

Agenda Item No. 4.2

DERBYSHIRE COUNTY COUNCIL
REGULATORY – PLANNING COMMITTEE

5 March 2018

Report of the Strategic Director – Economy, Transport and Environment

**2 REVOCATION ORDER RELATING TO PLANNING PERMISSION AT
POTLOCKS HOUSE FARM, TWYFORD ROAD, WILLINGTON**

9.922.2

(1) **Purpose of Report** To seek approval from the Committee to enable the Authority to make a Revocation Order in respect of planning permission CM9/695/28 for Potlocks House Farm, Twyford Road, Willington.

(2) **Information and Analysis** The Potlocks House Farm site, which has a surface area of approximately 35 hectares (ha), is east of the village of Willington and is accessed off the A5132 (Twyford Road) which runs between Willington and Barrow-on-Trent. The site is bounded by the former Willington Power Station to the west, to the north by Buckford Lane, which continues as Frizams Lane along the eastern site boundary and by the A5132 to the south. The site is used as grazing land.

Land to the east of Frizams Lane is a Scheduled Monument which contains the remains of a Neolithic feature, known as a cursus, which is of national significance. The cursus spans the site at Potlocks House Farm and continues to the west into the adjacent former Willington Power Station site. A direct consequence of concentrated sand and gravel extraction at Potlocks House Farm would be the almost total loss of the cursus from this largely undeveloped site, as well as other archaeological features associated with it.

Potlocks House Farm site is subject to one planning permission (code no CM9/695/28) to win and work 2.2 million tonnes of sand and gravel. The permission, which was granted in 1995, replaced an earlier one dating from the 1970s which was never implemented. Planning permission CM9/695/28 was implemented by the operator in November 2010 following the approval of a number of pre-commencement submissions. The implementation of the planning permission took the form of some limited (approximately 400 tonnes) extraction of sand and gravel. No quarrying operations have taken place at the site since November 2010.

Due to the archaeological sensitivity of the site and concerns regarding the prospect of the permanent loss of the archaeological resource through the working of the site, Hanson, the operator, entered into a legal agreement with Derbyshire County Council under Section 106 of the Town and Country Planning Act 1990. The legal agreement included a provision at paragraph 7.1.2 that *'in the event that planning permission is granted to enable further commercially exploitable reserves of sand and gravel extraction in Derbyshire of not less than equivalent tonnage to that in or under the Land on land under the ownership or control of Hanson Quarry Products Europe Limited: (1) not to carry out the development beyond the Minerals Implementation Works (2) not to object to any revocation of the Planning Permission and (3) to not claim compensation arising from any revocation of the Planning Permission'*.

On September 2014, the Regulatory – Planning Committee resolved to grant planning permission (code no CM9/0811/53) for an extension to the sand and gravel workings at Shardlow Quarry, Acre Lane, Shardlow known as the 'Weston extension' (Minute No. 72/14 refers). Which was under the ownership and control of the company. The planning permission for the Weston extension was issued on 3 November 2015.

Revocation Orders

The Mineral Planning Authority has the power to revoke planning permissions under Section 97(1) of the Town and Country Planning Act 1990 ('the Act'), as amended, where it appears to the Authority that it is expedient to do so. Section 97 enables planning authorities to revoke a planning permission to such extent as they consider expedient.

Subsection (3) sets out the circumstances in which the power can be exercised, including:

- a) Where the permission relates to the carrying out of building or other operations, at any time before those operations have been completed;*

Subsection (6) and Part II of Schedule 5 provide that an order under Section 97 may include such aftercare condition as the Mineral Planning Authority think fit if a) it also includes a restoration condition or b) a restoration condition has previously been imposed in relation to the land.

Section 99 of the Act provides that the Authority must notify the Secretary of State of an order that has been made and that as long as no objections are made by those with an interest in the land, the order can be confirmed by the Authority.

Compensation is generally payable to land owners in respect of loss of land value from revocation of planning permissions. However, the legal agreement provides that the owners bound by it would not challenge the making of a

Revocation Order and that no compensation would be paid to them for the making of such an Order.

I consider that a Revocation Order in relation to planning permission CM9/695/28 would provide additional protection against any reactivation of this Potlocks Farm development. Whilst the legal agreement does provide good protection in itself, hypothetically it could be varied in the future, just as any planning obligation under Section 106 could be.

I further consider that, in this case, any further development at the site would be likely to damage or destroy the nationally significant cursus. In this instance, making the Revocation Order to extinguish the permission is also considered an appropriate course of action as it would provide the public with total certainty of the Mineral Planning Authority's commitment to ensuring the protection of the cursus.

I am therefore of the view that it is expedient to issue a Revocation Order in respect of the planning permission using powers under Section 97 of the Act.

Planning permission CM9/695/28 is subject to two planning conditions (conditions 27 [restoration] and 32 [aftercare]) relating to the restoration and aftercare of the site following mineral extraction operations. I would therefore also recommend that any Revocation Order also be subject to these conditions.

(3) **Financial Considerations** There is no fee associated with the proposed Revocation Order.

(4) **Legal Considerations** The confirmation of the Revocation Order will permanently extinguish the planning permission to which it relates, so that the winning and working of minerals can no longer take place in accordance with those permission. To the extent that the making of the Revocation Order might engage an interference with the rights of the owner under Article 1 of the First protocol of the European Convention on Human Rights, it is a justified and proportionate means of achieving the legitimate aim of planning in the public interest.

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 the confirmation of the Revocation Order.

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

Other Considerations

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

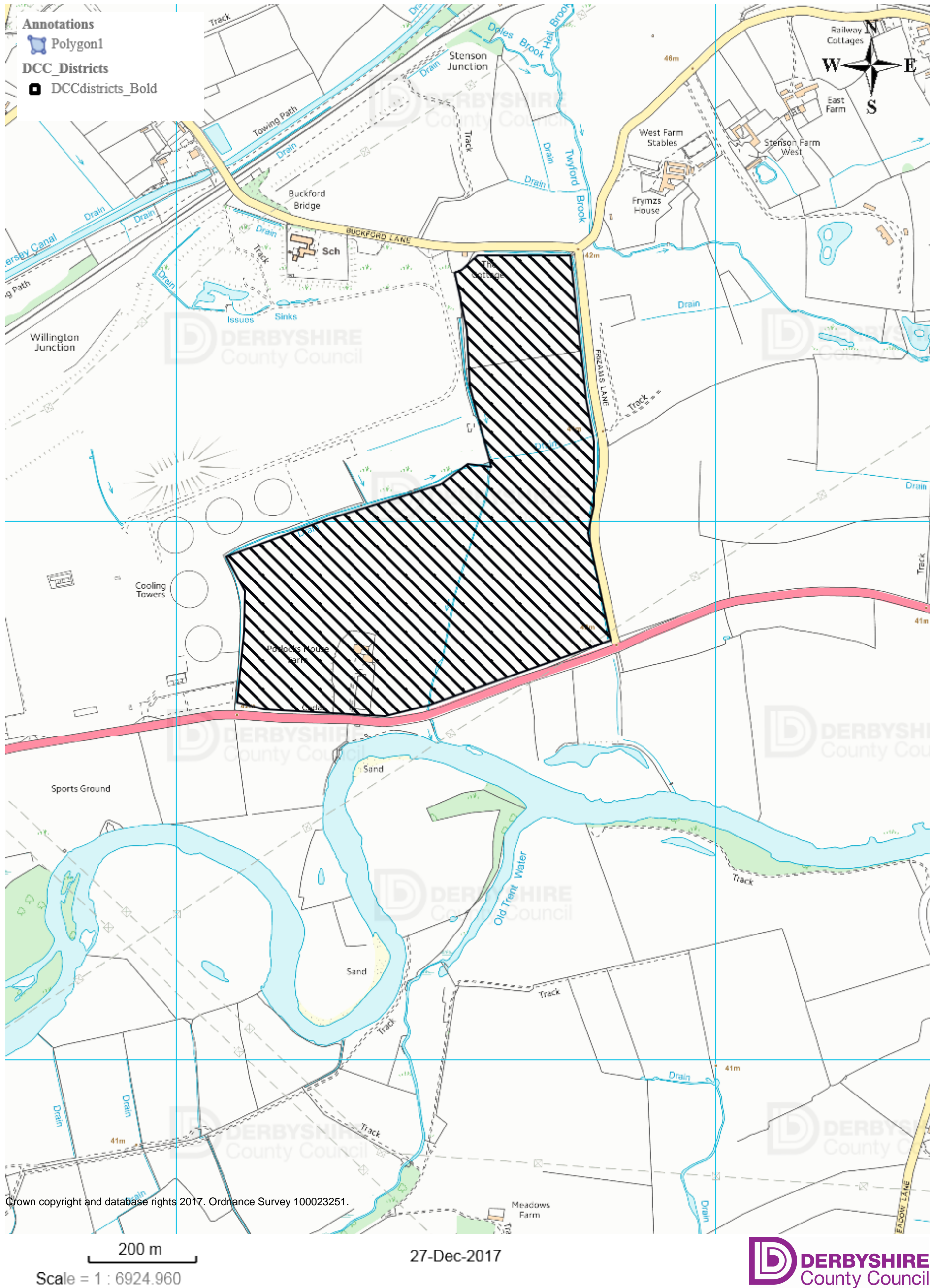
(6) **Background Papers** File No.9.922.0

(7) **OFFICER'S RECOMMENDATIONS** That the Committee resolves to **authorise**:

- 7.1 The making of a Revocation Order under Section 97 of the Town and Country Planning Act 1990 to revoke planning permission CM9/695/28 dated 23 November 1995 for winning and working sand and gravel from land at Potlocks House Farm, Twyford Road, Willington subject to restoration and aftercare conditions.
- 7.2 Confirmation of the Order so made in the event of no objections being received from anyone with an interest in the land.

Mike Ashworth
Strategic Director – Economy, Transport and Environment

Revocation Order for planning permission code no CM9/695/28 on land at Potlocks House Farm



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