, and the tunnel runs below the site. Within the site is one of the tunnel air vents, proposed for retention with the scheme. Historic map regression shows that a complex of the buildings was developed on the site at this time, described in the tithe apportionment as a 'House, Outbuildings, Yard, Stackyard and Garden' in the ownership of George Stephenson and Co. The function of this complex

is unclear, although it is certainly associated with the activity of Stephenson's Clay Cross Company and therefore of high local and potentially regional significance because of the crucial part played by Stephenson and the Clay Cross Company in the development of Clay Cross itself and the regional railway/industrial network during the 1830s and 1840s.

4.48 The site is also within 100m of the Ryknield Street Roman, running through Clay Cross on the line of the modern A61. There is consequently a background potential for Roman activity on the site, though much reduced by subsequent uses of parts of the site as a spoilheap during the 19th century. Because of the potential for below-ground (and possibly ruinous above-ground) remains of the site associated with the Stephenson Co., it is recommended that there is a archaeological excavation and recording to investigate and interpret this potentially important site, combined with additional archive research to expand our understanding of its chronology and function. This could be undertaken as a phased scheme with trial trenching to assess preservation followed by further excavation, or if preferred as a single-stage strip-and record of the relevant area. No objections are raised subject to conditions.

4.49 The **Councils Employment and Skills Officer** has requested that a planning condition be attached to enhance and maximize employment and training opportunities during the construction phase.

4.50 The **Environment Agency** has raised no objections, and has no objections to the conclusions and recommendations made within the submitted Phase 1 Desk Study Report produced by BSP Consulting dated March 2020.

The EA have further commented that foul drainage will discharge to public foul sewer, and surface water drainage will discharge to a surface watercourse. As no drainage is proposed to infiltrate to ground, EA have no comments on the drainage proposals.

4.51 The **Ramblers Association** has raised no objection and commented that Clay Cross Footpath 13 be kept open and safe to use during development of the site.

4.52 **Peak and Norther Footpaths Society** have commented that's a link to the footpath 13 should be considered.

5.0 Representations

5.1 One **Ward Member (Cllr Reader)** has commented:-

- Request that the application is determined at planning committee due to the possible concerns around flooding particularly around press brook,

- highways safety and impact on services such as our local schools and GP practices which are already fully subscribed, I feel all of this needs to be explored before a decision is reached.
- The coal authority have also raised concerns with historical mine works and there would be possible impact for wildlife.
 - I also feel we have a lot of building already occurring within the area and our 5 year housing supply is currently being met. I'm concerned for the amount of traffic that may be brought onto the A61 corridor.

5.2 Derbyshire County Councillor (Cllr Gillot) has objected on the grounds:-

- An increased risk of flooding to the properties adjacent to Press Brook.
- The proposal to service the site by private or unadopted roads. There are a number of such roads within my division and they generate repeated requests for the Highways Authority to undertake maintenance work at public expense.
- Increased vehicular movements and traffic safety.
- The cumulative impact of house building in Clay Cross and the detrimental impact it will have on the community. Clay Cross, whilst the largest community in the southern half of North East Derbyshire,

5.3 **69 objections** have been received which can be summarized as follows:-

Principle of Development

- The area is outside of the settlement development plan. NE Derbyshire has large areas of brown field sites suitable for residential development along the A61 corridor, with equally good transport links.
- The proposed site does not address the requirements for a development within a "green field" area.
- This area can not cope with any more housing. The ones agreed have not been completed, the ones completed have not been sold Clay Cross is fast becoming an area where the demand for public services will outstrip the existing services available.
- not agree that this is a sustainable site, sustainability is made up of three pillars: economic, social and environment. Sustainable development should also meet the needs of the present without compromising the ability of future generations to meet their own needs. I feel my needs and my neighbour's needs are being compromised if this development obtains planning permission
- It has no playground, but a vague comment that they may give some money to one of two nearby, existing, playgrounds.
- The gardens are not of the required size, being too small.
- Further in their desire to cram the site with housing there is insufficient affordable housing and removing long standing trees and hedges to do so.
- The project started as 25 houses and now consists of plans for 35 houses.

- The site is at the bottom of a hill, difficult for avid cyclists to achieve and all footpaths leading away from the town centre⁶. There is no footpath adjoining the site, nor at the top of Clay Lane Hill, at the side of George and Dragon Public house ^{1,6}. This potentially restricts economic spending in the town centre and is against the aims of NPPF2

Flooding

- Concerns regarding the effect of flooding on the existing houses on Windermere Road.
- Press Brook is prone to exceptionally high levels during periods of heavy rain during the winter. The brook rises at a very fast rate but also drops back to near normal levels as fast as it raises.
- If the developers raise the levels of the proposed site it would lead to flooding of the existing houses on Windermere
- The developer has not put anything in place to protect existing homes and consultants who carried out the FRA do not appear to have witnessed the brook at high levels during periods of rain.
- All the road water runs into the sewers which has back flowed, in the recent years and flooded driveway and garage with raw sewage.
- flood risk survey completed for the planned development, but this does not take into account that adding more properties can create more of a problem to existing houses being flooded.
- new infrastructure will compound these issues, resulting in flooding of the existing properties, which has been overlooked by the developers and survey.
- The proposal classes the site as Flood risk 1, but does little to address the increased risk of flooding to the existing housing on the west side of Press brook which is already in Flood risk 2 and 3, from it's development
- field behind our house acts as a flood plane to protect our properties from flooding
- Also the plans involve removing an orchard which will in itself increase flood risk.
- two previous planning applications have been denied on this land, both for a single detached bungalow. After further investigation, it emerges this was due to flood risk. Although this was several years ago, flood risk was evident then, and due to climate change, flooding is more common even in places previous spared.
- In relation to the flooding risk two other developments in the area are worthy of note. The proposed development of 300 houses off Coupe Lane, Clay Cross and Development on Hanging Banks, Wingerworth.
- As the proposals for the
- Hanging banks development appear to have got their flood risk assessment so drastically wrong and it is no where completed yet, how are we and the council to trust the flood risk assessments created on behalf of the builders for Coupe lane and Clay lane

- If the trees are removed from the embankment of Press Brook, it would increase further flooding too Windermere Road property's & the environment agency concludes that trees save properties from flooding,
- Further photographs (submitted) that shows comparisons in the depth, width and speed of Press Brook behind our property on Windermere Road and the waterfall at Kenning Park. This supports our concerns that putting any infrastructure on the proposed development site will increase the flood risk, not only to Windermere Road but also above and below it.
- On the 14th of June 2020 we had a very short, heavy thunderstorm which partially illustrates the problem. The heavy rain and road detritus are clearly seen travelling down the north side of Clay Lane and from the quantity there that this is coming from the higher parts of Clay lane, where the proposed development will add to the surface water running down Clay Lane.
- proposed permeable surfaces will not reduce but will increase the surface run off from the green field and into Clay lane as well as the brook. Any overflow from their under ground water tank will add to this.
- The Planning explains that the surface water will be held and released into the Brook at the same pace as it drains away at present. This cannot be judged correctly as now the Trees in the Orchard have been felled, these would have consumed a big majority of underlying water. Also when a tank is full it has an outlet that can be managed, but what happens to the extra water in bad weather conditions, where does that go when the tanks are full.
- Does the brook need widening to prevent flooding [*Officer note: there are no proposals to widen the brook as part of this application.*]

Drainage

- The drains are not very deep and if residents don't keep a check on them effluent backs up, The proposed new builds would only had more to the drainage system
- Within the proposed development 50% of it's surface area will direct water into the drain system. Their report states "as such, the proposed development surface water run off can be suitably accepted by Pressbrook" and "should the drainage system be exceeded" it will drain into Press brook. The plans and topography place this outfall in the middle of the Windermere road estate.
- On Clay lane itself, in heavy rain, the existing road drains are unable to cope, flooding the junction with Windermere road and entering the garden of 53 Clay lane to drain away. Further road development at the proposed site may exacerbate this and flood the house itself.
- The proposed site, being uphill of the estate will further overburden the foul water/sewage drainage system of the area and make this a more common occurrence
- In short the existing brook and sewage system is not capable of taking the extra strain of the more extreme weather events, which is an

accepted norm, to be more frequent than every 100 years. To place an extra burden on them, at a pinch point, will lead to contaminated water from the brook and sewage systems entering existing housing.

- the current development will contribute to an already overloaded sewerage system in an area well known for flooding. In any period of heavy rain it is common for my property and others to become overwhelmed with sewerage and water.
- there will be the cut and fill process, basically building the ground up so its suitable to build the roads and houses on, sending any service water to the lowest point which is the brook causing possible contamination and flooding.
- Drainage system was damaged in October and November by exploratory drilling.
- It is not known if excess water goes into the sewage treatment plant on Mill Lane or if it is evacuated into the watercourse.
- Photographs of the site, taken recently to show the draining bore holes are the most recent one's to show that the proposed site is waterlogged. This is after a normal/low level of rainfall. The proposed semi-permeable roadways will do nothing to alleviate this, as the water can clearly be shown to not draining away. It will speed up the flow of water off the site, into the brook which already flash floods. The proposed below ground storage tanks will be subject to this as well and overflow, as planned into the brook.
- photos clearly show that the flood report that was submitted as part of the planning proposal is explicitly incorrect regarding the water levels and frequency of high water levels, therefore if the proposal is granted based on this report then the planning department and the principle designer would be negligent.
- Do the drains need upgrading to accommodate the existing houses to prevent flooding every year, without adding anymore to the system? *[officer note – this is addressed in the assessment]*
- Who will be responsible for any other flooding, due to the development, from Foul Drains or the Brook, would this be down to NEDDC? *[officer note – the flood risk and drainage issues are addressed in the assessment below]*
- Even though, Severn Trent have said there drains can cope with the development, every year we are flooded from the drains in heavy rain, they have not been informing the flood team at Matlock about these incidents of flooding for 5+ years. Climate is changing at a fast rate as we all know.
- The drains are surface and Foul combined and struggle now, and in these times of Covid 19 we will be at further risk of contamination through flooding.

Wildlife

- The proposed development will destroy the landscape, and huge detriment to the environment
- The wooded area is a haven for wildlife and all that would be lost.
- It has Kingfishers, water voles and newts. I also believe the Orchard joining the land has families of Owl's.
- Losing the orchard will be a cost to wildlife. I have seen foxes with their young and badgers in that orchard so that would be devastating too
- The adjacent orchard and public footpath is also a consideration. Surely by developing this area it would mean significantly altering the environment and the enjoyment of the many who enjoy walking through this area destroying this natural habitat for all of these, and many more creatures, will be devastating to them, us and the environment; a whole ecosystem that can never be replaced.
- Many established trees are on the proposed site so building will definitely mean chopping them down which will result in the birds and wildlife losing their natural habitat or maybe even their own lives whilst this is happening
- Any further new housing development will also have a negative impact on the adjacent Kenning Park lake where currently lots of wildlife resides
- UK BAP Priority Habitats are a range of semi-natural habitat types that were identified as being the most threatened and requiring conservation action. This must be taken account of and given serious consideration.
- completely independent more up to date and concise ecology report is required AND one which is completed during the main spring / summer months (April - End August) over many visits rather than Mid September to show true wildlife activity.
- All the small and some large trees have been removed from site.
- Badgers sett on site.
- concerned about the planning going through as there are many endangered species such as badgers, voles, otters, king fishers as well as being an ancient woodland with veteran trees.
- This area should be admitted as both ' site of special scientific interest' and 'special area of conservation.' It is a site of less than two hectares and is of low tree density, therefore, unlikely to appear on your inventories, despite it being an ancient woodland that has been wooded continuously since at least 1600AD.
- Natural England should select all of this land for protection as it has wildlife that is protected by European law, including, but not limited to, bats, water voles, newts, otters and kingfishers. It also contains veteran trees that have immense decay features such as branch death and hollowing, which all contribute to it's biodiversity, cultural and heritage values. [Officer note: *the site is not designated as a SSSI or as a Special Area of Conservation. Neither the tree survey or council Parks officers have identified 'veteran trees' on the site.*]
- Developers, without planning permission being granted, have deliberately cleared most of the site, disturbing these European

protected species. *[officer note: the works carried out on site are not classed as development and therefore did not require a grant of planning permission from the Local planning Authority. Any alleged disturbance of protected species would be a matter for the Police Wildlife Crime Officer.]*

Highways

- Access to the proposed site will be on a blind bend, next to the designated pedestrian crossing area. This potentially puts lives at risk and, with parked cars opposite, could increase road traffic incidents.
- Traffic travelling towards the traffic light already straggles the white line
- will impact on to an already very busy and bottlenecked road which always has cars belonging to the terraced houses.
- A purpose, dimpled, dropped kerb is in place next to the air vent, making this the designated crossing point over Clay Lane, as this gives the clearest view of traffic in both directions. However, having traffic turning right out of the proposed new road, will create a blind spot for pedestrians.
- Anyone who has traveled down Clay Lane is aware the road narrows outside the row of terraced houses, opposite the proposed development site, which is compounded by parked vehicles there
- It is proposed to place a large number of the roads as privately owned, including the one over the SuDS drainage system, (the sub surface cellular storage).
- A61 known traffic congestion issues
- Query if any Traffic Studies have been conducted as part of the planning application
- The planning application suggests parking of 2 spaces for 2/3 bedroom dwellings a 3 spaces for 4 bed dwellings (5.26). However, in an ever growing car dominating nation it would be anticipated that this is insufficient, and car usage overlooked
- During construction as there is only one proposed access to the site this is going to mean lorries congesting the road and parking on the pavement which is only 1.5 metres wide potentially causing pedestrians to walk on the road into live traffic and damage the only foot path on this road.

Other.

- cause privacy issues
- It will take away our privacy and views from the houses on Windermere road
- concerned that there has been no notifications of this plan locally
- This field is also a pedestrian access route for people to take their dog a walk, and these houses would destroy the access to several other fields, reducing our access to leisure activities.

- serious concerns for public safety, firstly criminal activity. The wild brambles currently act as a deterrent for anyone trying to access our properties from the rear; while the openness of the field allows visual on anyone accessing it
- There will be a massively long drawn out process just putting in place the underground utilities, even before the main building work takes place. This will result in heavy traffic in a dangerous and indeed narrowest spot on the Lane, maybe even needing extended traffic lights, which will result in danger for all users of Clay Lane.
- As some of the proposed houses are very close to the existing railway tunnel and chimney, how is it even possible to build on the land, pretty much directly on top of the tunnel?
- Plot CC2 in the Local Plan - The Local Plan states that this development site should be reduced from 42 to 25 properties (based on the Council's standard density calculation) so why are we looking at a proposal of 35 houses?
- The field has a public footpath route through which leads to the pond. The new houses would impede on this access and also the surrounding field and parks (*Officer comment – a Public footpath does not cross the application site*)
- the Coal Authority have stipulated that Investigation works will need to be carried out in respect to historical mine workings. Given this, and the other works that would be required, has any consideration been given to the dust/noise pollution that will be created, and the possible health effects on the residents of the surrounding areas.
- Noise pollution, air pollution during development
- is there really a need to build small developments on treasured greenfield sites
- For many years no known ownership of the land and riverside residents maintain river banks to avoid flooding.
- Severn Trent have informed residents they cannot accept responsibility of further excess surface water drained into press brook.
- The proposal by reason of its siting would lead to a fragmented form of development along the frontage of Clay Lane and is out of keeping with and detrimental to the character and appearance of the area and would be harmful to the open, rural and undeveloped character of the area
- Any buildings, however, would restrict the view to and from the church, a direct breach of the local plan SP2,f, SDC3:
- The Planning Design and Access Statement at part 3.3 confirms that only 17% (6) of the total development will comprise of affordable housing (*officer note – this has been increased to 20%*)
- Concerns this will lead to developers on the fields to the rear of the proposed site going towards Kenning park.
- Resident's boundary goes beyond the tree line at the end of my garden. With previous widening and erosion of the bank from heavy rain, the boundary is now into the Brook. Resident therefore refuse the right of

any surface water to drain into the Brook which will actually drain onto their land. [*Officer note: such rights would be a matter between the parties and not a material planning consideration.*]

- Properties on Windermere Road at risk by 3.3 percent (1 in 30) each year and this is getting higher with the way weather conditions are changing.
- Allegation that the land has been falsely registered. [*Officer note: the applicant has served notice on the landowners, any allegation of false registration would not be a matter for the local planning authority to address*].
- Will this development de-value my house [*Officer note: loss of value is not a material planning consideration*]

6.0 Relevant Policy and Strategic Context

6.1 The development Plan comprises the North East Derbyshire Local Plan.

The policies most relevant to this development are as follows:

GS1 Sustainable Development

GS9 Planning Obligations

GS10 Crime Prevention

BE1 General Design Principles

H3 New Housing Outside Settlement Development Limits

H12 Design and Layout of New Housing

T2 Highway Access and the Impact on New Development

T4 Travel Plans

T5 Walking and Cycling

T9 Car Parking Provision

R5 Providing for Children's Play Space through New Development

CSU4 Surface and Foul Water Drainage

6.2 Other relevant policy documents include the Successful Places Interim Design Guide.

6.3 The **Emerging Local Plan (2014-2034) (PDLP) is also relevant to this application, and Clay Cross is identified as a Level 1 Town within the settlement hierarchy which are considered to be the most sustainable locations for new development in terms of the range of services and facilities they provide.**

6.4 The PDLP was submitted for examination in May 2018, with public hearings taking place in November/December 2018 and March 2019. The Inspector

issued her interim findings in letters dated 18 February and 21 March, 2019. Following local elections in May 2019, the Council paused the Plan, pending consideration of its options around housing numbers and Green Belt release. On 27 February, 2020 the Council announced the un-pausing of the Plan to allow it to proceed to the next stage of consultation on the Main Modifications, which began on the 2nd November. It is expected that the Plan will achieve adoption in spring 2021.

- 6.5 The emerging Local Plan is therefore at an advanced stage and, in accordance with the advice set out in paragraph 48 of the National Planning Policy Framework, significant weight should be attached to the Plan in decision making
- 6.6 The application site is identified as a proposed housing allocation (ref CC2) and is expected to deliver approximately 25 dwellings in the emerging Local Plan.
- 6.7 The following PDLP policies are relevant to this application:
- SS1 – Sustainable Development
 - SS2 – Spatial Strategy and Distribution of Development
 - SS10 – North East Derbyshire Green Belt
 - LC1 – Housing Allocations
 - LC2 – Affordable Housing
 - LC4 – Type and Mix of Housing
 - SDC11 – Flood Risk and Drainage
 - SDC12 – High Quality Design and Place-Making
 - ID1 – Infrastructure Delivery and Developer Contributions
 - ID2 – Provision and Safeguarding of Transport Infrastructure
 - ID3 – Sustainable Travel
- National Planning Policy Framework
- 6.8 The National Planning Policy Framework is relevant in the determination of the application. The NPPF states that decisions should apply a presumption in favour of sustainable development which means approving development proposals that accord with an up-to-date development plan without delay or where the policies which are most important for determining the application are out of date granting permission unless policies in the framework that protect areas or assets of particular importance provides a clear reason for refusal or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the framework taken as a whole.

7.0 Planning Issues

- 7.1 This is a full application for the construction of 34 dwellings (as amended) with associated infrastructure and including the provision of 20% on site affordable housing.

Principle of Development

- 7.2 The application site is a greenfield site located outside of, although adjacent to, the settlement development limits for Clay Cross. The development of the site would, therefore, conflict with the saved North East Derbyshire Local Plan policies GS1, GS6 and H3 which generally seek to restrict new housing outside of defined settlement development limits.



Aerial photo of application site

- 7.3 The National Planning Policy Framework (NPPF) confirms that applications must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.4 Paragraph 11 of the NPPF states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 7.5 Based on the latest published assessment of the Council's 5 year supply of deliverable housing sites, the Council has sufficient housing supply to exceed its 5 year requirements. Therefore, the saved planning policies within the adopted Local Plan relating to the supply of housing are not considered to be out of date in this respect and so may can be given due weight in the determination of planning applications although it should be

borne in mind that there is no upper limit on the level of housing that may be granted planning permission.

- 7.6 However, despite the Council having an adequate supply of housing, as the settlement development limits and housing targets set out in the 2001-2011 Local Plan do not adequately address the needs of the District as of 2020 reliance cannot be placed on policies GS1, GS6 and H3 to otherwise in principle, resist new housing proposals. As such, Officers conclude that whilst outside the settlement development limits set out in the Local Plan there is no following presumption that planning permission should necessarily be refused.
- 7.7 The Council is now at an advanced stage in the production of a new Local Plan (Publication Draft) (PDLP) which reflects national guidance in the NPPF and provides for the development needs of the district for the period 2014 – 2034. The Plan is anticipated to be adopted in early 2021, however, it currently remains unadopted. Within the PDLP the application site is proposed as a housing allocation (CC2) for approximately 25 dwellings and the SDL proposed to be redrawn to include this site.
- 7.8 Paragraph 48 of the NPPF states that local planning authorities may give weight to relevant policies in emerging plans. Now the draft local plan is at the main modifications stage officers consider that the draft local plan has significant weight as a material consideration and this weighs significantly in favour of the proposal in the view of Officers.



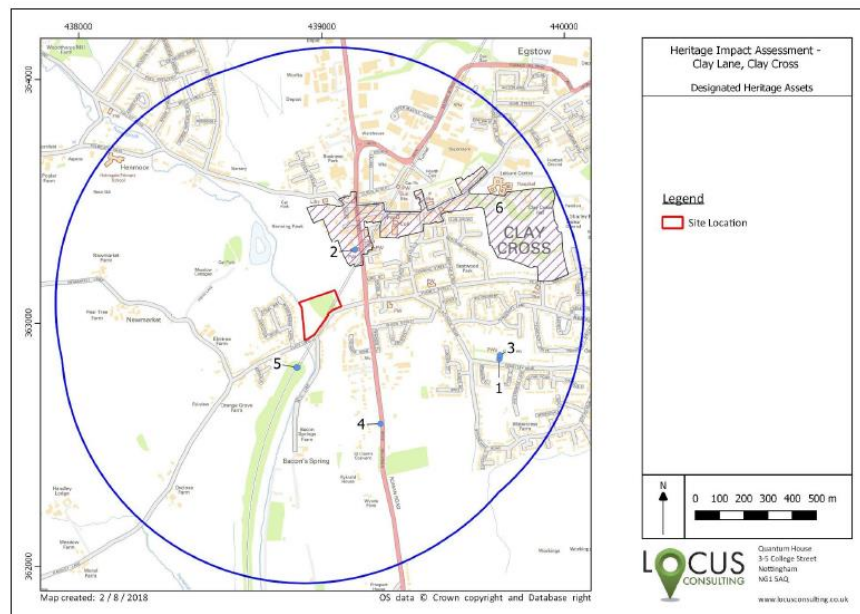
Allocation in PDLP

- 7.9 In such circumstances it is helpful also to undertake an assessment of the application based on the three strands of sustainable development as set out in the NPPF. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives which are economic, social and environmental. These issues are addressed as follows.
- 7.10 In the short term there would be **economic benefits** from the build phase of the development and in the longer term whilst there would be no direct employment provision on the site, there would be economic benefits to existing services within Clay Cross. The development would also contribute to the Council's Growth Agenda through the provision of receipts to the Council.
- 7.11 There would be a number of **social benefits** from the grant of permission in that it allows occupiers of the new properties to support local services and increase the customer base for existing businesses. The scheme would provide 20% on site affordable housing and financial contributions towards social infrastructure. The contributions to education are however required in order to mitigate the impacts of the development itself and are therefore of neutral benefit. These elements do however weigh in favour of the scheme.
- 7.12 With regards to the **environmental impacts** of the development these require careful consideration. In addition, policies of the extant Local Plan (NE1) and the Emerging Plan (SDC3) seek to protect the distinctive character of the District and are generally in accordance with the NPPF and so attract full weight in the planning balance.
- 7.13 The site is not covered or protected by any landscape quality designation and the habitats on site comprised woodland in the eastern section of the Site, with improved grassland, tall ruderal and dense continuous scrub in the western section. The site forms a visually well contained parcel of land abutting the urban edge of Clay Cross. The development will be observed as well related to the existing built form in this regard. The character of the local landscape and surrounding area is not considered to be unduly sensitive. The nature and scale of the proposed development will be compatible and appropriate within the landscape character area in which it sits.
- 7.14 Officers consider that the development would only have a limited and localised impact upon the character of the area. There would be views of the site from Clay Lane and existing footpaths however the site would be viewed in the context of the surrounding existing housing developments.

- 7.15 In weighing these issues in the planning balance, Officers consider that there would be some social and economic benefits arising from the scheme and that the environmental harm is limited and, localised. The site is also proposed as a housing allocation in the PDLP and proposed to be included within the revised settlement development limits; and as such, the development of the site is considered to be broadly sustainable as set out in the NPPF and the principle of the development is supported overall.

Impact on Heritage Assets

- 7.16 The application is accompanied by a Heritage Impact Assessment which has assessed the impact on the nearby designated heritage assets, specifically the Clay Cross Conservation Area and the Grade II listed St Bartholomew's Church and the Grade II listed Clay Cross Tunnel Southern Portal.



Extract from HIA showing designated heritage assets

- 7.17 In terms of the potential to impact upon the setting of designated heritage assets, the assessment concludes that the proposals will have a neutral impact upon the ability to appreciate the significance of the Clay Cross Conservation Area and the Grade II listed building St Bartholomew's Church, from within their settings.
- 7.18 Concerning the Grade II listed building of Clay Cross Tunnel Southern Portal and its associated air vent that lies within the Site, the proposed development has the potential to bring about a very low degree of enhancement to the ability to appreciate its architectural and historical interest from within its setting.

- 7.19 The proposed harm to the Conservation Area should be weighed against the policies for designated heritage assets as set out in the NPPF at paras 195 and 196, noting the 'great weight' to be placed upon the conservation of such assets, the 'clear and convincing justification' required for any level of harm to designated heritage assets, and the consideration of whether harm is outweighed by public benefits of the planning proposals. This is in general accord with the policies of the Council's own Local Plan which seeks to protect heritage assets from unacceptable impacts and also the policies of the emerging Local Plan which generally mirrors them.
- 7.20 In this case officers consider that in view of the site being a draft allocation for housing development and given the separation from the heritage assets that there would be very limited harm to the setting of the assets that is otherwise outweighed by the public benefits of housing generally and affordable housing in particular and that the proposals would preserve the character of the Conservation Area.

Infrastructure

- 7.21 The agent has confirmed that the applicant will meet all the requested infrastructure requirements of the various consultees.
- 7.22 £181,612.51 is requested towards the provision of enhanced education facilities for secondary and post 16 pupils at Tupton Hall School.
- 7.23 An estimated £29,382.14 is requested towards existing off-site play/open space provision with a 10 year maintenance fee of approximately £9,026.72. The nearest existing facilities to the proposed development is at Clay Lane, Clay Cross which is owned and maintained by North East Derbyshire District Council, and (a little further away) at Kenning Park, Holmgate Road, Clay Cross which is owned by Clay Cross Parish Council and maintained by North East Derbyshire both of which may benefit from additional / replacement equipment to increase the play value to local residents.

Highways

- 7.24 The application proposes a single point of access off Clay Lane and the Highway Authority (HA) considers that recommended visibility splays of 2.4m x 43m are achievable and accordingly visibility from the site is considered to be acceptable. Whilst there will inevitably be a redistribution of traffic in this area the HA is satisfied that there are no fundamental highway issues that would result in a severe impact on the surrounding highway network in accordance with paragraph 109 of the NPPF.

the application, Alternatively, should the Local Planning Authority be minded to approve the application as submitted it may be possible to secure further design information/modifications by appropriate conditions. On this basis conditions are recommended.

- 7.28 Concern has been raised by local residents regarding the highway implications of the development and the volume of traffic using Clay Lane. The NPPF is clear in that it states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 7.29 Officers, based on the advice of the HA, do not consider that the 34 additional dwellings would result in a demonstrable harm to highway safety. Officers consider that the highway issues which include the relocation of the speed hump can be satisfactorily addressed by appropriate conditions and have no reason to conclude that the transport impacts of this development would be severe.
- 7.30 Therefore, in considering all the issues pertaining to Highway Safety the comments of the HA are clear in stating that the scheme is acceptable from a highway safety point of view and Officers concur with that assessment.

Design and Layout

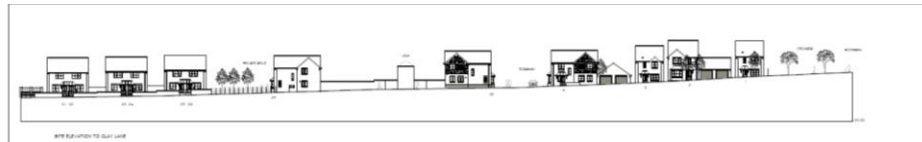
- 7.31 Whilst the site is a greenfield site outside of the defined settlement development limits, the site is proposed as a housing allocation in the emerging local plan and it is expected to deliver approximately 25 dwellings rather than necessarily the 34 dwellings proposed here.
- 7.32 The proposed layout has a single point of access onto Clay Lane from which dwellings are arranged in perimeter blocks with a buffer on the western boundary with the Brook to ensure all the built development is located solely in Flood Zone 1.



- 7.33 The development is generally outward facing with properties facing onto Clay Lane to create an active frontage and on the northern boundary bungalows are proposed to create an interface with the surrounding countryside whilst taller houses will front onto Clay lane.

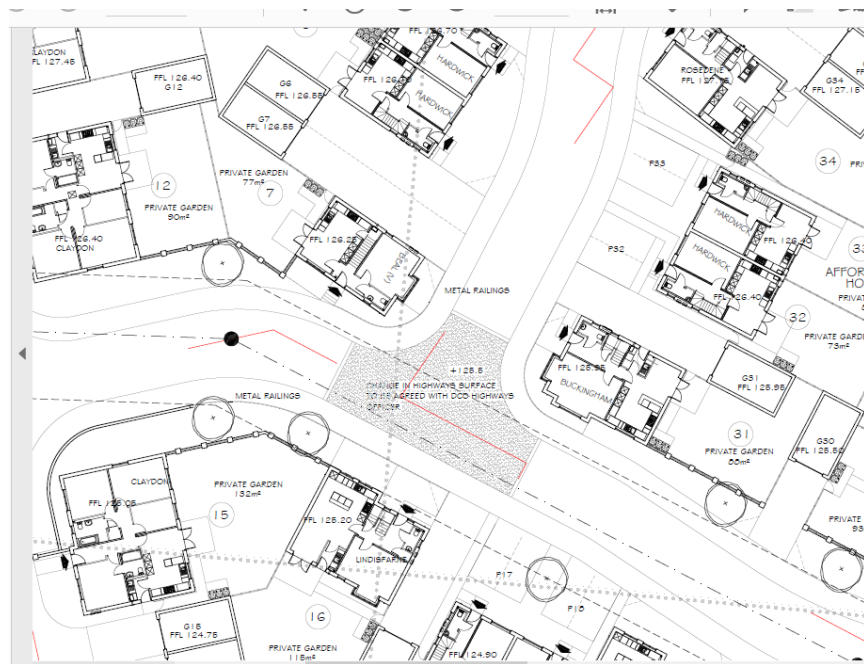


- Northern boundary with countryside
- 7.34 The frontage with Clay Lane has been designed to incorporate a new footpath link focused around the airshaft of the Clay Cross Tunnel and linking with the existing footpath adjacent to the eastern boundary of the site.



Frontage to Clay Lane

- 7.35 Within the site, the development has a mix of parking solutions so that car parking does not dominate and garden sizes are in accordance with those set out in Successful Places. The development generally has properties which face onto the street and a number of dwellings that turn the corner well at key points in the development. Plot 16 creates a good view termination when entering the site and with the imaginative use of boundary treatments and highway surfacing creates a good design feature.

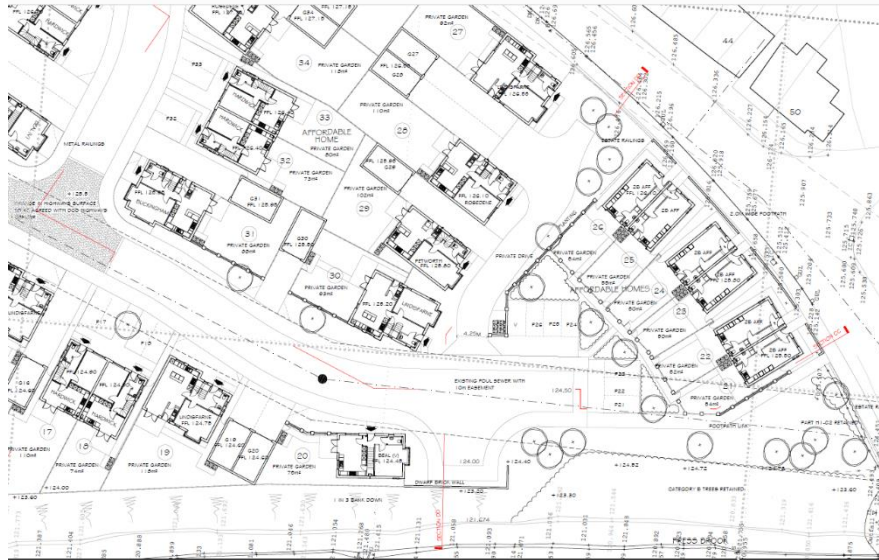


- 7.36 In the north eastern part of the site an area of public open space is proposed with the retention of the former orchard as part of the development, and the inclusion of a footpath link through to the public right of way on the eastern boundary of the site. The existing tree group will largely be retained and enhanced with local variety fruit trees.



Orchard and footpath link

- 7.37 Whilst on the whole the development exhibits good design in respect of the council design guidance, the south east corner of the site needs some further consideration. The siting of the affordable units has been amended during the course of the application and Officers consider that these units facing outwards onto Clay Lane to create an active frontage is preferable. However as a result of the dwellings facing onto Clay lane, within the site the rear of the gardens do not offer good view termination with the proposed parking and cul-de sac. The proposals to provide additional landscaping and a footpath link do soften this corner of the site to a degree; and whilst officers consider that a better solution in design terms may be possible it is not considered that this area detracts so significantly from the overall layout to justify refusal of the entire scheme.



South east corner of the layout

- 7.38 In summary, Officers consider that the proposed layout generally accords with the Council's design guidance in respect of garden sizes, parking solutions and a block structure with an outward facing development. Whilst the site numbers are in excess of that of the proposed PDL allocation Officers do not consider that the site represents an overdevelopment in terms of the proposed layout and that the proposed design is acceptable. It should be noted that the PDL policy does not set a maximum number of dwellings for the site.

Impact on Neighbours

- 7.39 The properties that are most likely to be affected by the proposals are properties on the opposite side of Clay Lane to the south of the application site; and properties on Windermere Road which lie to the west and whose gardens back onto the Press Brook which runs along the western site boundary.
- 7.40 The Council's design guidance Successful Places provides details of the recommended separation distances between dwellings and states that it is good practice to ensure 21m between the rear elevations of two dwellings directly facing one another and 12m front to front.
- 7.41 In respect of the dwellings on Clay Lane, the separation distance between the fronts of the houses opposite the site and the development is 15m at its closest point which is in excess of the guidance.
- 7.42 The rear gardens on Windermere Road, are separated from the application site by the Press Brook, and would be screened to some degree by the existing trees on the side of the brook and which are proposed to be

retained. The distances between proposed dwellings and the rear of the properties on Windermere Road would be in excess of the 21m required by Successful Places.



Extract showing relationship between proposed dwellings and Windermere Road

- 7.43 Concern has been raised regarding the loss of privacy to the houses that back onto the application site; however the proposed layout shows that acceptable separation distances between the development and existing dwellings could be achieved. Officers conclude that the development is unlikely to have an unacceptable impact upon the privacy or amenity of existing residents and would comply with the Successful Places design guide in terms of separation distances.

Archaeology, ground stability and drainage

- 7.44 The DCC Archaeologist has raised no objections subject to conditions; and has commented that the application is accompanied by a heritage statement which summarises archaeological and historic environment potential within the site. The site was associated with the construction of the Clay Cross Tunnel in the 1830s, and the tunnel runs below the site. Within the site is one of the tunnel air vents, proposed for retention within the scheme. Historic map regression shows that a complex of the buildings was developed on the site at this time, described in the tithe apportionment as a 'House, Outbuildings, Yard, Stackyard and Garden' in the ownership of George Stephenson and Co. The function of this complex is unclear, although it is certainly associated with the activity of Stephenson's Clay Cross Company and therefore of high local and potentially regional significance because of the crucial part played by Stephenson and the Clay Cross Company in the development of Clay Cross itself and the regional railway/industrial network during the 1830s and 1840s.
- 7.45 The site is also within 100m of the Rykniel Street Roman Road, running through Clay Cross on the line of the modern A61. There is consequently

a background potential for Roman activity on the site, though much reduced by subsequent uses of parts of the site as a spoilheap during the 19th century. Because of the potential for below-ground (and possibly ruinous above-ground) remains of the site associated with the Stephenson Co., it is recommended that there is archaeological excavation and recording to investigate and interpret this potentially important site, combined with additional archive research to expand the understanding of its chronology and function. This could be undertaken as a phased scheme with trial trenching to assess preservation followed by further excavation, or if preferred as a single-stage strip-and record of the relevant area. These issues can be addressed by the conditions recommended by the DCC Archaeologist.

Drainage/Archaeology/Contaminated Land/Ground Stability and Railways

- 7.46 The DCC Flood Team (LLFA) initially raised concerns regarding the ordinary watercourse, the Press Brook, which the site adjoins and which is fully developed on the opposite (western) bank and in the current layout this will become inaccessible for safe maintenance purposes in the future. Under Riparian landownership guidance the expectation would be that landowners should be able to safely maintain the safe passage of flow onwards to landowners at a lower elevation. The banks of and potentially the watercourse itself if fenced in would become inaccessible along significant stretches of the development. This is particularly the case behind plots 20 to 14 where this needs to be addressed, so that a suitable easement with access is in place for the potential lifetime of the development. The LLFA advise that no part of the proposed development should be constructed within 3-8m of an ordinary watercourse. However, this ordinary watercourse shortly downstream becomes a main river so would need this distance to be close to 8 metres from the bankside.
- 7.47 The agent has proposed that as an alternative, an agreement for regular inspection and maintenance is undertaken by hand. Any proposed solution would be accompanied by a suitable method statement. As the eastern bank is currently significantly higher than the western bank, shown to lie within Flood Zone 3 a maintenance strip would not offer any flood protection to either side of the bank in the event of flooding.
- 7.48 With regards to the LLFA concerns relating to the lack of SuDS features on the site, the agent has confirmed that the scheme currently proposes a combination of permeable paving, below-ground tanks and oversized pipes as well as a flow restriction to Qbar greenfield runoff rate as part of its sustainable drainage strategy. Given the constraints of the site, lack of open space and sewer adoption requirements, the use of basins, swales, filter drains or more extensive permeable paving has been deemed unviable.

- 7.49 On the issue of the Press Brook and SuDS the LLFA have commented that they have no objections subject to conditions and that that the watercourse adjacent to the development is to be maintained by hand with no permanent boundaries erected along the proposed top of the bank. Any fences installed in rear gardens are to be concrete posts and removable fence panels – Woodall Homes are to form a management company who will maintain the bank and watercourse and inspect it every three months.
- 7.50 Following recent communication from the applicant, the LLFA also commented that there has been a report of at least a partially collapsed adopted sewer that Severn Trent Water have responsibility for managing and maintaining in relation to this site's potential foul sewer outfall. The LLFA expects Severn Trent Water to confirm that this issue will be satisfactorily addressed to ensure the proposed site's foul water can drain safely. Conditions are proposed in respect of both surface and foul drainage matters.
- 7.51 The NEDDC Engineers initially commented that for the management of surface water from the development, a lack of consideration has been given to the incorporation of SuDS features. Additional details would be required before this method of surface water disposal can be considered. The Engineers have been consulted on the additional information submitted and any further comments will be reported to members. However, Officers consider that the comments of the Engineers have been addressed as set out above.
- 7.52 Severn Trent Water (STW) have been consulted on the application, and on the revised details but have not provided any comments on the application. However the agent has provided a copy of correspondence from STW which confirms that a gravity foul flow from 38 dwellings is relatively low and can be accommodated in the existing public 600mm dia combined sewer. On this basis Officers have no reason to question that the development cannot be adequately accommodated by the existing drainage system. Conditions requiring the approval of the details of the foul drainage are proposed to be included should permission be granted.
- 7.53 The Environment Agency has not raised an objection to the proposals and has no objections to the conclusions and recommendations made within the submitted Phase 1 Desk Study Report produced by BSP Consulting dated March 2020.
- 7.54 The Council's Environmental Health Officer has raised no objections and has commented that there is a requirement to undertake further works to address potential land contamination issues. These can be controlled by

pre-commencement conditions to ensure the site is suitable for its proposed use.

- 7.55 Network Rail have commented on the revised plans, and have not raised an objection to the proposals and have commented that they require a clearance around the vent of at least 3 metres to ensure that access and the installation of any required scaffolding or plant for maintenance purposes remains possible. In addition, it appears from the plans that it may be intended for the area around the vent to become part of the highway/footpath and require clarity from the developer on this point. Officers consider that the submitted site layout demonstrates that a 3m clearance from the vent has been provided and that the NR concerns have been addressed.
- 7.56 Concerns have been raised by residents in respect of drainage, flood risk, and the maintenance of the Press Brook. However in this case the statutory consultees advise that there are no technical objections to the approval of the application and that the site can be adequately drained. These matters can be controlled by conditions to be addressed prior to works commencing on site.
- 7.57 Officers consider that in view of the above, and subject to the necessary conditions the development would be acceptable from archaeological, drainage, environmental health, railway and ground stability perspectives.

Impact on Ecology

- 7.58 The NPPF at para 175 states that when determining planning applications, local planning authorities should apply the following principles: if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated or as a last resort, compensated for then planning permission should be refused.
- 7.59 The Derbyshire Wildlife Trust (DWT) have been consulted on the revised proposals and have commented that Press Brook adjacent to the western boundary of the site is used by otters based on a recent survey by FPCR. There are also multiple records of water voles upstream (most current 2019) and DWT have recently had records of kingfisher using the Brook. DWT consider it is essential that the functionality of the Brook and its riparian habitat is maintained for these species and recommend that to protect the network/corridor provided by the Brook, a suitable buffer zone must be provided but that there is little in the way of standard buffer zone widths for otters in current guidance.

- 7.60 In the case of the Clay Lane site, there is already housing right up to the western edge of the Brook and therefore DWT argue that a buffer greater than 10m should ideally be maintained at the eastern side, within the proposed development and consider that new development to the east will further compound existing disturbance pressures to the west and create a pinch point along the corridor. Otters frequently leave the channel to move along the bank and readily use scrub and woodland at the edges of watercourses. DWT suggested that pushing development as close as possible to the watercourse is non-compliant with the aims of the NPPF and is at the detriment of the ecological network provided by the Brook and its riparian habitat. The guidance recommends 30 m as a distance between development and an otter holt and so DWT suggest that somewhere between 10 m and 30 m would be more suitable, measured from the bank top, not the centre of the channel.
- 7.61 Following further discussions with the agent, DWT and officers, DWT still consider that the scheme could be more sensitively designed, with fewer dwellings and a wider buffer with the brook, however a refusal based solely on ecological grounds is unlikely to be successful and DWT have therefore provided the advice to secure mitigation and compensation measures.
- 7.62 DWT are of the view that the details of the buffer to Press Brook must be secured through a planning condition and that a minimum of 10m should be maintained as far along the Brook as possible (from the bank top) but in some points accept that there may be a narrow part to 7.5 m. A series of measures would be required to safeguard otters travelling along the Brook and these should be provided in an Otter Mitigation Strategy. A lighting plan would also be required, however retaining mature vegetation along the buffer will also help to shield the Brook from lightspill. These measures will help to maintain the functionality of the Brook for a range of wildlife, as well as otters. In view of the comments of the DWT not raising an objection to the development, officers consider that a suitable buffer can be conditioned measuring between 7.5m and 10m with the precise details to be submitted for approval prior to any works commencing.
- 7.63 DWT also comment that offsetting the biodiversity loss on another site will be necessary and dialogue is currently ongoing between all parties regarding this approach. In addition to offsetting works, measures should be included within the scheme design to retain and enhance the biodiversity value of the site where possible and include the retention and enhancement of the eastern orchard, native landscaping and the incorporation of bat and bird boxes etc.
- 7.64 In respect of the off setting, several sites including one at Sharley Park which are council owned have been identified and the applicant is willing to provide a sum of money for the enhancement through tree planting and

other biodiversity measures which could be required by planning condition and secured through the s106 agreement. Officers consider that requiring the details of the offsetting to be agreed prior to any development on site commencing would ensure that there is no loss of biodiversity as a result of the development. Such a condition is considered to meet the tests of a planning conditions and would ensure that the development meets the requirements of para 175 of the NPPF.

- 7.65 in summary, the proposals seek to mitigate its impact on biodiversity and provide the provisions of additional biodiversity off setting. In accordance with policies NE3 and NE7 of the Local Plan and paragraph 170 of the NPPF. Officers note the comments of the DWT and in particular that they do not raise an objection to the proposals. Officers are of the view that the suggested conditions from the DWT would ensure that the development would not have a detrimental impact on ecological interests.

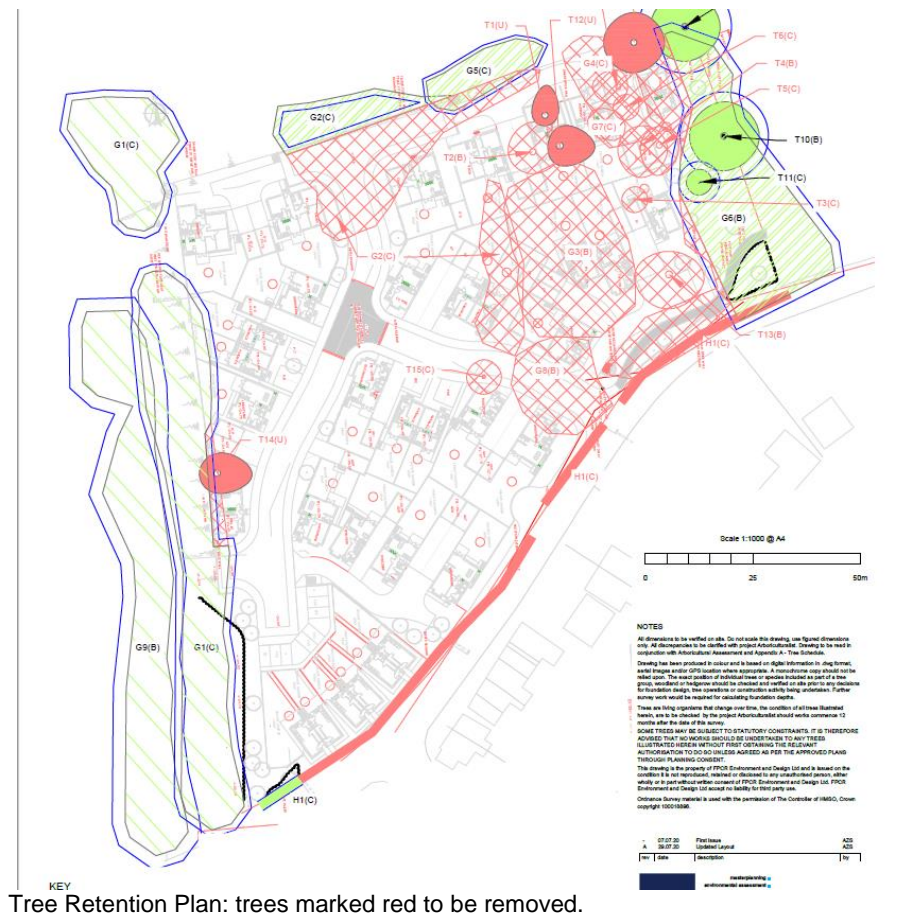
Impact on Trees

- 7.66 DWT note the hedgerow planting and improvement of the retained orchard habitat, and the proposals for the orchard, which are welcomed.



- 7.67 Officers are in agreement with the DWT regarding the orchard proposals which largely retains and enhances the tree group to the east of the site with local heritage variety fruit trees, native tree and shrub planting and swathes of wildflowers for seasonal interest. This enhancement can be conditioned should permission be granted.

- 7.68 Concern has been raised from residents regarding the proposed removal of trees on the site, both prior to permission being granted and proposed by the development. The trees on the site are not protected by tree preservation order, and the application is accompanied by a Arboricultural Assessment (FPCR July 2020) which includes a Tree Survey Plan and Tree Retention Plan. A total of 15 individual trees, nine groups of trees and one hedgerow were surveyed as part of the assessment.
- 7.69 The survey concluded that full removal of eight individuals and four groups was needed to facilitate the development. The tree material which needs to be removed to allow for the construction of the residential dwellings within the housing project being (on the submitted plans) T2, T4, T13, G3 and G8 are of moderate landscape quality due their collective merits. T3, T5, T6, T7, T15, G4 and G7 were assessed as being of low arboricultural value and their removal was not seen as a constraint upon development on these grounds. In turn through the new high-quality planting scheme supporting the proposals, the removal of these trees could be mitigated against alongside giving the opportunity to increase diversity of species on site.



- 7.70 The Council's Parks Officers have reviewed the tree survey and visited the site and commented that some of the trees potentially should be kept although some would need some pruning works and the removal of ivy and epicormic growth. The trees considered worthy of retention are T2 Beech; T13 Sycamore; H1 (C) Sycamore and G8 group Common Limes. Of these trees the submitted layout would necessitate the removal of T2, T13 and parts of G8 due to their proximity to the proposed houses. There is potential to retain some of the group H1, and this could be conditioned as part of the approved landscaping condition.
- 7.71 In summary Officers consider that some trees will inevitably need to be removed, however these are generally not those of the best quality, with the exception of the trees highlighted by the Parks Officers. These trees are classed as being of moderate value and with a life expectancy of at least 20 years.
- 7.72 The loss of the trees is noted. However, the site is a housing allocation in the PDLP which, Officers consider, is a significant material consideration and leads Officers to conclude that some tree loss would be inevitable to secure the allocation as set out. Therefore, the loss of these trees is not considered overriding in this case.
- 7.73. In order to mitigate against the loss of trees, the proposals will incorporate new landscape planting and the reinstatement of a historical orchard, with native species and the supplementary planting of fruit trees. The layout is also set back from and incorporates a landscaped buffer along Press Brook. The loss of the trees will also be compensated by additional tree planting at Sharley Park which is proposed to be included in the s106 agreement. In view of this, and in particular the site allocation for housing Officers do not consider that the loss of the trees would justify refusal in this instance, particularly in view of the additional biodiversity enhancements on and off site that are proposed.

8.0 Summary and Conclusion

- 8.1 The application site falls outside of the settlement development limit for Clay Cross as identified in the adopted Local Plan and residential development in such areas is contrary to the saved policies of the Development Plan.
- 8.2 However, the site is a proposed housing allocation in the PDLP with the SDL proposed to be re-drawn to include the development site, which given the stage of preparation the Local Plan is at is a significant material consideration in favour of the application.

- 8.24 Social benefits arise from the scheme by the delivery of housing with 20% affordable housing and this weighs in favour of the scheme although the mitigating impacts of the section 106 agreement proposed is a neutral factor. There are also considered economic benefits arising from both the construction of new houses and the occupation in terms of the input to the local economy and to the Council through additional council tax and new homes bonus.
- 8.4 The proposed development is considered on the whole to offer a good design that would be in keeping with the character and appearance of the surrounding area. Furthermore the proposal would not result in a detrimental impact upon the privacy or amenity of neighbouring residents. There are no technical issues weighing against the scheme and it would not have a detrimental impact on highway safety.
- 8.5 On the issue of ecology and loss of trees, the fact that the site is a proposed housing allocation is a significant consideration in the development of this greenfield site. The proposed off setting of the loss of biodiversity which would be secured by planning condition would ensure that the development compensates for the unavoidable loss of biodiversity.
- 8.7 Therefore, in conclusion, it is considered that the proposal, whilst contrary to the policies of the Development Plan, as such, in seeking to deliver an allocated site as set out in the PDLP is acceptable particularly as there is only a limited impact on the character of the area through housing development and this material issue overrides any other negative issue and the Development Plan in this case..
- 8.8 Accordingly, it is recommended that subject to completion of the necessary s106 agreement and conditions that permission should be granted.

9.0 Recommendation

- 9.1 **GRANT** Full Planning Permission subject to the following conditions and section 106 agreement with the final wording and content of the conditions delegated to the Planning Manager (Development Management)

Section 106 Heads of Terms

Education Secondary	£181,612.51 towards the provision of enhanced education facilities for secondary and post 16 pupils at Tupton Hall School.
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Off-site Play contribution £29,382.14 of section 106 monies towards existing off-site provision with a 10 year maintenance fee of approximately £9,026.72

Affordable Housing 20% on-site

Off site biodiversity enhancement

Conditions

1. The development hereby approved shall be started within 3 years from the date of this permission.

Reason: To comply with section 91 (as amended) of the Town and Country Planning Act 1990

2. The development hereby approved shall be carried out in accordance with the details shown on the following plans:-
 - 19-03-P01 Rev F – Site Plan
 - CLCC-BSP-ZZ-XX-DR-C-0002 REV P02 – Refuse Vehicle Swept Path Analysis
 - INF_N0708(08)001A – Illustrative Landscape Masterplan
 - INF_N0708(08)003A – Hard and Soft Landscape Palette Sheets
 - RSE_4068_BIA REV V4 – BIA Visualisation
 - 19-03-P30 – Sections to Press Brook
 - 19-03-P-00 – Location Plan
 - 19-03-P02 PLOT 1 BEAL (A1)
 - 19-03-P03 PLOT 3 BEAL (A1)
 - 19-03-P04 PLOT 7 BEAL (A1)
 - 19-03-P05 PLOTS 8 AND 20 BEAL (A1)
 - 19-03-P06 PLOTS 2 AND 29 PETWORTH (A1)
 - 19-03-P07 REV A PLOT 4 LINDISFARNE (A1)
 - 19-03-P09 REV A PLOT 27 LINDISFARNE (A1)
 - 19-03-P10 PLOT 30 LINDISFARNE (A1)
 - 19-03-P11 REV A PLOT 16 LINDISFARNE (A1)
 - 19-03-P12 PLOT 35 LINDISFARNE (A1)
 - 19-03-P13 PLOT 9 SUDBURY (A1)
 - 19-03-P14 PLOT 10 SUDBURY (A1)
 - 19-03-P14 PLOT 10 SUDBURY (A1)
 - 19-03-P15 PLOT 11 CLAYDON (A1)
 - 19-03-P16 PLOT 12 CLAYDON (A1)
 - 19-03-P17 PLOT 15 CLAYDON (A1)
 - 19-03-P18 REV A PLOT 14 DANBURY (A1)
 - 19-03-P19 REV A PLOTS 21-22, 23-24 AND 25-26 2 BED AFFORDABLES
 - 19-03-P20 PLOT 28 ROSEDENE (A1)

- 19-03-P21 PLOT 34 ROSEDENE (A1)
- 19-03-P22 PLOT 31 BUCKINGHAM (A1)
- 19-03-P23 PLOTS 5-6 HARDWICK (A1)
- 19-03-P24 PLOTS 17, 18, 32 AND 33 HARDWICK (A1)
- 19-03-P25 GARAGES (A1)
- 19-03-P26 REV C SITE SECTIONS (A1)
- 19-03-P27 PLOT MATERIALS SCHEDULE
- 19-03-P28 REV A BOUNDARY DETAILS (A1)
- 19-03-P29 REV A BOUNDARY TREATMENT PLAN (A1)
- ARBORICULTURAL ASSESSMENT
- BIODIVERSITY METRIC 2.0 CALCULATION TOOL.
- CLCC*BSP-ZZ-XX-RP-C-001-P02 FLOOD RISK ASSESSMENT
- ECOLOGICAL APPRAISAL
- HERITAGE STATEMENT
- TRANSPORT ASSESSMENT

Unless otherwise subsequently agreed through a formal submission under the non-material amendment procedures and unless otherwise required by any condition in this decision notice.

Reason: For Clarity and the avoidance of doubt.

Employment and Training

3. Before the development hereby approved commences, a scheme to enhance and maximise employment and training opportunities during the construction stage of the project, including a timetable for implementation, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall then be implemented in full in accordance with the approved timetable.

Reason: In the interests of creating sustainable development in accordance with policy GS1 of the North East Derbyshire Local Plan.

On-site Public Spaces

4. Prior to the first occupation of any dwelling a scheme for the delivery and future maintenance of all on site public open space, and a timetable for implementation relative to the completion of dwellings hereby approved. Thereafter any approved scheme of open space shall be implemented in full in accordance with the approved timetable and shall be maintained in accordance with the approved scheme thereafter.

Reason: In the interest of the appearance of the area and in accordance with policies GS1 and H12 of the North East Derbyshire Local Plan

Sustainable Design, Character and Appearance

5. Notwithstanding the submitted details, before any above ground works commence, the following shall be submitted to and approved in writing by the Local Planning Authority:
- a) A scheme of landscaping which shall include indications of all existing trees and hedgerows on the land
 - b) The details of any trees and hedgerows to be retained together with measures for their protection during development,
 - c) A schedule of proposed plant species, size and density and planting locations and
 - d) An implementation programme

Reason: In the interest of the appearance of the area and in accordance with policies GS1 and H12 of the North East Derbyshire Local Plan

6. All planting, seeding or turfing in the approved scheme of landscaping shall be carried out in the first planting and seeding season following the occupation of buildings or the completion of the development, whichever is the sooner. Any plants or trees which within a period of 5 years from the completion of 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.

Reason: In the interest of the appearance of the area and in accordance with policies GS1 and H12 of the North East Derbyshire Local Plan

7. Notwithstanding the submitted details, prior to any above ground works commencing, a plan to show the positions, design, materials, height and type of boundary treatments to be erected and/or retained including a timetable for implementation relative to the occupation of plot numbers shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in full in accordance with the approved timetable and retained as such thereafter.

Reason: In the interest of the appearance of the area and in accordance with policies GS1 and H12 of the North East Derbyshire Local Plan

8. The proposed finished floor levels of the dwellings and the proposed finished ground levels of the site shall be implemented in accordance with drawing 19-03-P01 revision E.

Reason: In the interest of the appearance of the area and in accordance with policies GS1 and H12 of the North East Derbyshire Local Plan

9. Prior to first occupation of any dwelling, a scheme for the provision of public art on the site including a timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority. The public art shall be implemented in full in accordance with the approved timetable and retained as such thereafter.

Reason: In the interest of the appearance of the area and in accordance with policies GS1 and H12 of the North East Derbyshire Local Plan

10. Before any above ground works commence a scheme for mitigating climate change through sustainable design and construction of the dwellings shall be submitted to and approved in writing by the LPA. Thereafter the approved climate change scheme shall be implemented in full and retained as such thereafter.

Reason: In the interests of creating sustainable development in accordance with policy GS1 of the North East Derbyshire Local Plan.

11. No part of the development shall be occupied until details of arrangements for the storage of bins and collection of waste have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained as such thereafter.

Reason: In the interests of highway safety and in accordance with policies T2, T9 and H12 of the North East Derbyshire Local Plan

Ecology

12. No vegetation clearance shall take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.

Reason: To safeguard the ecology of the site and ensure ecological interest is conserved in accordance with Policy NE6 of the North East Derbyshire Local Plan.

13. Prior to the start of construction (including site clearance), an Otter Mitigation Strategy shall be submitted to the LPA for approval. This shall specify measures to safeguard the functionality of Press Brook and protect individual animals. Measures shall include those listed below. The approved Strategy shall be implemented in full.

- Details of the 'wild' buffer of existing vegetation to be retained between Press Brook and the development.
- The buffer shall be protected with otter-proof fencing during construction and for the lifetime of the development.
- Excavations shall be covered overnight during construction or mammal ramps shall be installed.
- No night-working on the site and no lighting of the buffer zone during construction
- Any necessary outfalls shall be carefully planned and in-channel works supervised by an ecologist. Vegetation removal must be minimised and replacement planting may be required to maintain the integrity of the buffer, dependent on advice from the ecologist.
- The buffer zone shall be maintained with low intervention management, with works limited to removal of garden waste/garden escapes/litter/fly tipping by maintenance contractors and where access allows. This shall be included within any Landscaping or Management Plans.

Reason: To safeguard the ecology of the site and ensure ecological interest is conserved in accordance with Policy NE6 of the North East Derbyshire Local Plan.

14. Prior to the start of construction (including site clearance), a Badger Mitigation Strategy shall be submitted to and approved in writing by the LPA. This shall specify the approach to deal with the known badger sett within the application area, including the implementation of temporary buffer zones, any update survey work and the requirements for licensing. The approved Strategy shall be implemented in full and confirmation of licence approval/site registration from Natural England shall be submitted to the LPA once available.

Reason: To safeguard the ecology of the site and ensure ecological interest is conserved in accordance with Policy NE6 of the North East Derbyshire Local Plan.

15. Prior to the installation of services, a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard the Press Brook corridor and the eastern orchard and maintain their value to nocturnal wildlife. The Strategy should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Such approved measures will be implemented in full.

Reason: To safeguard the ecology of the site and ensure ecological interest is conserved in accordance with Policy NE6 of the North East Derbyshire Local Plan.

16. Prior to building works commencing above foundation level, a Biodiversity Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall provide enhancements on site, in addition to the biodiversity offsetting works required for this application. Measures shall be shown clearly on a Plan, including numbers, locations and specifications. Such approved measures shall be implemented in full and maintained thereafter, with photographs of the measures in situ submitted to the LPA to fully discharge the condition. Measures shall include (but are not limited to) the following:
- integrated bat boxes in 40% of dwellings.
 - swift boxes in 40% of dwellings.
 - insect bricks in 20% of dwellings.
 - hedgehog gaps (130 mm x 130 mm) shall be provided in garden fencing.

Reason: To safeguard the ecology of the site and ensure ecological interest is conserved in accordance with Policy NE6 of the North East Derbyshire Local Plan.

17. Before the commencement of development a scheme to mitigate and compensate the net loss of biodiversity resulting from the development shall have been submitted to and approved in writing by the Local Planning Authority and shall include details for a combination of on-site mitigation and off-site compensation and timescales for implementation. The scheme shall thereafter be provided in accordance with the approved details and timescales or before 90% of the dwellings are occupied whichever is sooner.

Reason: To safeguard the ecology of the site and ensure ecological interest is conserved in accordance with Policy NE6 of the North East Derbyshire Local Plan.

Drainage

18. Before development starts, a scheme for the provision of foul drainage works shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full before the first occupation of the dwellings and retained as such thereafter.

Reason: In the interests of ensuring proper drainage of the site in accordance with policy CSU4 of the North East Derbyshire Local Plan.

19. No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:
- a. Flood Risk Assessment & Drainage Strategy, Clay Lane, Clay Cross for Woodall Homes Ltd by BSP Consulting Referenced CLCC-BSP-ZZ-XX-RP-

C-0001-P02 dated June 2020 Revision P02 and also 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),

c. and including any additional details submitted relating to maintenance and accessing of the watercourse for the lifetime of the development 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.

20. No development shall take place until a detailed assessment has been provided to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 80 reference ID: 7-080-20150323 of the planning practice guidance.

Reason: To ensure that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the hierarchy of drainage options. The assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy.

I. into the ground (infiltration);

II. to a surface water body;

III. to a surface water sewer, highway drain, or another drainage system;

IV. to a combined sewer

21. 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

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

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

Ground Conditions

23. No development shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:

1. A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

24. Prior to any part of the permitted development being brought into use, a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason: To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 170 of the NPPF.

25. If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority. The remediation strategy shall be implemented as approved.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the NPPF.

26. No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the local planning authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the local planning authority. The scheme shall include an assessment of significance and research questions; and
1. The programme and methodology of site investigation and recording
 2. The programme for post investigation assessment
 3. Provision to be made for analysis of the site investigation and recording
 4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
 5. Provision to be made for archive deposition of the analysis and records of the site investigation
 6. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation

Reason: So as to record and advance understanding of a heritage asset in accordance with The National Planning Policy Framework and Policy GS7 of the North East Derbyshire

27. No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition 26.

Reason: So as to record and advance understanding of a heritage asset in accordance with The National Planning Policy Framework and Policy GS7 of the North East Derbyshire

28. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under condition 26 and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: So as to record and advance understanding of a heritage asset in accordance with The National Planning Policy Framework and Policy GS7 of the North East Derbyshire

29. No development shall commence until intrusive site investigations have been carried out on site to establish the exact situation in respect of coal mining legacy features (shallow coal workings; on-site mine entry). The findings of the intrusive site investigations shall be submitted to the Local Planning Authority for consideration and approval in writing. The intrusive site investigations shall be carried out in accordance with authoritative UK guidance.

Reason: To protect the environment and address any coal mining legacy issues and in accordance with Policy CSU6 of the North East Derbyshire Local Plan.

30. Where the findings of the intrusive site investigations (required by the condition above) identify that coal mining legacy on the site poses a risk to surface stability, no development shall commence until a detailed remediation scheme to protect the development from the effects of such land instability has been submitted to the Local Planning Authority for consideration and approval in writing, including the submission of a layout plan which identifies appropriate zones of influence for the mine entry on site, and the definition of suitable 'no-build' zones. Following approval, the remedial works shall be implemented on site in complete accordance with the approved details.

Reason: To protect the environment and address any coal mining legacy issues and in accordance with Policy CSU6 of the North East Derbyshire Local Plan.

31. Before development starts details of any development works within 15m, measured horizontally, from the outside face of the Tunnel extrados shall be submitted to and approved in writing by the Local planning Authority. The details shall include:
- The type and method of construction of foundations
 - Any increase/decrease of loading on the Tunnel both temporary and permanent. Certified proof that the proposals shall have no detrimental effect upon the tunnel will be necessary.

Any proposal must not interfere with Network Rail's operational railway nor jeopardise the structural integrity of the Tunnel. The approved details shall be implemented in full prior to the first occupation of any dwelling.

Reason: In the interests of the safety, operational needs and integrity of the railway.

32. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted to and approved in writing by the Local Planning Authority the works shall only be carried out in accordance with the approved details.

Reason: In the interests of the safety, operational needs and integrity of the railway.

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

Reason: In the interests of the safety, operational needs and integrity of the railway.

34. Before development starts a Method statement shall be submitted to and approved in writing by the Local Planning Authority. This should include an outline of the proposed method of construction, risk assessment in relation to the railway and construction traffic management plan. Where appropriate an asset protection agreement will have to be entered into. This will be particularly relevant in relation to works around the tunnel air shaft. The development shall then be carried out in accordance with the approved method statement.

Reason: In the interests of the safety, operational needs and integrity of the railway.

Amenity

35. Construction works on site and deliveries to the site shall be undertaken only between the hours of 7:30am to 6pm Monday to Friday and 7:30am to 12pm on Saturday. There shall be no work undertaken on site or deliveries to the site undertaken on Sundays or public holidays.

Reason: To protect the amenity of all nearby property occupiers and users in accordance with policy H12 of the North East Derbyshire Local Plan.

Highways

36. Before development starts, a detailed scheme of highway improvement works in connection with the potential relocation of an existing speed hump fronting the site, together with a programme for the implementation and completion of the works shall be submitted to and approved in writing by the Local Planning Authority. No part of the development shall be brought into use until the required highway improvement works have been constructed in accordance with the approved details. For the avoidance of doubt the developer will be required to enter into a 1980 Highways Act S278 Agreement with the Highway Authority in order to comply with the requirements of this condition.
37. Before any construction operations commence a construction management plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include for:-
- Site accommodation
 - The storage of plant and materials
 - Parking of contractors and visitors vehicles associated with the construction activities
 - Timing of deliveries to and from the site

The works shall be carried out thereafter in accordance with the approved plan.

38. Throughout the period of development, vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud and other extraneous material on the public highway.

39. Before development starts details of the temporary access for construction purposes shall be submitted to and approved in writing by the local planning authority.
40. No part of the development shall be occupied until a new estate street junction has been formed to Clay Lane (and appropriate frontage footway and tactile crossing) in accordance with the revised application drawings that shall be submitted to and approved in writing by the local planning authority. The access shall also be provided with visibility sightlines extending from a point 2.4m from the carriageway edge, measured along the centreline of the junction, for a distance of 43m in each direction, measured up to 1m into the nearside carriageway at the extremity of the splay. The land in advance of the sightlines being levelled, constructed as footway and not being included in any plot or other sub-division of the site.
41. Within 28 days, or other such period of time as may be agreed with the Local Planning Authority, of the permanent access being constructed all other means of access to Clay Lane (existing or temporary) shall be permanently closed and the existing vehicle crossover(s) reinstated with full height kerbs and appropriate footway / verge construction in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.
42. Prior to any works exceeding demolition and site clearance construction details of the residential estate roads and footways (including layout, levels, gradients, surfacing and means of surface water drainage) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior in accordance with the approved timetable. The applicant is advised to obtain construction approval from the Highway Authority prior to submission of any details in connection with this condition.
43. The carriageways and footways shall be constructed in accordance with the details approved under condition 36 above, 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 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 and footways 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.
44. The gradient of the new estate street access shall not exceed 1:30 for the first 10m into the site from the existing highway boundary and 1:20 thereafter.

45. The dwellings, the subject of the application, shall not be occupied until the estate street has been provided with suitable turning arrangements to enable service and delivery vehicles to turn. In the case where interim turning arrangements are constructed these must remain available until any permanent estate street turning is available, in accordance with the approved estate street designs.
46. All private and shared driveways, and parking spaces within the site shall not be taken into use until provided with 2.4m x 25m, or other such dimensions as may be agreed with the Local Planning Authority, visibility splays, the area in advance maintained free from any obstruction exceeding 1m (600mm if vegetation) relative to the adjacent carriageway channel level and 2m x 2m x 45° pedestrian intervisibility splays on either side of the access at the back of the footway, the splay area being maintained throughout the life of the development clear of any object greater than 0.6m in height relative to footway level.
47. No part of the development shall be occupied until details have been submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of water from private areas/driveways onto the adoptable highway. The approved scheme shall be undertaken and completed prior to the first use of private areas/accesses and retained as such thereafter.
48. The dwellings the subject of the application, shall not be occupied until space has been provided within the site curtilage for parking (including cycle parking), located, designed, laid out and constructed all as agreed in writing with the Local Planning Authority and maintained throughout the life of the development free from any impediment to its designated use.
49. The garages hereby permitted / car spaces to be provided, shall be kept available for the parking of motor vehicles at all times. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and/or re-enacting that Order) the garage / car parking spaces hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging of private motor vehicles associated with the residential occupation of the property without the grant of further specific planning permission from the Local Planning Authority.
50. The first 5m of the proposed access driveways shall not be surfaced with a loose material (i.e. unbound chippings or gravel etc).
51. No gates, chains or other barriers (or any part of their opening arc) shall be permitted to open outwards over the adjacent street - any gates, chain or barriers shall open inwards/ onto the site only.

52. Prior to the first occupation of any dwelling, details of the proposed arrangements for future management and maintenance of the streets shall be submitted to and approved in writing by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details or until such time as an agreement has been entered into under section 38 of the Highways Act 1980, if appropriate.

Informative

Network Rail:

Method Statements/Fail Safe/Possessions

Method statements may require to be submitted to Network Rail's Asset Protection Project Manager at the below address for approval prior to works commencing on site. This should include an outline of the proposed method of construction, risk assessment in relation to the railway and construction traffic management plan. Where appropriate an asset protection agreement will have to be entered into. As stated above, this will be particularly relevant in relation to works around the tunnel air shaft. Generally if excavations/piling/buildings are to be located within 10m of the railway boundary/assets a method statement should be submitted for NR approval.

ENCROACHMENT

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

Footpath

The developer should ensure that Clay Cross footpath 13 be kept open and safe to use during the development of the site. Should any damage occur to the footpath as a result

of the development work then the surface of the path and it's immediate surrounding should be returned to a condition at least equal to its current condition