

#### **ITEM 1.4 - Amended conditions and recommendation.**

Recommendation: **Updated**

- A) Grant delegated authority to the Head of Planning and Strategic Housing to conclude negotiations on and complete an agreement under section 106 of the Town and Country Planning Act 1990 so to secure the planning obligations outlined in this report; and
- B) Subject to A, grant delegated authority to the Head of Planning and Strategic Housing and the Chair of Planning Committee to agree the final wording of conditions relating to the SSSI having regard to any comments from Natural England; and
- C) Subject to A and B Approve the application subject to the following conditions:

- 1. The development hereby approved shall be commenced either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last reserved matters to be approved, whichever is later. Applications for the approval of reserved matters shall be made to the Local Planning Authority no later than the expiration of 3 years from the date of this permission.

Reason: In order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended.

2. **Updated condition**

Applications for reserved matters shall be submitted in accordance with the layout shown within Land Use and Floor Space Parameter Plan ( 23028-HCD-ZZ-00-DR-A-09-003, dated 02/02/2024) and the Building Heights Parameter Plan (23028-HCD-ZZ-00-DR-A-09-004, Rev P01, dated 02/02/2024), the Open and Green Space Parameter Plan (23028-HCD-ZZ-00- DR-A-09006, Rev P01, dated 02/02/2024) .

The reserved matters applications shall be supported by a statement that demonstrates the submitted details accord with the approved master plan and height parameter plan in respect of, but not limited to layout, access, parking and building heights.

Reason: To ensure the satisfactory layout and appearance of the development in accordance with the requirements of Policy S6, Policy BNE1, Policy E2 and Policy E7 of the South Derbyshire Local Plan Part 1, Policy BNE5 of the Local Plan Part 2 and the National Planning Policy Framework.

- 3. The development shall be undertaken in accordance with the approved Phasing Parameter Plan, ref: 23028-HCD-ZZ-00-DR-a-09-002.

Reason: For the avoidance of doubt and in accordance with the applicant's stated intentions in order to ensure the timely delivery of the commercial units and community space and the associated social and economic benefits in accordance with the requirements of Policy E2 and E7 of the South Derbyshire Local Plan.

4. Before the development hereby approved is commenced, in any phase, confirmation that the detailed design for the site access works required have been submitted to and approved in writing by the Local Highway Authority shall be submitted to and approved by the Local Planning Authority.

The access shall thereafter be constructed in complete accordance with the approved details prior to the occupation of any building.

Reason: For the avoidance of doubt and in order to ensure safe access to the development, which does not result in an adverse impact upon highway safety or capacity in accordance with the requirements of Policy S6 and Policy INF2 of the South Derbyshire Local Plan and the National Planning Policy Framework.

5. Before the development hereby approved commences, in any phase, details of a Construction Management Plan (CMP) for that phase shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include but not be restricted to:
  - a) Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
  - b) Advisory routes for construction traffic;
  - c) Any temporary access to the site;
  - d) Locations for loading/unloading and storage of plant, waste and construction materials;
  - e) Method of preventing mud and dust being carried onto the highway;
  - f) Arrangements for turning vehicles;
  - g) Arrangements to receive abnormal loads or unusually large vehicles;
  - h) Highway Condition survey;
  - i) Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

The development in that phase shall thereafter be undertaken in complete accordance with the approved details.

Reason: In the interests of safe operation of the adopted highway during the construction phases of the development in accordance with the requirements of Policy INF2 of the South Derbyshire Local Plan and the National Planning Policy Framework.

6. Before the development hereby approved commences within any phase a construction surface water management plan (CSWMP) for that phase shall be submitted to and approved in writing by the LPA in consultation with the LLFA. The CSWMP shall include details of how additional surface water run-off from the site will be avoided during the construction of that phase. The applicant may be required to provide collection, balancing and, or, settlement systems for these flows. The development shall thereafter be undertaken in accordance with the approved details prior to the commencement of any and all works that may lead to increased surface water run off.

Reason: To ensure the development is adequately served by a suitable surface water drainage system during the construction period in order to minimise the likelihood of flooding incidents and damage to the environment, property or life in accordance with

the requirements of Policy SD3 of the South Derbyshire Local Plan and the National Planning Policy Framework.

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

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

Reason: To protect the health of the public and the environment from hazards arising from previous uses of the site and/or adjacent land which might be brought to light by development of it, recognising that failure to address such matters prior to development commencing could lead to unacceptable impacts even at the initial stages of works on site. in accordance with the requirements of Policy S2, policy SD1 and Policy SD4 of the Local Plan Part 1 and the National Planning Policy Framework

**Updated Condition – subject to changes outlined in ‘B’ of the recommendation above**

8. Before the development hereby approved is commenced within any phase (including demolition, ground works, vegetation clearance and movement of plant, machinery and materials) a Construction Environmental Management Plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following details.
  - a. Measures to prevent impacts to the SSSI via dust mobilisation
  - b. Measures to prevent impacts from pollution of watercourses running to the SSSI should be provided in detail
  - c. Avoidance of any heavy construction activities within the bird breeding season unless a suitable scheme of construction mitigation measures to mitigate disturbance from noise, light and vibration to nesting birds is first submitted to and agreed in writing with the Local Planning Authority

- d. Measures to prevent direct habitat loss or damage
- e. Risk assessment of potentially damaging construction activities.
- f. Identification of “biodiversity protection zones”.
- g. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts on species, habitats and trees during construction.
- h. The location and timing of sensitive works to avoid harm to biodiversity features
- i. The times during construction when specialist ecologists need to be present on site to oversee works.
- j. Responsible persons and lines of communication.
- k. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- l. Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard species and habitats and the adjacent SSSI in accordance with the requirements of BNE3 of the South Derbyshire Local Plan and the National Planning Policy Framework.

**9. Updated condition**

No works of any kind, including preparatory site clearance, shall begin until a scheme of badger mitigation and enhancement measures has been submitted and approved in writing by the Local Planning Authority. This shall include the results of a recent survey of the site and adjacent off-site habitats if access is permitted, whether a development licence will be required and the location of any protective fencing around habitats and commuting routes. All works shall proceed in accordance with the approved scheme of mitigation.

Reason: In order to safeguard the wellbeing of and prevent any harm to protected and priority species in accordance with the requirements of Policy BNE3 of the South Derbyshire Local Plan and the National Planning Policy Framework.

**10. Updated condition**

Before the commencement of the development hereby approved in any phase a Landscape and Biodiversity Enhancement and Management Plan (LBEMP) to demonstrate a minimum net gain to biodiversity across the site of 10% shall be submitted to, and be approved in writing by, the LPA. The aim of the LBEMP is to provide details for the creation, enhancement and management of habitats and species on the site post development, in accordance with the proposals set out in the Biodiversity Net Gain Assessment and the Statutory Metric (Bioscan 2024).

Revisions to these assessments to be agreed with the LPA. The LBEMP should combine both the ecology and landscape disciplines and shall be suitable to provide to the management body responsible for the site. It shall include the following:-

- a. Description and location of features to be retained, created, enhanced and managed, as per the approved biodiversity metric.
- b. Aims and objectives of management, in line with desired habitat conditions detailed in the metric.

- c. Appropriate management methods and practices to achieve aims and objectives.
- d. Prescriptions for management actions.
- e. Preparation of a work schedule (including a 30-year work plan capable of being rolled forward in perpetuity).
- f. Details of the body or organization responsible for implementation of the plan.
- g. A monitoring schedule to assess the success of the habitat creation and enhancement measures at intervals of 1, 2, 3, 4, 5, 10, 15, 20, 25 and 30 years.
- h. Monitoring reports to be sent to the Council at each of the intervals above
- i. A set of remedial measures to be applied if conservation aims and objectives of the plan are not being met.
- j. Details of offset gullies and drop kerbs in the road network to safeguard amphibians.
- k. Detailed specifications for open water habitats to provide biodiversity benefits.
- l. Requirement for a statement of compliance upon completion of planting and enhancement works.
- m. Details of water quality sampling at pre-commencement and at years 10, 20 and 30 thereafter to include dissolved oxygen, pH, Total phosphorus (TP), Nitrogen, Chlorophyll a and potential for other pollutants

The LBEMP shall also include details of the legal and funding mechanism by which the long-term implementation of the plan will be secured by the developer with the management body or bodies responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

Reason: In order to secure a net gain to biodiversity and to safeguard the ecological interests of the site and adjacent SSSI and to ensure the satisfactory appearance of the development in accordance with the requirements of Policy BNE1 and Policy BNE3 of the South Derbyshire Local Plan Part 1 and Policy BNE4 of the Local Plan Part 2 and the National Planning Policy Framework.

11. Before the commencement of the development hereby approved: Where the site investigation identifies unacceptable levels of contamination, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the local planning authority. The submitted scheme shall have regard to relevant current guidance. The approved scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The developer shall give at least 14 days notice to the Local Planning Authority (Environmental Health Division) prior to commencing works in connection with the remediation scheme.

Reason:

To protect the health of the public and the environment from hazards arising from previous uses of the site and/or adjacent land which might be brought to light by development of it, recognising that failure to address such matters prior to development commencing could lead to unacceptable impacts even at the initial stages of works on site. in accordance with the requirements of Policy S2, policy SD1 and Policy SD4 of the Local Plan Part 1 and the National Planning Policy Framework.

12. No buildings shall be occupied until:

The approved remediation works required by 11 above have been carried out in full in compliance with the approved methodology and best practice.

- a. If during the construction works associated with the development hereby approved any suspected areas of contamination are discovered, which have not previously been identified, then all works shall be suspended until the nature and extent of the contamination is assessed and a report submitted and approved in writing by the local planning authority and the local planning authority shall be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination. The suspect material shall be re-evaluated through the process described in 11 to 12 above and satisfy 12a above.
- b. Upon completion of the remediation works required by 11 and 12a above a validation report prepared by a competent person shall be submitted to and approved in writing by the local planning authority. The validation report shall include details of the remediation works and Quality Assurance/Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology. Details of any validation sampling and analysis to show the site has achieved the approved remediation standard, together with the necessary waste management documentation shall be included.

Reason: To protect future occupiers of the development, buildings, structures/services, ecosystems and controlled waters, including deep and shallow ground water in accordance with the requirements of policy S2, SD1 ad SD4 of the Local Plan Part 1 and the National Planning Policy Framework.

13. Before the development hereby approved is commenced a detailed design and associated management and maintenance plan of the surface water drainage for the site shall be submitted to and approved in writing by the Local Planning Authority.

The details shall be in accordance with the principles outlined within:

- a. RSK LDE Ltd. (January 2024). Land north of Derby Road, Hilton - Flood Risk Assessment. Ref: 680964-R1(03)-FRA "including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team" And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015)

Reason: To ensure the development is adequately served by a suitable surface water drainage system in order to minimise the likelihood of flooding incidents and damage to the environment, property or life in accordance with the requirements of Policy SD3 of the Local Plan and the National Planning Policy Framework.

14. Before the development hereby approved is commenced a detailed assessment to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 56 Reference ID: 7-056-20220825 of the planning practice guidance shall be submitted to and approved in writing by the Local Planning Authority. The assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

- a. into the ground (infiltration);

- b. to a surface water body;
- c. to a surface water sewer, highway drain, or another drainage system;
- d. to a combined sewer.

Reason: In order 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 in accordance with the requirements of Policy SD3 of the South Derbyshire Local Plan, Policy F1 of the Hilton Marston on Dove and Hoon Neighbourhood Plan and the National Planning Policy Framework.

15. **Updated Condition (updated to refer to compliance rather than require submission)**

Before the development hereby approved, in any phase, is commenced including any site clearance, tree removal or any equipment, machinery or materials is brought onto site, the tree protection measures detailed within the Arboricultural Method Statement (Arboricultural Method Statement to BS 5837:2012 at: Land North of Derby Road, Hilton, DE65 5FP, dated January 2024 and prepared by AWA Tree Consultants) shall be implemented in accordance with the details submitted.

The development shall be undertaken in complete accordance with all the tree protection measures and all methods of working detailed within the Arboricultural Method Statement for the duration of construction including any site clearance works. No fires, excavation, change in levels, storage of materials, vehicles or plant, cement or cement mixing, discharge of liquids, site facilities or passage of vehicles, plant or pedestrians, shall occur within the protected areas.

The approved scheme shall be kept in place until all parts of the development have been completed, and all equipment; machinery and surplus materials have been removed.

Reason: For the avoidance of doubt and in accordance with the applicants stated intentions, to ensure the satisfactory protection of trees and hedgerows within and adjacent the site in accordance with the requirements of Policy BNE3 and BNE4 of the South Derbyshire Local Plan and the National Planning Policy Framework.

16. The application for reserved matters in phase 1a (as approved by the phasing parameter plan) shall restrict the net retail sales area within the foodstore to a maximum of 1,331sqm, a maximum of 1,065 sqm retail floorspace to be devoted to convenience sales, and a maximum of 266sqm for comparison sales.

Reason: In accordance with the requirements of Policy S7 of the South Derbyshire Local Plan Part 1, Policy RTL1 of the South Derbyshire Local Plan Part 2 and the National Planning Policy Framework.

17. **Updated condition – specifying details be in accordance with info set out in the supporting information**

Prior to the submission of reserved matters applications in Phase 1b or Phase 2 a report detailing further assessment of Tree 19 to include the management and

maintenance of the tree, as set out in the Arboricultural Method Statement shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In order to ensure the protection, retention and appropriate management of the veteran tree in accordance with the recommendations within the Arboriculture Report and the requirements of Policy BNE3 and BE4 of the South Derbyshire Local Plan and the National Planning Policy Framework.

18. Before the development hereby approved is commenced, within any relevant phase of development (as approved by condition 3), a timetable for the provision/improvement of on-site linkages to footpaths, footways and cycleways adjacent to that phase, shall be submitted to and approved in writing by the Local Planning Authority. The development of the phase there of shall be carried out in accordance with the approved timetable.

Reason: In accordance with the requirements of Policy BNE1 of the South Derbyshire Local Plan Part 1 and the National Planning Policy Framework.

19. Before the foodstore is first opened for trade, a minimum of 50% of the shell and core of the proposed SME unit shall be built and details confirming the progress of construction shall be sent to the LPA and acknowledged in writing prior to the opening of the foodstore. The remaining 50% shall be built and the units made available to businesses within 12 months of the opening of the foodstore.

Reason: For the avoidance of doubt and in accordance with the applicants stated intentions in order to ensure the timely delivery of the proposed commercial units in accordance with the requirements of Policy E7 of the Local Plan and the National Planning Policy Framework.

20. **Updated condition**

Before the foodstore hereby approved is brought into use a Local Labour Strategy (LLS) shall be submitted to and approved in writing by the Local Planning Authority. An Employment and Training Plan shall set out details of local labour initiative which the applicant / owner will implement to maximise the access of the local labour market within South Derbyshire and the surrounding area to employment opportunities at the foodstore. The plan shall include, but not be limited to:

- a. Range of opportunities to be offered including traineeships, apprenticeships and work experience opportunities
- b. Details of specific local advertising scheme with evidence to be provided
- c. Measures to assist long-term unemployed residents facing additional barriers (to include pre-employment training, guarantee of interviews)
- d. The number of jobs to be created in various roles (traineeships, apprenticeships and work experience) and for those entering or re-entering the labour market as a proportion of the total number of jobs within 6, 12 and 18 months of opening
- e. Monitoring reports to be sent to the LPA within 1 month of the 6, 12 and 18 month target dates above.



Reason: In order to ensure the proposed development provides local employment opportunities in accordance with the requirements of Policy S1 and Policy E7 of the Local Plan and the National Planning Policy Framework

**21. Updated condition**

Before the drive-thru coffee shop hereby approved is brought into use a Local Labour Strategy (LLS) shall be submitted to and approved in writing by the Local Planning Authority, unless the unit is to be occupied by a small or medium sized enterprise. An Employment and Training Plan shall set out details of local labour initiatives which the applicant / owner will implement to maximise the access of the local labour market within South Derbyshire and the surrounding area to employment opportunities at the foodstore. The plan shall include, but not be limited to:

- a. Range of opportunities to be offered including traineeships, apprenticeships and work experience opportunities
- b. Details of specific local advertising scheme with evidence to be provided
- c. Measures to assist long-term unemployed residents facing additional barriers (to include pre-employment training, guarantee of interviews)
- d. The number of jobs to be created in various roles (traineeships, apprenticeships and work experience) and for those entering or re-entering the labour market as a proportion of the total number of jobs within 6, 12 and 18 months of opening
- e. Monitoring reports to be sent to the LPA within 1 month of the 6, 12 and 18 month target dates above.

Reason: In order to ensure the proposed development provides local employment opportunities in accordance with the requirements of Policy S1 and Policy E7 of the Local Plan and the National Planning Policy Framework.

**22. Before any phase of the development hereby approved is commenced above slab level a Species Enhancement Plan for the relevant phase or phases shall be submitted to and approved in writing by the Local Planning Authority. Approved measures shall be implemented in full and maintained thereafter. The Plan shall clearly show positions, specifications and numbers of features, which shall include (but are not limited to) the following:**

- internal and/or external bird nest boxes x 4
- integrated bat boxes x 2

Reason: In order to provide species enhancements in accordance with the requirements of Policy BNE3 and the National Planning Policy Framework.

**23. The foodstore development shall be restricted to use Ea of The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.**

Reason: In accordance with the applicants stated intentions and to ensure the benefits of the scheme in accordance with the requirements of Policy E7 of the South Derbyshire Local Plan and the National Planning policy Framework.

**24. Updated condition (including 'mix' and removing class e restriction)**

The use of the commercial units hereby approved shall be restricted to a mix of uses

falling within Use Class B2, B8, and E of The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.

Reason: In accordance with the requirements of Policy E2 of the Local Plan and the National Planning Policy Framework.

**25. Updated condition (removing mezzanine level restrictions)**

Notwithstanding the provisions of Town and Country Planning Act, General Permitted Development Order the commercial units within phase 1b of the development shall not be subdivided.

Reason: To ensure the buildings are retained in their intended use in accordance with the requirements of Policy E2 of the South Derbyshire Local Plan and the National Planning Policy Framework.

26. Before the installation of lighting fixtures a detailed lighting strategy shall be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers. Dependent on the scale of proposed lighting, a lux contour plan may be required to demonstrate acceptable levels of lightspill to any sensitive ecological zones/features. Guidelines can be found in Guidance Note 08/23 - Bats and Artificial Lighting at Night (BCT and ILP, 2023). Such approved measures will be implemented in full.

Reason: To safeguard species and habitats in accordance with the requirements of Policy BNE3 of the Local Plan and the National Planning Policy Framework.

27. Any tree lost within 10 years of planting and any shrub or hedge lost within 5 years of planting shall be replaced by a like for like species of a similar size unless otherwise agreed in writing by the local planning authority.

Reason: In order to ensure good design and the retention of trees within the site in accordance with the requirements of Policy BNE1, Policy BNE4 and Policy INF8 of the Local Plan Strategy and the National Planning Policy Framework.

28. The development hereby approved shall be implemented and monitored in accordance with the regime contained within the approved Travel Plan (Workplace Framework Travel Plan, Land North of Derby Road, Hilton, Reference:237295, Revision: Final, dated 31st January 2021). In the event of failing to meet the targets within the Plan a revised Plan shall be submitted to and approved in writing by the Local Planning Authority to address any shortfalls, and where necessary make provision for and promote improved sustainable forms of travel to and from the site. The submitted details shall use Modeshift STARS Business to carry out this process and include mechanisms for monitoring and review over the life of the development and timescales for implementation. The approved Travel Plan shall be implemented, monitored and reviewed in accordance with the approved details.

Reason: For the avoidance of doubt and to reduce vehicle movements and promote sustainable travel in accordance with the requirements of Policy S6 and Policy INF2 of the South Derbyshire Local Plan and the National Planning Policy Framework.

**29. New condition**

Prior to completion of the 50% of the Shell and Core of the SME units a first call for local lettings interest will be undertaken and a local lettings plan shall be submitted to

and approved in writing by the Local Planning Authority.

Reason: In accordance with the applicant's stated intentions to ensure the proposed development provides opportunities for local SME's in accordance with the requirements of Policy E2 and Policy E7 of the Local Plan and the National Planning Policy Framework.

30. **New condition**

The foodstore hereby approved shall be restricted to hours of operation between 07:00 and 23:00.

Reason: In order to safeguard residential amenity in accordance with the requirements of Policy SD1 of the Local Plan Part 1 and the National Planning Policy Framework.

31. **New condition**

The drive-thru coffee shop hereby approved shall be restricted to hours of operation between 07:00 and 23:00.

Reason: In order to safeguard residential amenity in accordance with the requirements of Policy SD1 of the Local Plan Part 1 and the National Planning Policy Framework.

32. **New condition**

All industrial, workshop and manufacturing processes shall be carried out within the approved SME buildings and no such works shall be carried out in the open areas of the development.

Reason: In order to adequately protect the amenity of residents in accordance with the requirements of Policy SD1 of the Local Plan Part 1 and the National Planning Policy Framework.

