

DERBYSHIRE COUNTY COUNCIL
REGULATORY – PLANNING COMMITTEE

12 May 2014

Report of the Strategic Director – Economy, Transport and Environment

- 1 PROPOSAL FOR THE CONSTRUCTION OF A SAFE LINK BETWEEN THE PROPOSED PHASE THREE OF THE HIPPER VALLEY GREENWAY, AND THE EXISTING FOOTPATH AT SOMERSALL LANE, WALTON, CHESTERFIELD.**
APPLICANT: DERBYSHIRE COUNTY COUNCIL
PLANNING APPLICATION CODE NO: CD2/0114/152

2.713.4

Introductory Summary This application is for the construction of a safe crossing point and access link at Somersall Lane, Walton, Chesterfield, between the proposed phase three of the Hipper Valley Greenway, and the existing the footpath C2/87/1, which is located within Somersall Park. The proposal is located in the Somersall Conservation Area.

I am satisfied that this proposal would adhere to the local development plan and current Government Guidance and, subject to the recommended conditions, the planning application is recommended for approval.

(1) Purpose of the Report To enable the Committee to determine the application.

(2) Information and Analysis This application seeks to provide a safe crossing point and access link for pedestrians and cyclists, from the footway on the western side of Somersall Lane, to the eastern side into Somersall Park.

The crossing point/safe access would also link the public footpath to Holymoorside (proposed Hipper Valley greenway) and the existing footpath C2/87/1 within Somersall Park.

Approximately 60 linear metres of the existing highway maintainable tarmac footpath, on the western side of Somersall Lane, would be widened where possible using standard footpath construction techniques.

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A tarmac crossing area measuring 4.0 metres by 2.7 metres would be constructed on the western highway verge boundaries, and a tarmac crossing point measuring 4.0 metres by 1.4 metres would be constructed within Somersall Woods to facilitate safe access for all service users.

A detailed analysis of pedestrian visibility on the western side of Somersall Lane from both the existing pedestrian crossing point and the proposed crossing point accompanies the application. Taking account of the existing topography and the mature trees, it is apparent that the proposed crossing affords greater visibility for pedestrians waiting to cross from the western side of Somersall Lane into the woodland area, whilst visibility from the eastern side of Somersall Lane would require the removal/relocation of the eastern hedgerow.

To ensure the optimum visibility for users, the proposed access link / crossing point on Somersall Lane has been located between the public footpath to Holymoorside (the proposed Phase Three Hipper Valley Greenway on the western side of Somersall Lane), and the entrance to Somersall Park car park on the opposite eastern side.

To achieve optimum visibility for users, a section of the highway-facing side of the hedge on the eastern side of Somersall Lane, to the north and south, would be removed and replanted along a new hedge line which would be cut back and located into the woodland.

Once the new woodland access has been constructed, all the existing numerous informal access points into the woodland from Somersall Lane would be closed, with a mixture of planting and post and rail fencing to make a continuous eastern boundary which would direct users to the new safe crossing point.

Although no access control measures are proposed for the new eastern access into the existing woodland, four traffic bollards would be installed to restrict vehicular access into the woodland area.

The proposed link through the woodland would not meet highway adoption standards, therefore, the existing highway crossing on the Somersall Lane would be retained for vehicular, pedestrian and cycle traffic.

The proposed footway link through the woodland, between Somersall Lane and Somersall Park Car Park, would comprise a 2.0 metres wide track that would be surfaced with a recycled product. It would require the removal of two mature trees and other smaller trees. The link would incorporate a 2.3 metres wide timber footbridge to traverse a section of the River Hipper tributary that currently separates the woodland area and Somersall Park car park. The

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banks of the river would be adjusted to ensure a smooth transition between the different opposing levels.

The cycleway would traverse the car park access road to link with the existing footpath C2/87/1 which continues into Somersall Park and then on an established cycle route towards Chesterfield.

The proposal is located within the Somersall Conservation Area.

Consultations

Local Member

Councillor Morgan has been consulted with a request to make any comments by 20 February 2014.

Chesterfield Borough Council

Chesterfield Borough Council **objects** to the proposed development and raises the following points:

"Whilst the principle of new multi-user routes for alternative modes of transport to the car is supported by the current Local Plan's objectives and policies there are substantial concerns at the impact the proposed operational development potentially is likely to have on the character, appearance and heritage significance of the Somersall Hall and Avenue Conservation Area and also on visual amenity and biodiversity.

Historic Environment and Visual Amenity

The proposal has the potential to result in the loss of a substantial section of existing hedgerow, the applicant apparently failing to recognise the full extent of likely hedgerow loss. The hedgerow in question is identified by the Borough Council's Conservation Officer as being a significant element of the character and appearance of the Somersall Hall and Avenue Conservation Area (a designated heritage asset). The proposal would also add new tarmac (waiting) areas to otherwise vegetated areas, again to the detriment of the appearance of the Conservation Area. The supporting statement submitted by the applicant fails to provide a heritage statement and assessment of impact and does not provide clear and convincing justification for the likely harm to the Somersall Hall and Avenue Conservation Area (there appearing to be a reasonable and less harmful alternative). The design principles adhered to in the supporting statement also fail to recognise the statutory requirement for a Local Authority in the exercising of its functions to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. There is also a lack of evidence to demonstrate that signage and its impact on the character and appearance of the Conservation Area has been carefully considered. The extant of new planting of hedgerow

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would not be sufficient to mitigate the adverse effect of the removal of hedgerow and formation of tarmac hard standing on the heritage asset. The submission does not demonstrate an over-riding public benefit and substantial weight is given to the desirability of preservation of the character and appearance of the Somersall Lane Conservation Area. The proposal as submitted is considered to conflict with policies CS2, CS18 and CS19 of the Chesterfield Borough Local Plan: Core Strategy (2011-2031) and paragraphs 58, 128, 132, 133 and 134 of the National Planning Policy Framework (NPPF).

Biodiversity and Tree Protection

The Derbyshire Wildlife Trust, The Derbyshire County Council's Landscape Architect and the Borough Council's Tree Officer all raise concerns at the loss of existing hedgerow(s), on the basis that the applicant has underestimated the likely loss of hedgerow(s) to secure visibility splays and the importance of the hedgerow(s) to visual amenity and biodiversity. The inappropriateness of the species mix (or lack thereof) for new hedgerow is also highlighted. The Borough Council's Tree Officer also identifies a threat to trees within the currently relatively inaccessible area of woodland through which the proposed link would pass, as a consequence of the proposal generating a requirement to carry out precautionary works to older trees such as an 'old' Beech tree (T14) given perceived risk to the public of falling timber. Older trees are important habitats in woodland and their contribution to general biodiversity carries weight. The submitted Arboricultural Report and Statement refers to proposed 'remedial work' being required regardless of the proposal, yet does not provide specific evidence or proposed works, beyond identifying older Beech trees and tree T14 in particular. There is reference in the submission to a plan 9299A/03B/006 and to a drawing which shows individual trees for protection yet these plans are not visible on the Derbyshire County Council website nor in the documents sent to the LPA. It is considered that the proposal is contrary to policy CS9 (e), (f), (g) and (h) of the Chesterfield Borough Local Plan: Core Strategy (2011-2031).

National Planning Policy Framework (NPPF)

The Borough Council's Development Management Team has been made aware that the Borough Council has an 'interest' in land (as owner) within the red line of the application, specifically the area in which the new bridge and woodland link is proposed. Furthermore, that the advice from the Council's Landscape Services team is that the opening up of the land to public access would give rise to concerns at increased risk and liability in respect of access to the 'steep banks' of the watercourse. Consequently the team responsible for the management of this area of land currently are opposed to landowner consent being given.

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Conclusions

The principle of the proposal is not in question but the impact is. The likely harm of the proposal and subsequent conflict with the Development Plan and NPPF is not adequately justified. Furthermore, there would appear to be a reasonable alternative which has not been demonstrated as otherwise by the applicant."

Comment: The above Borough Councils comments were received as a result of the initial application Consultations. Supplementary information to address the points raised by the Borough Council was submitted by the applicant and the Borough Council Consulted on this additional information on the 16 April 2014. At the time of writing this report a further response had not been received.

The Environment Agency

No objections.

Derbyshire Wildlife Trust

Derbyshire Wildlife Trust raises no objections but makes the following comments:

"A water vole and white-clawed crayfish survey was undertaken on 31st October 2013. No white-clawed crayfish were identified during the survey work and old water vole burrows were identified in three locations along the River Hipper. None of these old burrows were recorded in the location of the proposed timber bridge. We support the replanting of a hedgerow section to the east of the road, but would recommend that a mix of holly, hazel and hawthorn is used rather than just hawthorn to create a more diverse hedgerow... it would be preferable to retain as much of the existing hedgerow as possible. In order to safeguard nesting birds that may be using the hedgerow section that is scheduled to be removed we would advise that if the Council are minded to grant permission for this development that a condition should be included that states "No removal of vegetation that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period, and details of measures to protect the nesting bird interest on the site, have first been submitted to and approved in writing by the local planning authority and then implemented as approved".

Publicity

The application has been advertised by site notice and in the Derbyshire Times Newspaper with a request for observations by 20 February 2014. As a result of the publicity, one letter from Chesterfield Cycle Campaign in support of the application has been received raising the following points:

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- *"We are very pleased that the on road section of the route has been removed for cyclists especially as it takes away the need for a right turn off the road in both directions.*
- *At the entrance to the Somersall Park car park, will the existing Hipper Valley Trail have additional surfacing to enable a gentle turn to access the new path? The plans don't make this clear. Unless this is included, cyclists would appear to have to make a very acute turn.*
- *The width of the 'Somersall Park Link' is shown as 2m. Could you tell us the reason for it being so narrow please?*
- *DCC's own adopted standards are a minimum of 2.5m. A 2m wide path is too narrow for cyclists passing each other, when you consider that this is a shared path we think a minimum of 2.5m and preferably 3m would be better.*
- *The proposed waiting area on the east side of Somersall Lane is only 1.4m deep. A typical bike length is 1.8-2.00m. If a family on bikes is waiting to cross and another pedestrian or cyclist is coming the other way it is going to be very congested. If possible we would like to see a waiting area the same size as the western side (4m x 2.7m).*
- *What is not shown on the plan is any traffic signage or road markings. Ideally there will be pedestrian and cyclist crossing signage and some sort of road markings to give drivers an indication that people will be crossing here.*
- *In an ideal world there will be loops buried in the cycle track to activate 'Cyclist Crossing' signage.*
- *We hope these comments will be taken into account and that the route can finally be built! We have been sent the planning app for this from Chesterfield Borough Council and will be replying with similar comments."*

Comment: The points raised from the consultation, which are valid planning considerations, are considered below.

Planning Considerations

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. In relation to this application, the relevant policies of the development plan are contained in the saved policies of the adopted Chesterfield Borough Local Plan. Other material considerations for the determination of this application include such statements of Government policy in the National Planning Policy Framework (March 2012).

The principal planning policies relevant to this grant of planning permission are:

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National Planning Policy Framework

Paragraph 58: Requiring good design.

Paragraph 69: Promoting healthy communities.

Paragraph 128 - 134: Conserving and enhancing the historic environment.

The Chesterfield Borough Local Plan

The relevant policies are:

CS2: Principles for Location of Development.

CS3: Presumption in favour of Sustainable Development

CS4: Infrastructure Delivery

CS6: Sustainable Design and Construction

CS9: Green Infrastructure and Biodiversity

CS14: Tourism and Visitor Economy

CS18: Design

CS19: Historic Environment

CS20: Influencing the Demand for Travel

I therefore consider that the key planning considerations for this application are:

- Need for the Development.
- Highways Safety.
- Landscape and Other Visual Impacts.
- Ecological Impacts.

Need for the Development

I note that a Road Safety Audit, submitted with the application, highlighted the problem of lack of connectivity between the existing routes. The application states that the proposal would provide a safer sustainable travel link in Walton, Holymoorside and Chesterfield, for use by disabled users, pedestrians and cyclists to all local amenities.

I note Chesterfield Cycle Campaign support the use of a dedicated highway crossing point.

Highways Safety

I note that there is currently only one formal point of access/egress to Somersall Park, which is located outside the planning application area. This existing shared access provides for all vehicular traffic to the car park, as well as all pedestrian and cyclist traffic into Somersall Park.

The carriageway immediately adjacent to the access into Somersall car park provides the only crossing point on Somersall Lane, making it a very busy location. Only a single pedestrian footpath exists on the western side and currently, all pedestrians are directed to this crossing point which includes a

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lay-by which significantly increases the distance between the opposite footpaths on Somersall Lane.

I note that the area is a major school route between Walton/Somersall and Brookside to all local schools, both for pedestrians who use a single footpath, as well as for vehicular traffic. I note the concerns of Chesterfield Cycle Campaign relating to the acute right turn into the car park that would be alleviated with the proposed new access some 65 metres to the south.

I note that although the existing access on the eastern side of Somersall Lane into the car park has good visibility, in terms of visibility from approaching traffic, but the same cannot be said for the western side of Somersall Lane, due to the topography of the highway, without removing existing mature trees to achieve highways visibility standards, trees that are integral to the setting of the Somersall Conservation Area.

Therefore, the ability to improve the existing access for pedestrian visibility/safety is significantly limited due to the topography, the lay-by and the mature trees lining Somersall Lane, which is further compounded by a single track adopted footpath.

Given that the existing crossing point is a busy junction, and the required visibility distances cannot be achieved, I am therefore satisfied that the existing location cannot be retained for sole use, and the new proposed location for a new access into the existing woodland, 65 metres to the south, would meet the safety standards required, albeit following the removal of the existing eastern highway boundary hedge. I consider that there is no reasonable alternative to the proposed access in terms of safety. Nevertheless, because the proposed access does not meet adoption standards, I consider that this existing Somersall car park access would need to be retained.

Although the proposed access would meet highways visibility standards, this nevertheless requires the entire removal of the existing eastern boundary hedge which separates the woodland from the highway. I note that the Somersall Conservation Area Appraisal identifies the importance of boundary hedges in so far as existing hedgerows now define numerous residential curtilages and privately owned land, therefore the historic significance of hedgerows in the area is understood. However, with specific regard to the hedgerow affected by this development, historically, the boundary of the woodland with the road was not always defined by a distinct hedgerow and the woodland itself was the boundary. Evidence shows that a variety of boundary treatments have been applied over the years with the existing hedge dating back only to the 1970s. In this ever changing context, the proposal to set back planting to provide safe visibility for pedestrians would not conflict with the objectives of the Conservation Area Appraisal to protect important

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boundaries. I therefore consider that the historic character of the Conservation Area would be preserved, whilst safety standards are achieved, therefore the proposal would be in accordance with local plan and national policies identified above.

Although I am satisfied the existing hedge requires removing to achieve safe visibility sightlines, I consider that its removal could impact on the existing highway safety infrastructure and therefore the existing highway signage would require improving. Furthermore, I consider that the proposed crossing points would not be appropriate until such time as the existing footway along Somersall Lane has been widened to 3 metres (excluding the pinch-points between the mature trees). I have therefore recommended planning conditions to improve exit visibility sightlines and an increase in width of the footway along Somersall Lane.

There are no objections from the rights of way and highways raise no objections subject to the planning conditions in relation to signage, visibility and footway widths.

Landscape and Other Visual Impacts

I note the comments from Derbyshire Wildlife Trust recommending a mixture of holly, hazel and hawthorn to create a more diverse hedgerow, I further note that no details have been submitted for the specification of the hedgerow to be replanted or any adjoining timber fencing which is required to retain the visual amenity of the existing Conservation Area. Furthermore, the woodland link requires the removal of some trees but no tree mitigation report has been submitted. I have therefore recommended planning conditions for a landscaping and tree protection scheme which comprises the hedge specification, as well as a five year aftercare management plan, to enhance and manage the setting of the Somersall Conservation Area.

Although I note the concerns of Chesterfield Cycle Campaign relating to the width of the woodland link, and the area of the proposed waiting area on the eastern side of the proposed access, although this does not meet the required recommended criteria in terms of widths for cycles, I am satisfied that the dimensions have been proposed to minimise the impact of the development upon the existing woodland in the Somersall Conservation Area, whilst still ensuring safety of cyclists.

Ecological Impacts

Taking into account the comments of Derbyshire Wildlife Trust above, I recommend planning conditions to protect nesting birds that may be using the hedgerow section that is scheduled to be removed. The Ecological Report included with the application asserts that no protected species are using the tributary of the River Hipper; nevertheless, I consider that a suitably qualified

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Ecologist should be on site to ensure that the development would not adversely affect any species throughout the development.

I consider that the proposed route through the woodland from Somersall Lane, connecting the highway with Somersall Park car park over the proposed bridge, represents the least impact with the least adverse effect upon ecology.

Conclusion

This proposal would provide a safe crossing point for local people in particular school children who use this point to cross Somersall Lane, which I understand there is significant support. It also has potential to cater for increased numbers of non-motorised ones that would be associated with further greenway development in the Hipper Valley. Without such improvements to the existing crossing points I consider there would be continued risks to safety of users crossing Somersall Lane.

I am satisfied that to ensure the improvements for the safety of service users, including cyclist / pedestrians, with the imposition of recommended planning conditions, there would be minimal impacts on the setting of the Somersall Conservation Area.

The proposal is appropriate in terms of its use, layout, scale, and visual amenity, and it accords with both national and Local Plan policies and is recommended for approval.

(3) **Financial Considerations** The correct fee of £390 has been received.

(4) **Legal Considerations** This is an application under the terms of the Town and Country Planning General Regulations 1992 for development which the Authority itself proposes to carry out.

I do not consider that there would be any disproportionate impacts on anyone's human rights under the European Convention on Human Rights as a result of this permission being granted subject to the conditions referred to in the Officer's Recommendation.

(5) **Environmental and Health Considerations** As indicated in the report.

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

(6) **Background Papers** File No 2.713.4

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Application documents received from the Director of Property dated 28 January 2014, including Supplementary Information dated 16 April 2014.

(7) **OFFICER'S RECOMMENDATIONS** That the Committee resolves that planning permission is **granted** subject to the following conditions:

- 1) The development shall be begun before the expiration of three years from the date of the decision.

Reason: The condition is imposed in accordance with Section 91 of the Town and Country Planning Act 1990.

- 2) Except as required by other conditions of this permission, the development shall take place in accordance with the details contained in the application, supporting information and plans dated 28 January 2014 or as otherwise amended by conditions of this planning permission.

Reason: To clarify the details approved and to protect the setting of the Somersall Conservation Area.

- 3) Before any other works commence, a Signing, Lining and Street Lighting scheme for Somersall Lane shall be submitted to and approved in writing by the County Planning Authority. Once approved, the scheme shall be fully implemented prior to the development being taken into use.

Reason: To ensure the safety of service users and in the interest of visual amenity and local landscape character.

- 4) The proposals, the subject of the application, shall not be taken into use until a crossing point has been provided on Somersall Lane for pedestrians/cyclists, provided with 2 metres x 50 metres sightlines unless otherwise agreed in writing, the area in advance maintained clear of any obstructions exceeding 1 metre in height (600mm in the case of vegetation).

Reason: In the interests of pedestrian safety.

- 5) The proposed crossing point, the subject of Condition 4 shall not be taken into use for cyclists until such time as the existing highway footway along Somersall Lane from the entrance to Public Footpath 86 to the proposed crossing point has been widened to 3 metres, except at points where the width is restricted due to mature trees.

Reason: In the interests of pedestrian safety.

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- 6) No development shall commence until a suitably qualified Ecologist has been employed to oversee the implementation of the proposed works.

Reason: In the interests of nesting birds and the River Hipper.

- 7) A tree protection plan, including any necessary mitigation, shall be submitted to and approved in writing by the County Planning Authority and implemented prior to the commencement of the development.

Reason: To ensure that these features are properly maintained and managed for the duration of the development in the interest of visual amenity and local landscape character.

- 8) No trees or hedgerows shall be cut down, uprooted, damaged, destroyed or removed during the works without the prior written approval of the County Planning Authority.

Reason: To ensure that these features are properly maintained and managed for the duration of the development in the interest of visual amenity and local landscape character.

- 9) A landscaping scheme for the eastern side of Somersall Lane shall be submitted to and approved in writing by the County Planning Authority prior to the development commencing. The scheme shall include:

- The hedge specification/species mix.
- Timber fencing specifications.
- Five year aftercare plan.

The approved landscaping scheme shall then be implemented as approved.

Reason: In the interests of visual amenity and the protection of the Somersall Conservation Area.

Statement of Compliance with Article 31 of the Town and Country Development Management Procedure Order 2012

The Authority worked with the applicant in a positive and pro-active manner based on seeking solutions to problems arising in the processing of planning applications in full accordance with this Article. The applicant had engaged in pre-application discussions with the Authority prior to the submission of the application. The applicant was given clear advice as to what information would be required.

Footnotes

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- 1) Pursuant to sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- 2) The application site is affected by Public Rights of Way (Chesterfield Footpath 87). These routes must remain unobstructed on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further advice can be obtained by calling 08456 058058 and asking for the Rights of Way Duty Officer.
 - Please note that the granting of planning permission is not consent to divert or obstruct a public right of way.
 - If it is necessary to temporarily obstruct a right of way to undertake development works, then a temporary closure is obtainable from the County Council. Please contact 08456 058058 for further information and an application form.
 - If a right of way is required to be permanently diverted, then the Council that determines the planning application (The Planning Authority) has the necessary powers to make a Diversion Order.
 - Any development insofar as it will permanently affect a public right of way must not commence until a Diversion Order (obtainable from the Planning Authority) has been confirmed. A temporary closure of the public right of way to facilitate public safety during the works may then be granted by the County Council.
 - To avoid delays, where there is reasonable expectation that planning permission will be forthcoming, the proposals for any permanent stopping up or diversion of a public right of way can be considered concurrently with the application for the proposed development rather than await the granting of permission

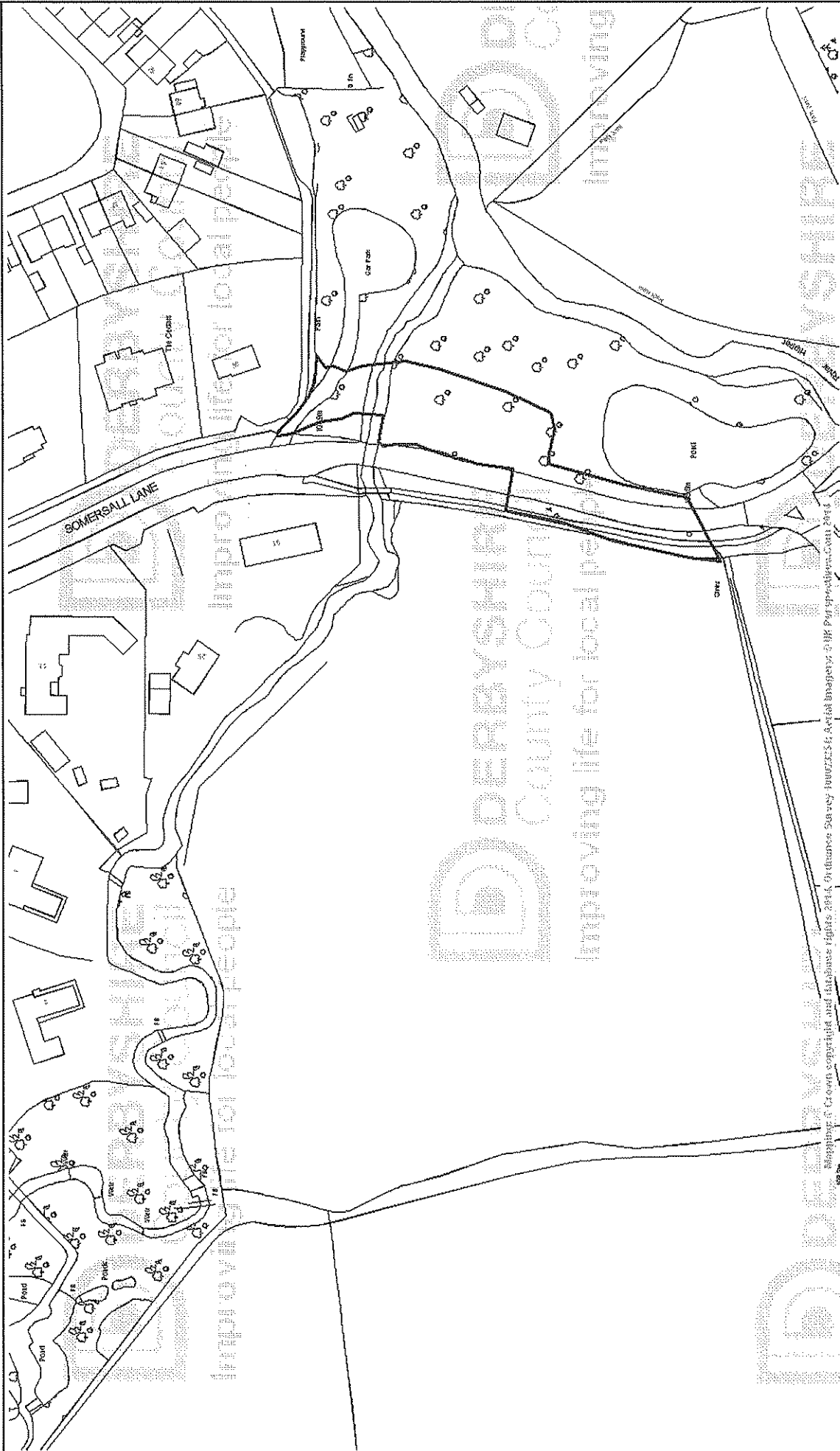
Signed.....

Dated.....

Mike Ashworth
Strategic Director – Economy, Transport and Environment

Title

Hipper Valley Greenway CD2/0114/152



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