SS4: Former Biwaters Strategic Site

1. Purpose

1.1 The purpose of this Statement of Common Ground is to inform the Inspector and other parties about the areas of agreement between North East Derbyshire District Council and St Modwen Developments Ltd on Policy SS4, former Biwaters Site, Clay Cross, of the Publication Draft North East Derbyshire Local Plan (2014-2034) for strategic mixed use.

2. The Site and Context

2.1 The former Biwaters site is located to the north east of Clay Cross town centre, adjoining Bridge Street Industrial Estate, and is closely related to Coney Green and the residential area between it and the town centre. It has good access to the services and facilities in Clay Cross. The site benefits from access to the M1 via the A6175.

2.2 The site covers approximately 42 hectares of land to the northern side of Clay Cross town centre. It includes the former Biwaters works, the majority of the area associated with the former pipeworks. The redline boundary of the strategic allocation for Policy SS4 is identified below.
2.3 The land is located between the Derby-Chesterfield railway line and the River Rother and Chesterfield-Nottingham railway line. There were previously numerous buildings and hardstandings that occupied the site. The site has been derelict for several years, since the closure of the works. The site is generally unattractive and clearly visible from the surrounding area, particularly from North Wingfield to the east. The former buildings on the site have been demolished and remediation works are complete as per the planning permission in place (06/01334/OL). Construction is underway on the site with the completion of the A61 roundabout, access road, ground works and public house/restaurant. Construction is also underway for the first phase of housing development.

2.4 The site was originally allocated in the previous Local Plan (2001-2011). The Council subsequently adopted a Design Framework (as non-statutory planning guidance) for the site to guide proposals coming forward. This was superseded by the “Successful Places: A Guide to Sustainable Housing Layout and Design” document which was adopted as Interim Planning Guidance in December 2013.

Planning History
2.5 Outline planning permission (08/01085/OL) was granted to the previous owners of the site on 10th August 2010 for a mixed use redevelopment of the former Biwaters Works site to include housing (max 980 units); employment (B1, B2, B8 max 29,500m2), hotel (60 rooms), a local centre (A1, A2, A3, A4, A5 max 750m2), new vehicular access off Market Street, Derby Road and Furnace Hill Road, public open space, together with associated infrastructure and landscaping.

2.6 St Modwen had acquired the site from the administrator after its previous owners went into receivership whilst the site was undergoing remediation. St Modwen recommenced, completed and validated the remediation works in order to discharge planning conditions on Outline Consent 08/01085/OL, with sign off from Environmental Health and the Environment Agency. St Modwen also at that time delivered the sports pitch land (now known as Egstow Park) and changing rooms and transferred these to the ownership of the District Council.

2.7 Further outline planning permission was then secured in January 2016 on the site for a food store and a drive-through restaurant (14/01109/OL), as well as a full permission for a public house, with reserved matters (15/00078/RM related to 08/01085/OL) approved in December 2017.
2.8 The first residential phase reserved matters application 17/00247/RM (pursuant to outline 08/01085/OL) for 166 dwellings was granted to St Modwen Homes in August 2017 and construction of the first phase is now underway. 10 dwellings were completed in 2017/18.

2.9 In 2017, St Modwen submitted a new outline application (17/00666/OL) for a mixed use development, which included an extended site area to the north to enable the master planning of the site to respond effectively to current market conditions relating to housing density, whilst retaining the general mix of land uses on the site. It should be noted that the Strategic Site allocation in the Publication Draft Local Plan aligns with the general development area of the illustrative masterplan proposals from this planning application, with the exception of open space, drainage and new footpath proposals in the northern area of the site, which have been excluded. This is a point of contention between St Modwen and the Council.

2.10 The outline approval was granted on 10th August 2018 and included a s106 agreement. It includes the following quanta of development:

- 825 new homes (up to 25.2ha)
- Employment generating uses: B1, B2, B8 (up to 5ha); a Local Centre A1, A2, A3, A5 and/or A5 (up to 2ha); Hotel / care home C1 and C2 (up to 0.8ha) totalling up to 8.2ha (including the existing pub/restaurant)
- Open Space (11.5ha – excluding existing provision at the Former Egstow Quarry) (please note this is a larger area than the allocated Strategic Site)
- Associated highway works including a link road to A61 to the A6175 (the link should be completed no later than the first occupation of the 800th dwelling)
- Footpath connection from the site to Tupton Hall School.

Publication Draft Local Plan Representations

2.11 St Modwen Development submitted objections to Draft Publication Local Plan policy SS4 and supporting text on the basis that it should reflect more closely the current planning permissions in place for the site. A summary of the issues raised and the Council’s proposed response and modifications is set out at Appendix 1. It should be noted that these differ from the proposed modifications set out in the Council’s Initial Response to specific requests for changes to the Plan (ED6); and follows further more detailed consideration of the issues involved.
2.12 The Council is prepared to make some modifications to the Plan, where this reflects the current planning permissions and is consistent with other policies in the Plan. Appendix 2 sets out the proposed changes to Policy SS4 and supporting text in its broader context that have been agreed between St Modwen and the Council.

3 Timescale for Delivery

3.1 The Council has also undertaken further work assessing the deliverability and phasing of the strategic site.

3.2 Due to the large scale of the site, it is not anticipated that development will be able to come forward in its entirety within the first five years of the Local Plan, but will take the entire plan period to be completed. Development has commenced on Phase 1 Derby Road site with the construction of the estate road accessed off the existing spine road already constructed off the new A61 New Derby Road roundabout and other infrastructure.

3.3 10 homes were completed in 2017/18 and between the Council and St Modwen Developments it was anticipated that 49 homes will be built by the end of 2018/19, 62 in 2019/20 and 45 in 2020/21, in line with the Reserved Matters approval. Pre-application discussions have taken place between a second housebuilder and the Council which would open up development on the Market St side of the site. However, given the reserved matters application for a second outlet has not yet been submitted the Council believe a more cautious approach to the housing trajectory should be applied, which aligns more with St Modwen’s first phase and sees 50 to 55 housing completions on site. Appendix 3 shows the revised trajectory.

3.4 Appendix 3 shows a total housing yield of 1000 – this allows flexibility in any future planning approvals of an additional 175 homes beyond the Plan period.

4. Areas of Common Ground

4.1 Both parties agree that:

- The allocation SS4: Former Biwaters Strategic Site, Clay Cross for residential development is deliverable and developable as per paragraph 47 of the 2012 NPPF. The amount of development of 1000 is justified.
• The allocation is robust and justified albeit St Modwen as set out in its Matter Statement is requesting certain amendments to the policy. The general development requirements, as set out in Policy SS4 of the Publication Draft Local Plan (as amended in Appendix 2) are deliverable. Due consideration will be given to the constraints and necessary infrastructure required to deliver the development.

• That the proposed changes to the plan text and Policy SS4 set out in Appendices 1 and 2 would satisfy the concerns raised in St Modwen’s representations (Rep ID 7158), with the exception of those issues identified as remaining outstanding in section 5 of this statement.

5 Outstanding Matters (Areas of Disagreement)

5.1 Based upon the proposed changes, the following element of St Modwen’s objection to the Publication Draft Local Plan Policy SS4 (Rep ID 7158) remains as an outstanding area of disagreement:

• Change to the title of the site from ‘Former Biwaters Site’ to ‘Egstow Park’.
• The extent of the allocation boundary

Agreement dated 19 November 2018

Signed by:- NEDDC

Signed by:- St Modwen Developments Ltd
### Respondent’s Suggested Change

4.48 states: A revised outline application was received in June 2017 to reflect current market conditions, which has led to an adjustment to the site boundary. It is expected the site will deliver 825 new homes during the plan period. This is now out of date as planning permission has recently been approved for the site in March 2018, subject to completion of the s106 Legal Agreement.

### Council’s Response & Proposed Modification

**Agree:** Replace Paragraph 4.48 to reflect the most up to date position in relation to planning permissions for the site as follows:

4.44 Work has commenced on site with the construction of a roundabout on the A61, a 100m length of road into the site and a new public house at the A61 site entrance. Construction is also underway for the first phase of the housing development (166 dwellings). A revised outline application was received in June 2017 to reflect current market conditions, which has led to an adjustment to the site boundary. It is expected the site will deliver 825 new homes during the plan period.

4.45 A revised outline scheme reflecting current market conditions was approved in August 2018 for the following development:

- **a.** 825 homes,
- **b.** Approximately 8 ha of employment generating uses incorporating:
  - i. B1, B2 & B8 (up to 5ha),
  - ii. A local centre, A1, A2, A3, A4 and/or A5 (up to 2ha)
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<tr>
<th>Policy SS4 - Change the Policy Title to Egstow Park, to reflect the site's current reference.</th>
<th><strong>Disagree:</strong> Whilst it is acknowledged that the site is being marketed as Egstow Park, it is not necessary to reflect this in the Local Plan. The policy title reflects the previous use of the site and is meaningful to local people and stakeholders.</th>
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<td><strong>Policy SS4: Amend Criterion B to remove reference to 8 hectares of employment land.</strong> The recently approved application allowed for 5 hectares of B Class employment land. There is no justification for the 8ha as indicated in the policy reference, which it would appear is a 'left over' position from earlier proposals on the site which were not delivered.</td>
<td><strong>Agree in part:</strong> The status of current planning permissions on the site is acknowledged, however a balance is needed to ensure that the policy provides an appropriate long term strategic policy context for the site, rather than simply reflecting current permissions; which naturally reflect current circumstances and market conditions. The following changes to Policy SS4, Criterion b) are therefore proposed:</td>
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<td>b. <strong>Provide for approximately 8.5 hectares of B class employment land to include provision for starter units and managed workspace;</strong></td>
<td>b. <strong>Provide for approximately up to 8 hectares of employment generating land uses to include provision for starter units and managed workspace;</strong></td>
</tr>
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</table>
By combining Criterion b & d (see below) St Modwen are in agreement with this proposed modification.

Amend Criterion D by removing reference to a range of small shops catering for local needs. This should reflect the current approved proposals on the site, which include retail, commercial (including public house and A1/A2/A3/A4/A5 uses), hotel (C1) and a care home (C2).

“d. Provide new retail, commercial (including A1/A2/A3/A4/A5 uses), hotel (C1) and a care home (C2) local facilities to include a range of small shops catering for local needs”

Agree changes are required to criterion d. but disagree with the changes suggested by St Modwen. It is acknowledged that the current permission does allow for town centre uses on this site; however, this was based on the material considerations associated with the planning application at that time. The site lies outside of the Town Centre and it would be inappropriate to provide for town centre uses here without restriction.

It is considered that the changes proposed to criterion b are sufficient to address this issue and criterion d should be deleted.

Amend Policy SS4 by deletion of Criterion d.

d. Provide new local facilities to include a range of small shops catering for local needs;
Amend Criterion G by altering the reference to precluding the future provision of rail access. The proposals do not and never have allowed for rail access within the site. What has been allowed for (in the recently approved application) is for a route through the site to a potential railway station outside the site boundary. The policy needs re-wording to clarify that position as follows:

**g.** Promote and accommodate sustainable transport for pedestrians, cyclists, and public transport and does not preclude the future provision of rail access through the site to a future off-site railway station;

**Agree:** it is appropriate to amend references to the provision of rail access.

Amend Policy SS4, criterion g. as follows:

**g.** “promote and accommodate sustainable transport for pedestrians, cyclists, and public transport and does not preclude the future provision of rail access including the provision of a route through the site to provide pedestrian and vehicular access to a future off-site railway station”

Amend Criterion H to acknowledge the proposals for the site will deliver a new footpath connection to the boundary edge of Tupton Hall School. No other footpath proposals/enhancements have been allowed for.

**h.** Provide an effective links for pedestrian and cycle access, including to Clay Cross town centre, Tupton, and North Wingfield via a trail network to incorporate the development of a Brassington Lane safe route link to Tupton Hall School;

**Agree:** it is appropriate to amend references to the provision of rail access.

Amend Policy SS4, criterion h. as follows:

**h.** “Provide an effective links for pedestrian and cycle access, including to Clay Cross town centre, Tupton, and North Wingfield via a trail network to incorporate the development of a Brassington Lane safe route link to Tupton Hall School;”
Former Biwaters Site, Clay Cross

4.46 The former Biwaters site is located to the north east of Clay Cross town centre, adjoining Bridge Street Industrial Estate, and is closely related to Coney Green and the residential area between it and the town centre. It is well located in terms of access to services and facilities in Clay Cross. The site also benefits from potential access to the Midland Mainline Railway lines to Nottingham and Derby, and access to the M1 via the A6175. Redevelopment of the site will be supported for a mixed use scheme incorporating employment, residential, commercial, recreation and leisure uses.

4.47 Although part of the site to the eastern boundary lies within a high flood risk area, this land will not be built upon, instead creating a wildlife corridor and buffer zone to ensure minimum standards of flood defence are maintained, in accordance with the NPPF. The area of the Strategic Site has been extended to the north to enable the masterplanning for the site to respond effectively to current market conditions relating to housing density whilst retaining the overall scale and mix of land uses.

4.48 The site was originally allocated in the previous Local Plan (2001-2011). Since that time, the Council has adopted a Design Framework (as non-statutory planning guidance) for the site which will guide proposals coming forward and be a material planning consideration in determining planning applications for the site. The landowner, working closely with the Council has a comprehensive strategy to bring forward development of the site.

Outline planning permission was first secured for the site in August 2010 and included site remediation, public open space, approximately 980 dwellings and 29,500 m² of employment land residential and employment development. Further outline planning permission was secured in January 2016. Since then outline permission has been secured for a foodstore for up to 2,086 m² and a drive-through restaurant for up to 394 m², as well as a full permission for a public house and a reserved matters planning permission for the first phase of housing development, pursuant to the first outline permission, was also secured in August 2017 for 166 dwellings.
4.49 Work has commenced on site with the construction of a roundabout on the A61, a 100m length of road into the site and a new public house at the A61 site entrance. Construction is also underway for the first phase of the housing development (166 dwellings). A revised outline application was received in June 2017 to reflect current market conditions, which has led to an adjustment to the site boundary. It is expected the site will deliver 825 new homes during the plan period.

4.50 A revised outline scheme was approved in August 2018 for the following development:
   a. 825 new homes during the plan period
   b. Approximately 8 ha of employment generating uses incorporating:
      i. B1, B2 & B8 (up to 5ha),
      ii. A local centre, A1, A2, A3, A4 and/or A5 (up to 2ha)
      iii. Hotel/Care Home, C1 and C2 (up to 0.8ha)
   c. Open Space and
c. Associated highway works including a link road between the A61 and A6175.

4.51 Work has commenced on site with the construction of a roundabout on the A61, a road into the site; and a new public house and drive-through restaurant at the A61 site entrance. Construction is also underway on the first phase of the housing development for 166 dwellings.

Figure 4.2: Strategic Site Allocation – Former Biwaters
POLICY SS4: Former Biwaters Site, Clay Cross

1. Land at Former Biwaters, Clay Cross, as shown on the Policies Map, is allocated as a Strategic Site, for mixed use development.

2. Development proposals for the comprehensive remediation and mixed use development of this site will be guided by the Design Framework or any subsequent approved document and permitted where they:

   a. Provide a high quality, sustainable, mixed use development that is well connected and has a functional relationship with Clay Cross;
   b. Provide for approximately up to 8 hectares of employment generating land uses to include provision for starter units and managed workspace;
   c. Provide up to 1000 new dwellings (approximately 825 within the period up to 2034);
   d. Provide new local facilities to include a range of small shops catering for local needs;
   e. Protect existing open space, sport and recreation facilities and provide or enhance additional facilities to meet additional need generated by the development
   f. Locate the residential element to maximise accessibility to existing and new local facilities;
   g. Promote and accommodate sustainable transport for pedestrians, cyclists, and public transport including the provision of a route through the site to provide pedestrian and vehicular access to a potential railway station outside the site boundary and does not preclude the future provision of rail access;
   h. Provide effective links for pedestrian and cycle access, including to Clay Cross town centre, Tupton, and North Wingfield via a trail network to incorporate the development of a Brassington Lane safe route link to Tupton Hall School;
   i. Provide a through road from the A61 to Furnace Hill/A6175;
   j. Sustain or enhance the significance of heritage assets (including the Grade 1 listed St Lawrence Church in North Wingfield);
   k. Provide a wildlife corridor and buffer zone along the River Rother to protect the biodiversity value of the river corridor and protect new development from the risk of flooding, and promote linkages to the wider green infrastructure network;
I. Provide structural landscaping, and public open space in accordance with Policies ID6-9 and SDC12; and
m. Incorporate an appropriate mix of house types and tenures, to reflect housing need and market considerations
## SS4: Former Biwaters Strategic Site

### Appendix 3

| Allocation                      | Yield | 2017/18 | Current year | Year 1 2018/19 | Year 2 2019/20 | Year 3 2020/21 | Year 4 2021/22 | Year 5 2022/23 | Year 6 2023/24 | Year 7 2024/25 | Year 8 2025/26 | Year 9 2026/27 | Year 10 2027/28 | Year 11 2028/29 | Year 12 2029/30 | Year 13 2030/31 | Year 14 2031/32 | Year 15 2032/33 | Year 16 2033/34 | Beyond 2034 | Undelivered |
|---------------------------------|-------|---------|--------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|-------------|-------------|
| SS4 Publication Draft           | 825   | 11      | 49           | 62             | 44             | 70             | 70             | 70             | 70             | 70             | 70             | 70             | 70             | 70             | 70             | 70             | 70             | 29           |             |
| Council's Revised trajectory    | 1000  | 10      | 49           | 62             | 45             | 55             | 55             | 50             | 50             | 50             | 50             | 50             | 50             | 50             | 50             | 50             | 50             | 50           | 49          | 175         |