

DERBYSHIRE COUNTY COUNCIL

CABINET MEETING

21 January 2014

Report of the Strategic Director – Economy, Transport and Environment

**TECHNICAL APPROVAL OF MODIFIED BRIDGE STRUCTURE –
PROPOSED DEVELOPMENT AT CHESTERFIELD WATERSIDE,
BRIMINGTON ROAD, CHESTERFIELD (JOBS, ECONOMY AND
TRANSPORT)**

(1) **Purpose of the Report** To seek approval for officers to undertake technical approval of structural designs for a proposed modified bridge prior to the grant of detailed planning permission or preparation of highway works agreements and obtain payment for these services.

(2) **Information and Analysis** In March 2011, Chesterfield Borough Council granted outline planning permission for a significant mixed used development on land at Brimington Road, Chesterfield, known as Chesterfield Waterside. As the application was in outline form, all of the details of the internal street layout were reserved for future consideration as part of later applications which have yet to be submitted. The site is shown on the attached drawing (Appendix HA1).

The site has both the Chesterfield Canal and the River Rother within it which will require the internal streets to pass over a number of bridges. The northern access to Brimington Road will rely on a bridge to cross the River Rother. There is an existing bridge on the site in approximately the right location (shown hatched on the attached plan) and the developer (Chesterfield Waterside Limited) hopes to make use of this in some form.

The Highway Authority was consulted in connection with the outline planning application but the internal street network excluded from assessment, as the applicant was minded to keep the entire internal street network privately controlled and did not wish the Council to adopt any of the streets as publicly maintainable highway. The developer has subsequently expressed a desire to have the Council adopt the new streets as and when development takes place. This would also involve the adoption of any bridges carrying the new estate streets, including the structure shown on the attached plan.

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The developer would like to use or adapt the existing bridge giving access from Brimington Road to serve the new proposed estate streets and have the Council adopt it and be responsible for it in the future. The existing bridge has been in place for several decades. Its design as a private bridge and its unknown maintenance regime over the years will require careful assessment to ensure that modern adoption standards can be met.

The developer has requested the Council to carry out the technical assessment and the bridge designs.

The Council would not usually start looking at the internal street designs until detailed planning permission had been granted and it was time to prepare street adoption agreements, at which point the Council would calculate the level of financial bond required from the developer to cover the cost to the Council of having to construct the highways structures and roads, etc, to adoptable standards in the event that the developer failed to do so.

The proposed use of this bridge and technical approval required at this time therefore presents the Council with two potential risks:

- 1 That the structure might present a longer term liability in terms of maintenance due to its unknown factors. The Council would have to consider whether any maintenance risks could be offset by charging a higher commuted sum.
- 2 That any technical approval work carried out now might prove abortive if development designs change or there is significant delay in the development proceeding.

In order to minimise these risks, the developer has requested that officers carry out an Approval in Principle (AIP) for the bridge designs at an early stage. The developer would be obliged to prepare and submit its designs for consideration and there is no guarantee at this stage that its proposals would be acceptable for adoption purposes. This activity would also be entirely separate from the other highway works agreements under sections 38 and 278 of the Highways Act 1980 for the other streetworks. The Council would also wish to ensure that its costs in carrying out any early technical approval are paid for in advance regardless of the outcome, in case development does not proceed as planned.

The developer would be obliged to enter into a legal undertaking with the Council to proceed on this basis and have written to the Highway Authority to confirm that it would be happy to do this.

If AIP for this structure is obtained, this would stand for two years, after which the process would have to start again. If, however, the developer obtains

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detailed planning permission and enters into street adoption agreements within two years, the AIP and part of the fee advance would be taken into account by the Highway Authority.

Local Member Comment

Councillor Walter Burrows has been consulted.

(3) **Financial Considerations** The Council has estimated that the potential costs for this element of work would be £5,000 for the AIP, although the unknown and hybrid nature of the structure may escalate costs well beyond this. The Council's legal costs for this element of the work will be £750 for up to 10 hours work and £75 per hour thereafter.

Before starting any technical approval work, the Council would require a fee advance of £2,500 for the AIP and £500 for legal work, with the remainder being recovered by invoicing as work progresses.

In the event that AIP is achieved and highway works agreements under sections 38 and 278 of the Highways Act 1980 are signed and sealed by all parties within two years of AIP being granted, the Highway Authority would adjust the fee payable to take into account the work already carried out covered by the AIP fees paid, up to a maximum of £3,500, from the subsequent sections 38/278 assessment and inspection fees.

AIP fees will be paid into an account created for this purpose.

(4) **Legal Considerations** Any legal undertaking connected with this element of AIP work will be drafted and executed by the Council's Director of Legal Services in conjunction with the developer's representatives. The AIP work would, in ordinary circumstances, be carried out as part of the process of putting into place an agreement under Section 278 of the Highways Act 1980.

In preparing this report, the relevance of the following factors has been taken into consideration: prevention of crime and disorder, equality and diversity, human resources, environmental, health, property and transport considerations.

(5) **Key Decision** No.

(6) **Call-In** Is it required that call-in be waived in respect of the decisions proposed in the report? No.

(7) **Background Papers** Documentation relating to the Chesterfield Waterside development is held on the Highways Development Control file within the Economy, Transport and Environment Department. Officer contact details - Graham Hill, extension 38647. Documentation is also held on the

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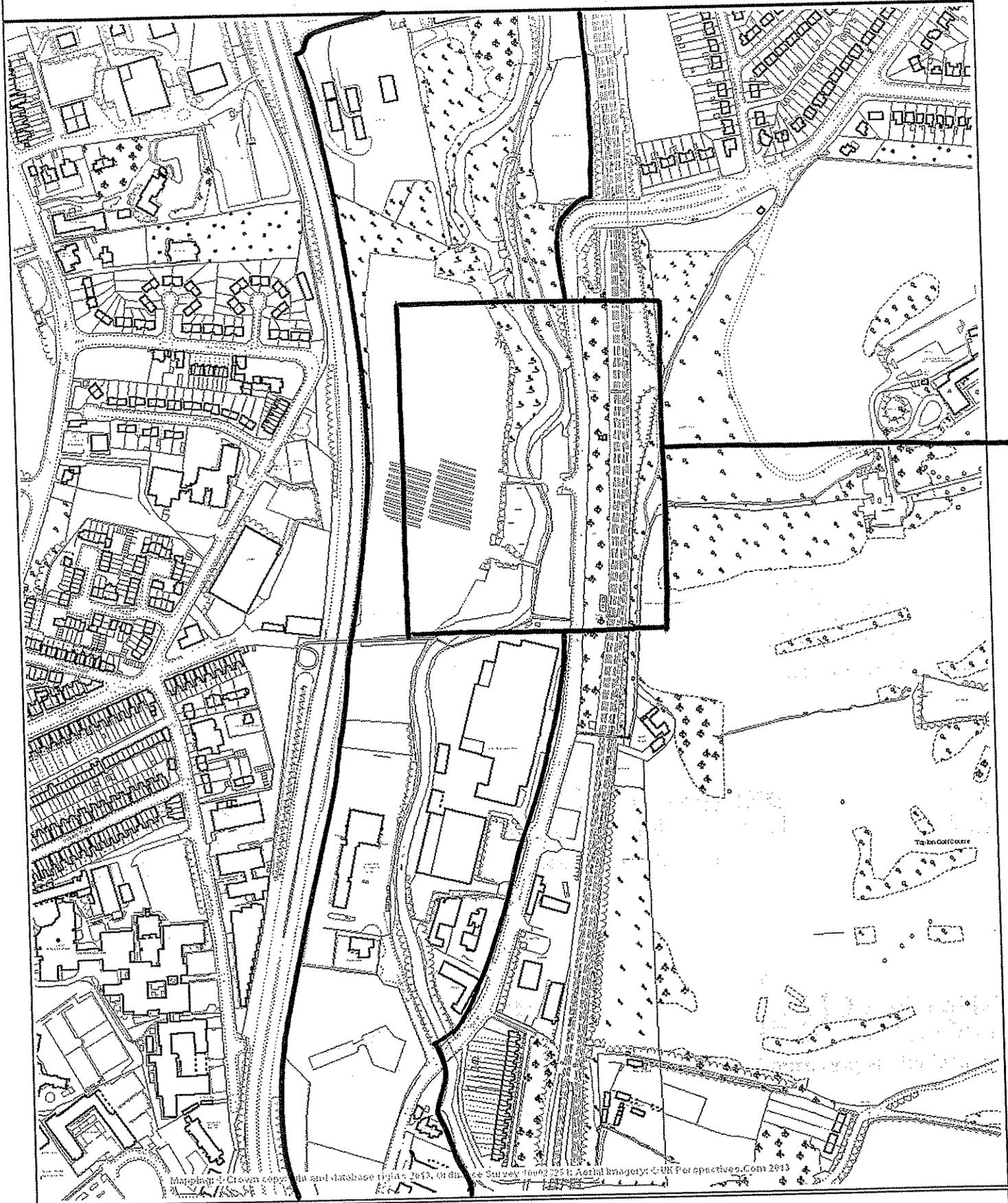
Council's Consulting and Contracting Division files. Officer contact details: Graham Hollett, extension 35401.

(8) **OFFICER'S RECOMMENDATIONS** That Cabinet:

- 8.1 Approves the departure from the County Council's normal practice by allowing technical approval work to proceed in advance of the grant of detailed planning consent and outside of sections 38/278 Agreements.
- 8.2 Approves the payment of fees to the County Council by the developer (Chesterfield Waterside Limited) as described in this report.

Mike Ashworth
Strategic Director – Economy, Transport and Environment

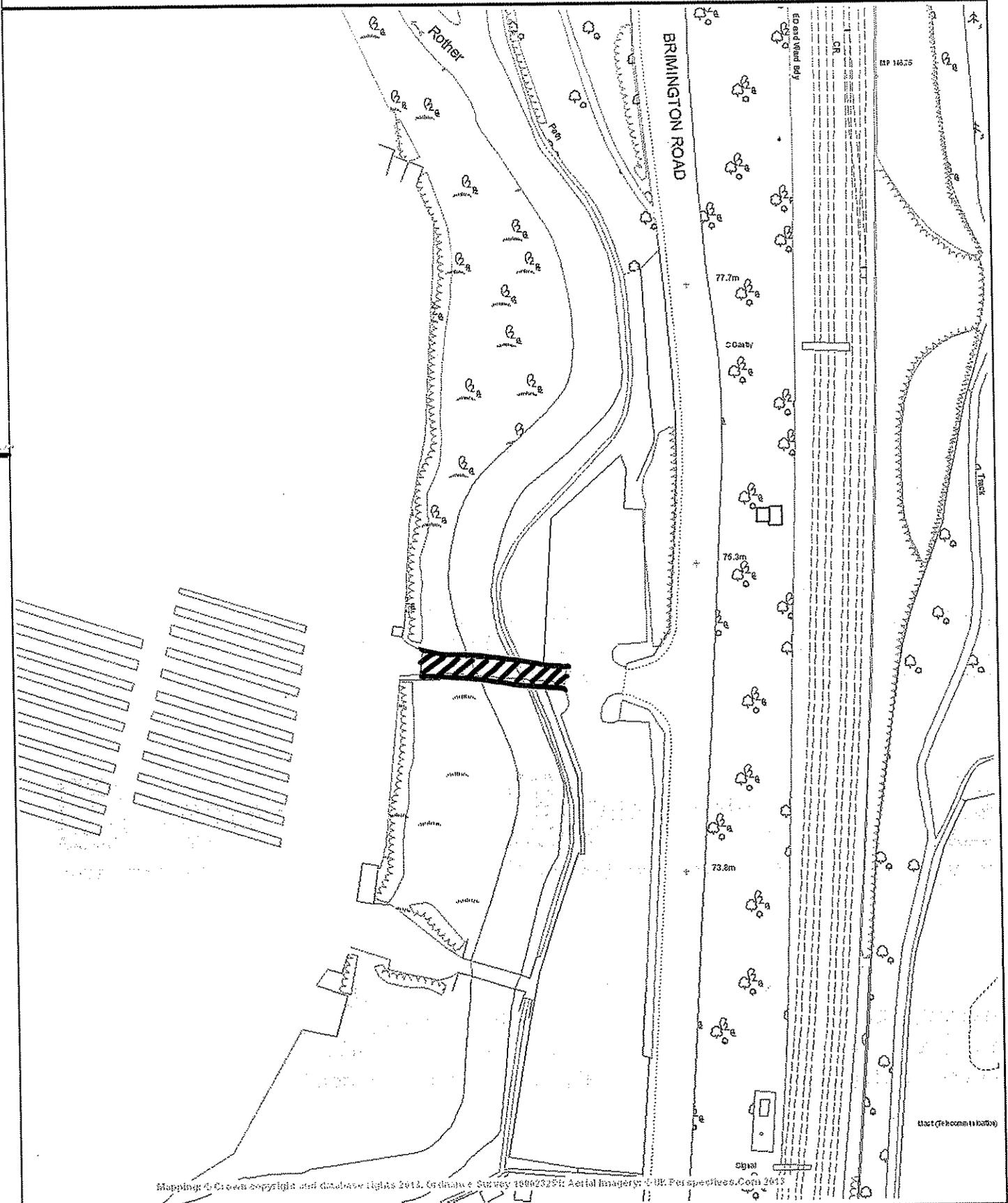
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Chesterfield Waterside



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