

<b>Agenda Item:</b>	5.2
<b>Site:</b>	Washlands Floodplain, between Meadowside Drive, and the River Trent, Burton Upon Trent, Staffordshire
<b>Proposal:</b>	Burton Washlands Central Enhancements Project, comprising: wetland habitat creation with swales and pools; boardwalks for public access across the wetland areas; public open space improvements including planting and hard surfacing; a new play area; and platforms for access to the water's edge

### Report of Head of Service (Section 151 Officer)

This report has been checked on behalf of Legal Services by Sherrie Grant

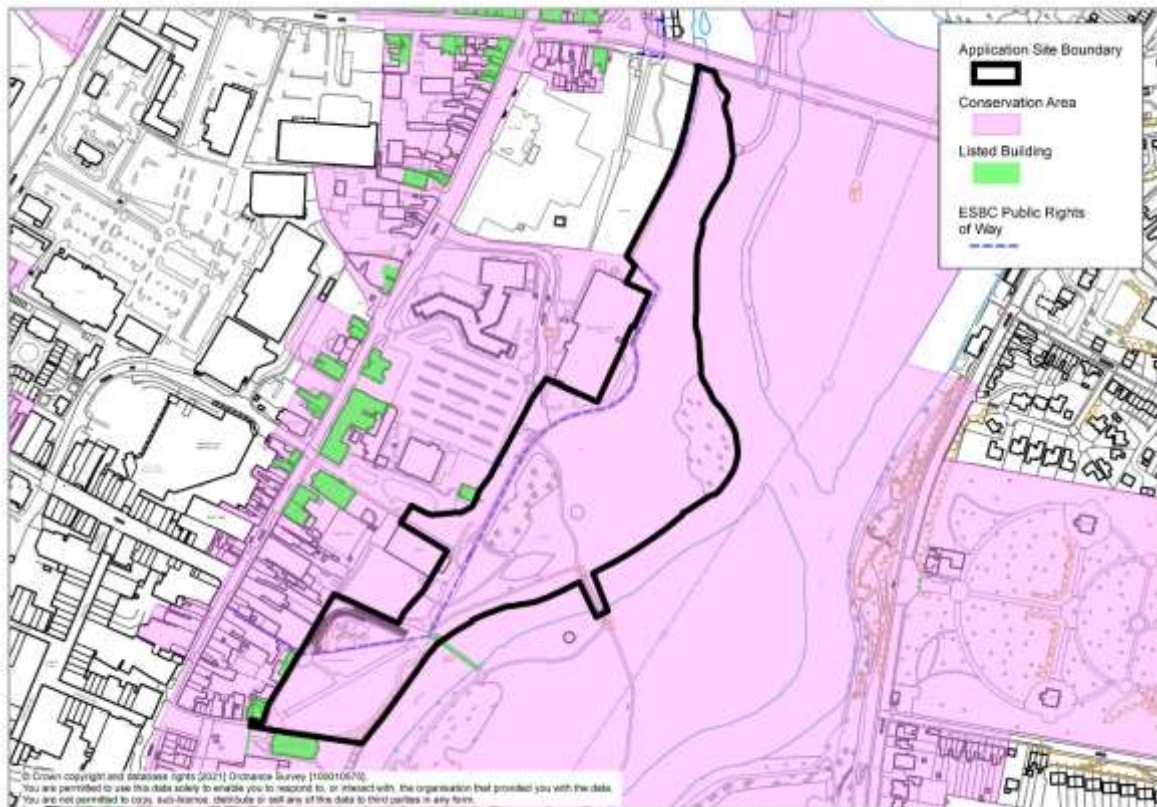
### [Hyperlink to Application Details](#)

<b>Application Number:</b>	P/2020/01498	
<b>Planning Officer:</b>	Lisa Bird	
<b>Type of Application:</b>	Detailed Planning Application	
<b>Applicant:</b>	East Staffordshire Borough Council	
<b>Ward:</b>	Burton	
<b>Ward Member (s):</b>	Councillor H Hall	
<b>Date Registered:</b>	14 January 2021	
<b>Date Expires:</b>	23 March 2021	
<b>Reason for being on Agenda</b>	The applicant and owner of the land is East Staffordshire Borough Council	

## 1. Executive Summary

- 1.1 The application seeks approval for full planning permission for an enhancement project comprising the creation of wetland habitat with swales and pools, the installation of boardwalks and platforms for public access across the wetland areas at all times of year including during flooding, the installation of a new play area, and new planting and hard surfacing. The application is a major development due to the site area.

- 1.2 Statutory consultees have raised no technical objections that cannot be overcome by way of planning conditions. No responses have been received from local residents, the Parish Council or Ward Councillor. Natural England have raised no objections to the proposal. The Environment Agency and the Lead Local Flood Authority have not objected, however, a condition has been recommended by the Lead Local Flood Authority. The accesses to the site, vehicular and pedestrian, will remain as existing and therefore there is considered to be no adverse impact to highway safety.
- 1.3 The principle of carrying out an enhancement project on the site is acceptable as the use of the site would remain as public open space. The overall design approach is considered to be acceptable, with materials proposed to reflect the natural surroundings.
- 1.4 A number of trees are proposed to be removed from the site to make way for boardwalks and to thin out areas of woodland, 200 new trees are proposed, no objections have been received from the National Forest Company or the ESBC Tree Officer. There are unlikely to be any protected species affected as a result of the proposal and Natural England have not raised any objections.
- 1.5 The proposal would cause no detriment to the character and appearance of the Burton No. 2 and No. 3 Conservation Area and Listed Buildings within and adjoining the application site, Section 66(1) and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 are therefore engaged by this scheme and have been satisfied.
- 1.6 There are known areas of contamination within the site. Surveys have been provided in respect of this and a condition is recommended should contamination be found during the course of the development.
- 1.7 In light of the above conclusions on the planning merits of the case the application is recommended for **approval** subject to conditions.
- 1.8 **Members are advised that the above is a brief summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.**

Map of site**2. The site description**

- 2.1 The application site is a greenfield site and area of public open space which sits to the west of the River Trent, south of Burton Bridge. The site is known as part of the wider Washlands area which is prone to flooding due to the proximity of the River Trent. The majority of the site is open green fields, with paths connecting the site to Burton Bridge, Meadowside Drive and the Market Place; the Garden of Remembrance is encompassed within the site at its most southern point, and there is an existing play area to the east of the Library. The site is approximately 670 metres in length from north to south.
- 2.2 The Grade II listed Andresey Footbridge is situated partially within the site; directly adjacent to the site to the south is the Grade I listed St Modwens Church with separately listed Grade II\* gates, railings and piers; to the south-western corner of the site are Grade II listed buildings at No. 12 Market Place, No. 1 Friars Walk/No. 13 Market Place and No. 2 Friars Walk; to the west of the Garden of Remembrance are the Grade II listed former Assembly Rooms; and to the west of Meadowside Drive is the Grade II listed Water Tower. The site is wholly within the Burton No. 2 and No. 3 Town Centre Conservation Area. The site also contains areas of known archaeological interest to part of Meadowside Drive close to the Library, the area to the front of the Library facing the washlands and the Garden of Remembrance.
- 2.3 The trees within the Garden of Remembrance are protected by virtue of Tree Preservation Order No. 360, the rest of the trees within the site are

situated within the Conservation Area. Public Rights of Way link across the site to provide a right of way which runs south from Burton Bridge, following the path around the rear of the Meadows Leisure Centre and Burton Library, through the Garden of Remembrance ending between No. 163 and No. 164 High Street (Andressey Passage). The topography of the site is generally an even profile which gently falls across from west to east down to the River Trent.

- 2.4 Beyond the north boundary of the site is Burton Bridge; to the west are the branches of the River Trent and further areas of Washlands, beyond which is Stapenhill Road. To the south of the site is St Modwens Church and the Market Place and to the west are the rear elevations of the commercial properties which make up the High Street, Burton Library, Coors Offices, Meadows Leisure Centre and the area of land where Bargates formerly stood.
- 2.5 The site can be split into three distinct zones, the Hay area to the north of the site which predominantly comprises grassland, the Library and surrounding area, and the Garden of Remembrance.
- 2.6 The application site sits directly to the east of the town centre boundary for Burton upon Trent.

### 3. Planning history

- 3.1 19<sup>th</sup> April 2007 – **PA/14171/003** – Improvement to floor defence at The Haywalk, Burton Bridge – Approved subject to conditions.
- 3.2 14<sup>th</sup> November 2012 – **P/2012/01181** – Construction of a rock ramp fish pass in former sluice channel – Approved subject to conditions.
- 3.3 6<sup>th</sup> January 2014 – **P/2013/01393** – Installation of ten public information boards – Approved
- 3.4 There have been a number of applications for tree works to the protected trees situated within the Garden of Remembrance.

### 4. The proposal

- 4.1 Full planning permission is sought to approve the Burton Washlands Central Enhancement Project. This includes the creation of wetland habitat with swales and pools and some river bank reprofiling, boardwalks for public across the wetland areas and platforms for access to the water's edge, and public open space improvements, including planting and hardsurfacing and the installation of a new play area.
- 4.2 Excavation is proposed to create swales and pools with marginal planting. The excavation works would cover the main central area of the site, which is currently grassland and floods for a significant part of the year, and would be excavated up to a maximum of 1.5 metres in depth with a maximum swale depth of 0.8 metres. The proposed works would be approximately 290 metres long, linking at both ends to the River Trent with inlets and

outlets. Inlets are also proposed to the woodland area adjacent to the River. A further area of excavation is proposed adjacent to the existing footpaths to the east of the Library to a maximum depth of 0.5 metres. The variations in depth across the site are proposed to create wetland habitats suitable for a range of wetland species; the depths proposed will also allow water to pool in designated areas.

- 4.3 Three sections of the river bank are proposed to be re-profiled. A section to the south of the fish pass at the north of the site which is approximately 53 metres in length, a section to the north-east of the pedestrian bridge which is approximately 88 metres in length, and a section to the south-west of the pedestrian bridge which is approximately 51 in length. The re-profiling is to be between 1 metre and 3.5 metres in width, and would see the sections backfilled with bank top material and excavated material to a depth of approximately half a metre to create a new river bank.
- 4.4 A viewing platform is proposed to the northern end of the side facing eastwards adjacent to the existing fish pass. The proposed boardwalks are proposed to connect with the existing public right of way which runs north to south starting at Burton Bridge. At the north of the site the boardwalk would start approximately 120 metres to the south of Burton Bridge projecting out towards the River Trent to the east and then making a 45 degree turn to run southwards; a seating area and viewing platform are proposed where the boardwalk turns. A short area of boardwalk is proposed to connect the main part to the north of the Meadowside Leisure Centre. The boardwalk would then sweep down towards the south following the contour of the River Trent, in a semi –circle heading back towards the west, where it splits into two branches, the northern branch terminating at the south of the Meadowside Leisure Centre and the southern part terminating at an existing path close to the pedestrian bridge which extends across the River Trent. A further viewing platform is proposed where the main boardwalk splits into two branches. The boardwalk and viewing platforms are proposed to be constructed from a recycled plastic with a timber appearance.
- 4.5 Alterations are proposed to hardsurfacing within the application site and include the replacement of block paving with tarmac to Meadowside Drive, the re-surfacing of the existing amphitheatre seating terraces and steps adjacent to the Library with granite, the re-surfacing of the oval space adjacent to the amphitheatre seating with a resin bound surface and granite sett trims, and the replacement and re-laying of damaged Yorkstone paving on the central path in the Garden of Remembrance.
- 4.6 A new play area is proposed to the north-east of the Library to replace the existing play area. The existing woodland present is proposed to be thinned out and additional tree planting to take place in order that the play equipment can be set within a woodland area. The play equipment will incorporate natural features and will be constructed from natural materials.
- 4.7 The scheme includes various tree works and planting opportunities. The trees across the site have been assessed and several groups of trees are proposed to be either removed, coppiced or maintained with in excess of 200 additional trees to be planted. In the Garden of Remembrance a

scheme of tree maintenance is proposed. In addition to tree planting it is also proposed to sow 2 hectares with a wet meadowgrass and wildflower mix, provide marginal planting at swale and pond edges, and plant beds within the public realm with ornamental grasses and hardy perennials. Invasive species within the site are to be removed.

- 4.8 A range of public realm works are incorporated into the proposal, including cosmetic improvements to the pedestrian bridge, a standardised set of street furniture, seating and signage, nature trail markers, interpretation sign boards, a dwarf wall incorporating bespoke artwork is proposed adjacent to the amphitheatre seating terrace, the demarcation of a path through woodland adjacent to the River Trent with timber edging, re-cladding of existing planters and installation of replacement bollards.
- 4.9 Amended drawings were received during the course of the application, updating the proposed play equipment and providing correctly scaled cross sections through the site.

#### List of supporting documentation

4.10 The following documents have been provided as part of the application:

- Application Form
- Design and Access Statement
- Heritage Statement
- Geo-Environmental Report
- Factual Ground Investigation Report
- Arboricultural Impact Assessment
- Arboricultural Method Statement
- Archaeological Desk Based Assessment
- Environmental Action Plan
- Phase I Habitat Survey
- Flood Risk Assessment
- Geophysical Survey Report
- Outline Landscape Specification
- Preliminary Water Framework Directive Compliance Assessment
- Location Plan
- Site Block Plans
- River Bank Reprofilng Cross Sections
- Play Area Setting Out Plan
- Site Cross Sections

4.11 The relevant findings are dealt with in section 8 onwards below.

## **5. Consultation responses and representations**

5.1 A summary of the consultation responses is set out below:

<b>Statutory and non statutory consultee</b>		<b>Response</b>
5.2	Parish Council	No response received

5.3	SCC Flood Risk Team	No objection subject to a condition
5.4	SCC Rights of Way	No objection subject to an informative
5.5	Environment Agency	No objections
5.6	Natural England	No objections
5.7	Ramblers Association	No objection (in support of the proposals)
5.8	Staffordshire Wildlife Trust	No response received
5.9	The National Forest	No objection subject to a condition
5.10	Architectural Liaison Officer	No objection subject to an informative
5.11	Historic England	No response received
5.12	National Amenity Bodies	No response received
5.13	Peak and Northern Footpath Society	No objection (in support of the application)
5.14	SCC Archaeology	No objection subject to a condition
5.15	National Forest Company	No objections subject to a condition

Internal Consultees		Response
5.16	Environmental Health	No objection subject to a condition
5.17	ESBC Conservation Officer	No objection subject to conditions – The proposals will not have any adverse impacts on the setting of nearby listed buildings, to the extent that these have a relationship with the river that will remain the case and will be improved as a more attractive and diverse wetland transition is established. Similarly the proposals would enhance the special architectural and historic character and appearance of the conservation area.
5.18	ESBC Tree Officer	No objections

## 6. Neighbour responses

6.1 No responses were received from neighbours or Ward Members.

## 7. Policy Framework

### National Policy

- National Planning Policy Framework
- National Planning Policy Guidance

### Local Plan

- Principle 1: Presumption in Favour of Sustainable Development
- SP1: East Staffordshire Approach to Sustainable Development
- SP15 Tourism, culture and leisure development
- SP21 Managing Town and Local Centres
- SP23 Green Infrastructure
- SP24 High Quality Design
- SP25 Historic Environment
- SP26 National Forest
- SP27 Climate Change, Water Body Management and Flooding
- SP29 Biodiversity and Geodiversity
- SP32 Outdoor Sports and Open Space
- SP34 Health and Wellbeing
- SP35 Accessibility and Sustainable Transport
- DP1 Design of New Development
- DP5 Protecting the Historic Environment: All Heritage Assets, Listed Buildings, Conservation Areas and archaeology
- DP6 Protecting the Historic Environment: Other Heritage Assets
- DP7 Pollution and Contamination
- DP8 Tree Protection
- DP10 Blue Infrastructure and Water Recreation

### **Supplementary Planning**

East Staffordshire Design Guide SPD

## 8. Principle of Development

### Relevant Policies

8.1 The NPPF states that at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. Paragraph 14 of the NPPF states that for decision-taking this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission 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; or
- specific policies in this Framework indicate development should be restricted.



- 8.2 Paragraph 251 of the NPPF states that 'due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the framework, the greater the weight that may be given'.

## 9. Local Plan

- 9.1 The Council has adopted a positive approach in seeking to meet objectively assessed development needs of the Borough. The policies in the plan provide a clear framework to guide sustainable growth and the management of change, thereby following the Government's presumption in favour of sustainable development.

- 9.2 Strategic Policy 1 sets out the East Staffordshire Approach to Sustainable Development. Principles listed in the policy include social, environmental and economic considerations to be taken into account in all decision making where relevant. The principles are:

- located on, or with good links to, the strategic highway network, and should not result in vehicles harming residential amenity, causing highway safety issues or harming the character of open countryside;
- it is convenient and safe to walk, cycle and travel by public transport between (and for larger sites, around) the site and existing homes, workplaces, shops, education, health, recreation, leisure, and community facilities and between any new on-site provision;
- retains, enhances, expands and connects existing green infrastructure assets into networks within the site and within the wider landscape;
- re-uses existing buildings where this is practicable and desirable in terms of the contribution the buildings make to their setting
- integrated with the character of the landscape and townscape, provides for archaeological investigation where this is appropriate and conserves and enhances buildings of heritage importance, setting and historic landscape character;
- designed to protect the amenity of the occupiers of residential properties nearby, and any future occupiers of the development through good design and landscaping;
- high quality design which incorporates energy efficient considerations and renewable energy technologies;
- developed without incurring unacceptable flood risk or drainage problems and uses Sustainable Drainage Systems (SUDS) where appropriate;
- does not harm biodiversity, but rather enhances it wherever possible, including increasing tree-cover, especially as part of the National Forest;
- creates well designed and located publicly accessible open space;
- would demonstrably help to support the viability of local facilities, businesses and the local community or where new development attracts new businesses and facilities to an area this does not harm the viability of existing local facilities or businesses;
- would contribute towards the creation of sustainable communities through the provision of a mix of housing types and tenures;
- uses locally sourced, sustainable or recycled construction materials (including wood products from the National Forest where this is

appropriate), sustainable waste management practices and minimises construction waste;

- safeguards the long term capability of best and most versatile agricultural land (Grade 1, 2 and 3a in the Agricultural Land Classification) as a resource for the future; and
- would result in the removal of contamination and other environmental problems associated with the site.

9.3 Policy SP15 of the Local Plan relates to tourism, culture and leisure development and sets out criteria by which to develop and promote tourism. The criteria are as follows:

- respect the character and quality of the landscape and built form of the Borough's towns and villages, including heritage assets;
- champion exemplar design, environmental credentials and sustainable construction appropriate to their context;
- make positive use of the natural assets of the Borough such as The National Forest, without harming their intrinsic qualities or adversely affecting the natural environment and designated features of the built environment, including their settings, biodiversity, geodiversity or visual amenity; and
- do not adversely affect the local transport infrastructure or residential amenity, or mitigate such effects where they are likely to arise.

9.4 Policy SP21 aim to see new leisure and retail uses be delivered within the town centres of Burton Upon Trent and Uttoxeter with existing town centre uses protected where this would affect the viability. One of the criteria in this policy is to contribute towards delivering improved pedestrian and cycling links to the Washlands.

## **Assessment**

9.5 The site is currently an area of public open space and is proposed to remain in this use. The proposals are to enhance the existing open space, provide more water storage capacity during flooding events, enhance the usability of the space during flooding events, and enhance biodiversity within the site. As such the principle of development is acceptable and considered to be in accordance with Policies SP1, SP15 and SP21 of the Local Plan.

## **10. Design and Impact on the character and appearance of the area**

### **Relevant Policies**

10.1 The NPPF attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. The NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

10.2 Strategic Policy 1 and 24 state that development proposals must contribute positively to the area in which they are proposed. The policy lists a number

of criteria developments are expected to achieve including creating a sense of place, reinforcing character, reflecting densities and where possible minimise the production of carbon through sustainable construction.

- 10.3 Policy DP1 of the Local Plan re-iterates the design principles set by SP24 stating that development must respond positively to the context of the surrounding area, exhibit a high quality of design and be compliant with the East Staffordshire Design Guide.
- 10.4 The East Staffordshire Design Guide requires the design of development to demonstrate a strong, considered and sensitive response to its context. Design which is relevant to the site and wider context will be important, as this can support local distinctiveness. The Guide allows for development which employs a more modern architectural style but in terms of its proportions and siting it should still complement its surroundings.

### **Assessment**

- 10.5 The proposals include various enhancements to the central Washlands area, with the addition of boardwalks and viewing platforms, which are proposed to be finished in a recycled plastic. These boardwalks and platforms form the majority of built form within the site. Given that there is pedestrian bridges of a narrow lightweight structure within the application site, the boardwalks are considered to be acceptable being similarly narrow and lightweight in appearance. Whilst it is noted that a timber finish would be preferred by the National Forest Company, given the location in an area which is prone to flooding on a regular basis, the recycled plastic proposed is considered to be a more appropriate material.
- 10.6 The existing play area is also proposed to be replaced. The existing play area is made up of various pieces of metal play equipment painted in bridge primary colours. The proposal would see new equipment, constructed primarily from timber, interspersed within a woodland area and as such is considered to be appropriate in this area of public open space.
- 10.7 There are also proposals for general public realm works including the installation of various types of hardsurfacing and the installation of new seating and street furniture. A palette of finishes for the street furniture has been provided in the Design and Access Statement and includes timber finishes as well as bins and bollards in a black finish. The street furniture in the Town Centre, in the main has a similar black finish; the timber elements included would integrate well with the character of the Washlands, with the black elements transitioning from the Town Centre into the Washlands. The finishes proposed are considered to be acceptable.
- 10.8 The excavation works to create swales and pond would reduce the land levels by a maximum of 1.5 metres in depth. The land currently slopes gently down towards the River Trent, however, the changes in land levels would allow for greater water storage capacity during flooding events, allowing other areas of the Washlands to continue to be used, and the excavation work proposed is not considered to result in harm to the visual amenities of the area.

- 10.9 It is therefore considered that the structures, finishes and excavation works proposed within the application site would be acceptable and appropriate in this area of public open space in accordance with Policies SP1 and SP24 of the Local Plan and the NPPF.

## **11. Residential Amenity**

### **Relevant Policies**

- 11.1 The National Planning Policy Framework and DP1 of the Local Plan seeks to ensure new residential development will not have an adverse impact on the amenities of new or existing residents by way of loss of light, overlooking or overbearing.

### **Assessment**

- 11.2 The nearest residential properties to the application site are situated to the western side of the Gardens of Remembrance. The works proposed would not significantly alter the immediate area and comprise the re-laying of stone paving and tree maintenance within the area of the Garden of Remembrance and therefore would not result in an adverse impact on the occupiers of those dwellings.
- 11.3 There are some flats present above the shops on both sides of High Street, however, the separation distances involved to the application site, being between 70 and 180 metres away, are such that there is considered to be no adverse impact on the occupiers of those dwellings. The proposal is therefore considered to comply with Policy DP1 of the Local Plan and the NPPF.

## **12. Highway Matters**

### **Relevant Policies**

- 12.1 The NPPF in section 4 sets out the role transport policies play in facilitating sustainable development which contributes to wider sustainability and health objectives. Decisions should consider ensure development proposals have taken the opportunities for sustainable transport modes, ensure safe and suitable access to the site can be achieved for all people and improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 12.2 Policies SP1 and SP35 of the Local Plan aim to ensure development is located on sites with good links to the highway network, development is convenient and safe to walk, cycle and travel by public transport. Developments should not result in vehicles harming residential amenity, causing highway safety issues or harming the character of the open countryside. For those developments likely to have an impact on the wider highway infrastructure, proposals should be accompanied by a transport assessment clearly setting out how the likely impacts of the development will be addressed.

## **Assessment**

12.3 The proposed development will utilise existing accesses to the site via Burton Bridge, Meadowside Drive and the Market Place. The site is situated within the Town Centre in close proximity to several pay and display car parks, and is easily accessible both by public transport and on foot. The existing Public Right of Way through the site is proposed to be resurfaced and will remain accessible to pedestrians and cyclists. The proposals are therefore considered to comply with Policies SP1 and SP35 and the NPPF.

## **13. Historic Environment**

### **Relevant Policies**

13.1 Paragraph 126 of the NPPF states that Local Planning Authorities should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

13.2 In determining planning applications with respect to any building or other land in a conservation area, local planning authorities are under a statutory duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Case law has established that this means that considerable importance and weight has to be given to that statutory duty when balancing the proposal against other material considerations.. Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.

13.3 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Again, as for the Section 72 duty referred to above, case law has established that this means that considerable importance and weight has to be given to that statutory duty when balancing the proposal against other material considerations.

13.4 Strategic Policy 25 states that Development proposals should protect, conserve and enhance heritage assets and their settings, taking into account their significance, as well as the distinctive character of the Borough's townscapes and landscapes.

13.5 Detailed policy 5 goes into more detail regarding Historic Assets, Listed Buildings, Conservation Areas and Archaeology. Detailed policy 6 aims to protect other heritage assets which are not necessarily covered by listed building or conservation area status, such as shopfronts and the setting of important historic landscapes.

## Assessment

- 13.6 The Grade II Andresey Footbridge is situated partially within the site approximately 50 metres to the south of the Library. Directly adjacent to the most southerly part of the application site is the Grade I listed St Modwens Church with separately listed Grade II\* gates, railings and piers. Directly adjacent to the south-western corner of the site are Grade II listed buildings at No. 12 Market Place, No. 1 Friars Walk/No. 13 Market Place and No. 2 Friars Walk. To the west of the Garden of Remembrance, immediately adjacent to the application boundary are the Grade II listed former Assembly Rooms. Finally, to the west of Meadowside Drive, directly adjacent to the application site, and some 46 metres to the north-east of the Library is the Grade II listed Water Tower. The site is wholly within the Burton No. 2 and No. 3 Town Centre Conservation Area. The site also contains areas of known archaeological interest to part of Meadowside Drive close to the Library, the area to the front of the Library facing the Washlands and the Garden of Remembrance. Approximately 25 metres to the south of the application site is the site of Burton Abbey, a Scheduled Ancient Monument, this is separated from the application site by St Modwens Church.
- 13.7 No works are proposed to the listed Andresey Footbridge within the application site.
- 13.8 The Heritage Statement confirms that there are no direct impacts on built heritage assets within or outside of the red line boundary, however, there are potential impacts on archaeological deposits within the Hay area to the north of the site.
- 13.9 The ESBC Conservation Officer has confirmed that the proposed boardwalks are reflective in style of the existing pedestrian bridge within the application site and other similar examples within Burton upon Trent. The proposals would create an attractive biodiverse wetland and river margin habitat and environment in an area which has been affected by industrial development, much of the riverfront featured rail heads serving breweries in the 19<sup>th</sup> and early 20<sup>th</sup> century. The materials proposed are well considered, however, conditions are recommended to cover details of elements, such as benches, bins, bollards, hardsurfacing, signage and interpretation boards.
- 13.10 The ESBC Conservation Officer agrees with the conclusions of the Heritage Statement, in that the proposals will not have any adverse impacts on the setting of nearby listed buildings, to the extent that these have a relationship with the river that will remain the case and be improved as a more attractive and diverse wetland transition is established. Similarly the proposal would enhance the special architectural and historic character and appearance of the conservation area. As such the proposal would not conflict with the desirable objectives in sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 13.11 The proposed works adjacent to the Grade I and Grade II\* Listed buildings comprises tree works and re-laying of a Yorkstone paving central

path through the Gardens of Remembrance. It is therefore considered that the character of the area will not change as a result of the proposed work and there will be no adverse impacts on the setting of these listed buildings.

- 13.12 In respect of the archaeological interest in the area, an Archaeological Desk Based Assessment and a Geophysical Survey Report have been submitted in support of the application. The County Archaeologist has raised no objections to the proposal, given the details contained in the report, however, a condition is recommended for the submission of a Historic Environment Management Plan prior to the commencement of the development.
- 13.13 In summary, it is considered that the proposals will enhance the special architectural and historic character of the conservation area, listed buildings or the nearby scheduled ancient monument; there would also be no adverse impact in terms of archaeology subject to the necessary condition. The proposals are therefore in compliance with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and in compliance with Policies SP25, DP5 and DP6 of the Local Plan and the NPPF.

## **14. Flood Risk and Drainage**

### **Relevant Policies**

- 14.1 Section 10 of the National Planning Policy Framework seeks to ensure that new development is not at risk from flooding, or does not increase flood risk elsewhere. It advocates the use of a sequential test with the aim of steering new developments to areas with the lowest probability of flooding. The Environment Agency produces flood risk maps which classifies land according to probability of flooding. The areas of highest risk are classified as Flood Zone 3, with a 1 in 100 or greater annual probability of flooding, and the areas of lowest risk are classified as Flood Zone 1, with a less than 1 in 1000 annual probability of flooding.
- 14.2 Strategic Policy 27 expects all new development to incorporate Sustainable Drainage Systems (SUDS). Systems will discharge clean roof water to ground via infiltration techniques, limit surface water discharge to the greenfield run-off rate and protect and enhance wildlife habitats, heritage assets, existing open space, amenity areas and landscape value.

### **Assessment**

- 14.3 The application sites falls within Flood Zones 2 and 3 and is indeed the Hay area on the Washlands is subject to flooding for several months of the year. The application is supported by a Flood Risk Assessment and a Preliminary Water Framework Directive Compliance Assessment. The Flood Risk Assessment confirms that some areas of the site are flooded most years and that groundwater flooding may affect the site and impair the floodwater draining away once flood levels have receded.
- 14.4 The proposal is designed to be water compatible, and the excavation works proposed would create a swale with a maximum depth of 1.5 metres which

would be able to hold additional flood water, preventing some of the areas closer to the western boundary from flooding so often. The proposals would not increase the chance of flood risk either on the site or upstream and downstream of the site there will be a small reduction in flood levels. Additionally the re-profiling of the river bank would not have a detrimental effect in terms of flood risk.

- 14.5 The Environment Agency have raised no objections to the proposal. The SCC Lead Local Flood Authority have raised no objections to the proposal subject to a condition requiring detailed proposals, particularly in relation to the potential for the proposal to increase runoff in some scenarios. It is therefore considered that subject to a condition requiring detailed drainage proposals that the requirements of Local Plan Policy SP27 that the objectives of the National Planning Policy Framework are met.

## **15. Green Infrastructure, National Forest and Trees**

### **Relevant Policies**

- 15.1 The National Planning Practice Guidance is clear that green infrastructure is important to the delivery of high quality sustainable development, alongside other forms of infrastructure such as transport, energy, waste and water. Green infrastructure provides multiple benefits, notably ecosystem services, at a range of scales, derived from natural systems and processes, for the individual, for society, the economy and the environment. To ensure that these benefits are delivered, green infrastructure must be well-planned, designed and maintained. Green infrastructure should, therefore, be a key consideration planning decisions where relevant.
- 15.2 Strategic Policy 23 states that development should contribute towards the creation, enhancement or ongoing management of a series of local green infrastructure corridors. The policy lists 10 standards green infrastructure is expected to meet.
- 15.3 Strategic Policy 26 supports the National Forest Strategy expects developments within the National Forest to contribute towards the creating of the Forest by providing on-site or nearby landscaping that meets the National Forest planting guidelines.
- 15.4 Policy DP8 of the Local Plan provides criteria for proposals which relate to protected and non-protected trees. Felling of protected trees will only be granted consent where the tree is in poor health and/or has lost its intrinsic visual amenity value, or the tree is causing structural damage. Should protected trees be felled, replacement planting will be required. Unprotected trees of value within development sites are subject to the following criteria:
- Retain as many existing trees and other natural features as possible;
  - Minimise harm to existing trees and other natural features either in the short or long term;
  - Minimise conflict between trees and buildings in the future through the design, layout and construction of the development.



## Assessment

- 15.5 The proposal includes development that would enhance an existing area of green infrastructure, in this area a large expanse of public open space. The proposals are not considered to compromise the integrity of the green infrastructure, rather enhancing the opportunities to enjoy the area at all times of year. The proposal would result in the protection and enhancement of biodiversity habitats and create new habitats within the site. As such the proposal is considered to comply with the requirements of Local Plan Policy SP23 and the National Planning Policy Framework.
- 15.6 The application is supported by an Arboricultural Impact Assessment. The proposal includes the removal of selected trees within the site, along with the coppicing of selected trees and remedial work to some trees. It is proposed to remove three individual trees, five groups of trees and selected trees from two groups. The trees selected for removal would make way for the boardwalk and provide open areas in the woodland for the proposed new play equipment. The proposal incorporates the planting of at least 200 new trees to compensate for those lost and to create new woodland areas/enhance existing woodland areas.
- 15.7 The re-laying of the central footpath has the potential to cause issues to existing tree roots, therefore it is proposed to use a 3D cellular confinement system in respect of tree roots in this area.
- 15.8 The National Forest Company have raised no objections in relation to the trees to be removed, but have requested a planting scheme detailing the size, number and species of trees to be replanted. A condition in relation to the management of the existing retained woodland is also recommended. The ESBC Tree Officer has raised no objections to the work proposed, however, a condition is recommended to ensure that the development is carried out in accordance with the Arboricultural Method Statement submitted.
- 15.9 In light of the above it is considered that the proposal would accord with Policies SP26 and DP8 of the Local Plan and the National Planning Policy Framework.

## 16. Biodiversity

### Relevant Policies

- 16.1 Paragraph 118 within Section 11 of the National Planning Policy Framework states that 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, planning permission should be refused.
- 16.2 The Natural Environment and Rural Communities Act 2006 states that public authorities in England have a duty to have regard to conserving biodiversity as part of policy or decision making.

- 16.3 Strategic Policy 29 lists criteria including development retain features of biological interest produces a net gain in biodiversity in line with Staffordshire biodiversity action plan species and supporting developments with multi-functional benefits.

### **Assessment**

- 16.4 The application is supported by a Phase I Habitat Survey. The survey indicates that there is poor habitat on the banks of the River Trent for water voles, and that the area is highly disturbed and therefore has negligible potential to support otters. The trees in the area have low bat roost potential, however, there is the potential for foraging bats within the area; similarly the site does not provide suitable habitat to support nesting birds.
- 16.5 The proposals include opportunities for the creation of new wetland habitat within the site area and can therefore be considered an ecological enhancement. Details of proposed planting can be found in the Outline Landscape Specification provided.
- 16.6 Natural England have raised no objections to the proposal and the Habitat Survey provided indicates that there will be no significant adverse impact on protected species. An informative is recommended to remind the applicant of their ecological responsibilities. The proposal is therefore considered to comply with Policy SP29 of the Local Plan and the National Planning Policy Framework.

## **17. Open space**

### **Relevant Policies**

- 17.1 The NPPF states that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area.
- 17.2 Information gained from the assessments should be used to determine what open space, sports and recreational provision is required.
- 17.3 SP32 and SP33 set out the requirements of open space provision across the Borough.
- 17.4 The Borough Council will seek to deliver new provision and protect and enhance existing outdoor open space and sport facilities by safeguarding sites for the benefit of local communities and applying the standards set out in the Local Plan.

## **Assessment**

- 17.5 Whilst the application does not provide any new open space, the proposals would enhance the existing outdoor open space and provide new opportunities to use the area even during flooding events. The proposals also include the installation of new play equipment to replace the existing; the proposed equipment is to be constructed mainly from timber and would be interspersed within a woodland area to the north-east of the Library. This would set the play equipment further away from the area most prone to flooding to increase usability throughout the year.
- 17.6 Amended drawings have been provided during the course of the application in respect of the proposed play area, taking into account comments raised by the National Forest Company and providing pieces of equipment that are accessible to all. In addition Staffordshire Police have raised no objections to the proposals.
- 17.7 It is therefore considered that the proposal complies with Policies SP32 and SP33 of the Local Plan and the requirements of the National Planning Policy Framework.

## **18. Contaminated Land**

### **Relevant Policies**

- 18.1 Policy DP7 of the East Staffordshire Local Plan relates to pollution and contamination and states that development proposals will only be granted planning permission where they will not give rise to, or be likely to suffer from, land instability and/or unacceptable levels of pollution in respect of noise or light, or contamination of ground, air or water.

### **Assessment**

- 18.2 The application site contains areas of known contamination to the southern area of the Garden of Remembrance and along the western portion of the site along Meadowside Drive and to the front of the Library. A Factual Ground Investigation Report and a Geo-Environmental Report have been provided in support of the application. The ESBC Environmental Health Team have no objections to the proposal subject to a condition requiring and the submission of an appropriate assessment in the event that contamination is found during the course of the application.
- 18.3 The proposal is therefore considered to comply with the requirements of Local Plan Policy DP7.

## **19. Conclusions**

- 19.1 In respect of the heritage assets within and surrounding the site it is considered that the proposals would have no significant impact on the character or setting of those assets, and that the proposals would ‘protect, conserve and enhance heritage assets and their settings’ and the proposals would provide public benefits as required by Policy SP25 of the Local Plan, and the statutory duties under sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

19.2 Having due regard to the planning merits of the case set out in detail in the Assessment section of this report – and as summarised in the Executive Summary – the application is recommended for **approval** subject to the following conditions.

### 19.3 RECOMMENDATION

19.4 Approve subject to the following conditions:

#### 1. Time Limit (Standard)

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

Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

#### 2. Plan Numbers (Standard)

The development hereby permitted shall be carried out in accordance with the following approved plans and documents subject to compliance with other conditions of this permission:

Drawing No.s:

123230-BVL-ZZ-00-DR-L-00004 Rev P01, 1:2500 Location Plan dated as received on 22<sup>nd</sup> December 2020

123230-BVL-ZZ-00-DR-L-00005 Rev P01, 1:500 Site Block Plan 1 of 3 dated as received on 22<sup>nd</sup> December 2020

123230-BVL-ZZ-00-DR-L-00006- Rev P01, 1:500 Site Block Plan 2 of 3 dated as received on 22<sup>nd</sup> December 2020

123230-BVL-ZZ-00-DR-L-00007 Rev P01, 1:500 Site Block Plan 3 of 3 dated as received on 22<sup>nd</sup> December 2020

123230-BVL-ZZ-00-DR-L-00001 Rev P01, 1:100 and 1:200 Cross Sections East-West dated as received on 23<sup>rd</sup> March 2021

123230-BVL-ZZ-00-DR-L-00002 Rev P01, 1:200 and 1:500 Cross Sections North-South dated as received on 23<sup>rd</sup> March 2021

123230-NUK-ZZ-00-DR-L-00030 Rev P01, 1:250 Play Area Setting Out Plan dated as received on the 16<sup>th</sup> April 2021

123230-BVL-ZZ-00-DR-L-00003 Rev P01, 1:25 River Bank Reprofiting Cross Sections dated as received on 23<sup>rd</sup> March 2021

Design and Access Statement dated as received on 22<sup>nd</sup> December 2020

Heritage Statement Report 2020/41 v2a dated as received on 22<sup>nd</sup> December 2020

Archaeological Desk Based Assessment Report 2019/11 dated as received on 22<sup>nd</sup> December 2020

Geophysical Survey Report dated as received on 22<sup>nd</sup> December 2020

Arboricultural Impact Assessment dated as received on 22<sup>nd</sup> December 2020

Arboricultural Method Statement dated as received on 22<sup>nd</sup> December 2020

Extended Phase I Habitat Survey dated as received on 22<sup>nd</sup> December 2020

Outline Landscape Specification BV Project No. 123230 dated as received on 22<sup>nd</sup> December 2020

Environmental Action Plan dated as received on 22<sup>nd</sup> December 2020

Flood Risk Assessment dated as received on 22<sup>nd</sup> December 2020

Geo-Environmental Report Project No. 123230 dated as received on 15<sup>th</sup> April 2021

Factual Ground Investigation Report dated as received on 15<sup>th</sup> April 2021

Preliminary Water Framework Directive Compliance Assessment dated as received on 22<sup>nd</sup> December 2020

Reason: For the avoidance of doubt to ensure the development will not adversely affect the appearance of the locality, including Listed Buildings and Conservation Area, the amenities of neighbouring properties, or the safe and efficient use of the adjoining highways in accordance with East Staffordshire Local Plan Policies SP1, SP15, SP21, SP23, SP24, SP25, SP26, SP27, SP29, SP32, SP34, SP35, DP1, DP5, DP6, DP7, DP8 and DP10, , East Staffordshire Design Guide SPD and the National Planning Policy Framework.

### **3. Details of Materials**

No development shall take place until samples and details of all materials to be used externally ensuring the product name and manufacturers is provided (including details of boardwalk and raised platform materials and materials for all structures within the public realm, such as bollards, benches, paving, play equipment etc) have been submitted to and approved in writing by the Local Planning Authority and the development shall only be carried out in accordance with the approved details.

Reason: To safeguard the character and appearance of the area and its surroundings, including the Conservation Area and Listed Buildings, in accordance with East Staffordshire Local Plan Policies SP1, SP24, SP25, DP1, DP5 and DP6, the East Staffordshire Design Guide and the National Planning Policy Framework.

### **4. Details of Landscaping**

No development shall take place until a scheme of landscaping and planting and a management plan for the existing retained woodland has been submitted to and approved in writing by the Local Planning Authority.

Reason: As recommended by the National Forest Company and to ensure that a landscaping scheme to enhance the development is provided in accordance with East Staffordshire Local Plan Policies SP24 and SP26, the East Staffordshire Design Guide and the National Planning Policy Framework.

#### **5. Implementation of Landscaping**

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that an approved landscaping scheme is implemented in a speedy and diligent way and that initial plant losses are overcome in the interests of the visual amenities of the locality and in accordance with East Staffordshire Local Plan Policy SP24, the East Staffordshire Design Guide and the National Planning Policy Framework.

#### **6. Protection of Trees During Development**

All existing trees and hedges shown as being retained on the plans hereby approved shall be protected by 2m high fencing in line with the Tree Protection Barrier recommendations contained within British Standard 5837 (2012) 'Trees in Relation to Construction'. Such fencing shall be erected before development commences and shall be retained at all times whilst construction work is taking place.

Reason: To ensure that adequate measures are taken to preserve trees and hedges and their root systems whilst construction work is progressing on site in accordance with East Staffordshire Local Plan Policy DP8 and the National Planning Policy Framework.

#### **7. Arboricultural Method Statement**

The development shall be carried out in accordance with the Arboricultural Method Statement listed in Condition 2 approved plans.

Reason: To ensure that adequate measures are taken to preserve trees and hedges and their root systems whilst construction work is progressing on site in accordance with East Staffordshire Local Plan Policy DP8 and the National Planning Policy Framework.

#### **8. Details of Disposal of Surface Water**

No development shall take place until a detailed scheme of drainage has been submitted to and approved in writing by the Local Planning Authority. The

development shall be completed in accordance with the approved details prior to its first occupation.

Reason: To ensure adequate drainage facilities are provided to serve the development to reduce the risk of exacerbating a flooding problem and to minimise the risk of pollution as recommended by SCC Lead Local Flood Authority in accordance with East Staffordshire Local Plan Policies SP27 and DP7 and the National Planning Policy Framework.

## **9. Contaminated Land (During Construction)**

If potential ground contamination is detected during groundworks of the proposed development, this must be reported immediately to the Council and an investigation and risk assessment must be undertaken by a competent person in accordance with 'Land Contamination Risk Management, LCRM (EA, 2020)'. Where remediation is necessary a remediation scheme must be prepared to bring the site to a condition suitable for the intended use by removing unacceptable risk to human health, buildings and other property and the natural and historic environment, which is subject to the approval in writing by the Local Planning Authority. The scheme must 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. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared and submitted to the Local Planning Authority for approval prior to bringing the development into use.

Reason: In order to safeguard human health and the water environment and identify potential contamination on-site and the potential for off-site migration in accordance with East Staffordshire Local Plan Policy DP7 and the National Planning Policy Framework.

## **9. Programme of Archaeological Work**

- A) Prior to the commencement of the development hereby permitted, a Historic Environment Management Plan (HEMP) shall be submitted for the written approval of the Local Planning Authority. The HEMP shall provide details of the programme of archaeological works to be carried out within the site, including post-excavation reporting and appropriate publication.
- B) The archaeological site work shall thereafter be implemented in full in accordance with the HEMP approved under condition (A).
- C) The development shall not be occupied until the site investigation and post-excavation assessment has been completed in accordance with the HEMP approved under condition (A) and the provision made for analysis, publication and dissemination of the results and archive deposition has been secured.

Reason: To ensure that no development takes place which may adversely affect any items of archaeological interest without adequate prior investigation in accordance with East Staffordshire Local Plan Policies SP1, SP25 and DP5 the National Planning Policy Framework.

## **20. Background papers**

20.1 The following papers were used in the preparation of this report:

- The Local and National Planning policies outlined above in section 7
- Papers on the Planning Application file reference: P/2020/01498

## **21. Human Rights Act 1998**

21.1 There may be implications under Article 8 and Article 1 of the First Protocol regarding the right of respect for a person's private and family life and home, and to the peaceful enjoyment of possessions. However, these potential issues are in this case amply covered by consideration of the environmental impact of the application under the policies of the development plan and other relevant policy guidance.

## **22. Crime and Disorder Implications**

22.1 It is considered that the proposal does not raise any crime and disorder implications.

## **23. Equalities Act 2010**

23.1 Due regard, where relevant, has been had to the East Staffordshire Borough Council's equality duty as contained within the Equalities Act 2010.

For further information contact: Lisa Bird  
Telephone Number: 01283 508746  
Email: [dcsupport@eaststaffsbc.gov.uk](mailto:dcsupport@eaststaffsbc.gov.uk)