

Issues and Options Consultation (Regulation 18):

Strategic Approach to Location of Development And Refined Sites

North East Derbyshire Local Plan

Land North of Former Biwater Site, Clay Cross

On behalf of Miller Homes

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Prepared by	Prepared for
Tetra Tech	Miller Homes

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Acronyms/Abbreviations

Acronyms/Abbreviations	Definition
TT	Tetra Tech Consulting Ltd
LDS	Local Development Scheme
NPPF	National Planning Policy Framework
MHCLG	Ministry of Housing, Communities and Local Government
IO	Issues and Options
SA	Sustainability Appraisal
HRA	Habitats Regulations Assessment
GIS	Geographical Information System
EMCA	East Midlands Combined Authority
LAA	Land Availability Assessment
RAG	Red / Amber / Green
LVA	Landscape and Visual Appraisal
SHMA	Strategic Housing Market Assessment
HNA	Housing Needs Assessment
AH	Affordable Housing
HMA	Housing Market Area
IRZ	Impact Risk Zone
SAC	Special Area of Conservation
SPA	Special Protection Area
LNR	Local Nature Reserve
LWS	Local Wildlife Site
RIG	Regionally Important Geological Site
TPO	Tree Preservation Order
PDNP	Peak District National Park
AMES	Areas of Multiple Environmental Sensitivity
SPZ	Source Protection Zone
WwTW	Wastewater Treatment Works
BMV	Best and Most Versatile
ALC	Agricultural Land Classification
SFRA	Strategic Flood Risk Assessment
SWFR	Surface Water Flood Risk
LSE	Likely Significant Effects

1.0 INTRODUCTION

- 1.1 These representations have been prepared by Tetra Tech Consulting Ltd (“TT”) on behalf of Miller Homes¹ regarding their land interests at Land North of Former Biwater Site (“the Site”), located within the settlement of Clay Cross. The legal owner of the freehold is St Modwen Homes Limited, which is a Miller Group company. Miller Homes is the sole beneficial owner of the land and is the client on whose behalf these representations are being submitted.
- 1.2 Further, these representations relate to Site ID (Ref. 45920). However, we note due to the complexities of submitting a title extents boundary via the Call for Sites portal previously, the boundary associated with Site ID 45920 requires an update in line with the Plan shown at Figure 2-1 (and **Appendix A** of these representations). We note that Appendix A of the North East Derbyshire District Council (“the Council”) Land Availability Assessment is a selection of Sites *“which were submitted after we consulted with specialists have only undergone the initial site assessment. Initial assessment results are available on the map below”*. We are unclear as to the meaning of this, however for the avoidance of doubt, we request that the Site ID (Ref. 45951) is deleted from the Land Availability Assessment, as it details an incorrect site boundary.
- 1.3 The Council is at early stages of reviewing its Local Plan. The Council has now published a further Issues and Options consultation document (“further IO document”) focussing on a refined schedule of Sites and key strategic policy matters, in respect of the emerging North East Derbyshire Local Plan (“the emerging Plan”). This has been published alongside a range of supporting evidence base material, including the Sustainability Appraisal (SA), Habitats Regulation Assessment (HRA), Updated Settlement Role and Function Study, Settlement Hierarchy Topic Paper, Land Availability Assessment and a Consultation Statement.
- 1.4 TT note that the Site has been specifically identified as a ‘refined site’ in the draft Plan. This is supported and welcomed.
- 1.5 The Site has potential development options as explained further in these representations, and these are being progressed with further technical work at this stage, in response to the Council’s request for further information in June 2026. Miller Homes therefore requests the right to update the associated Call for Sites submissions with further evidence as it arises.
- 1.6 These representations demonstrate that the Site can contribute towards the current and future housing needs of the North East Derbyshire area.
- 1.7 Miller Homes has a proven track record of delivery as a national housebuilder and is committed to delivery on this Site to assist the Council in boosting significantly the supply of housing, consistent with the principles of the NPPF and the intentions of the emerging Local Plan.

¹ Previously St Modwen Homes – prior to acquisition

1.8 These representations are structured so they can be read in conjunction with the consultation documents to be interpreted easily. The structure of these representations is as follows:

- Section 2 - Background and the Site
- Section 3 - Response to Development Needs
- Section 4 - Response to the Settlement Role and Function Study and Settlement Hierarchy Topic Paper
- Section 5 - Response to the Housing Land Availability Assessment
- Section 6 - Response to the Sustainability Appraisal and Habitats Regulation Assessment
- Section 7 – Conclusion

2.0 BACKGROUND AND THE SITE

- 2.1 This section sets out the context to the emerging Plan and background of the Site at Land North of Former Biwater Site.

Context

- 2.2 The Council formally resolved to update its Local Development Scheme (LDS) and timetable to facilitate the immediate preparation of a new Local Plan at its 26th February 2026 Cabinet Meeting. As part of this resolution, the Cabinet approved a revised schedule that introduces an additional stage of public consultation in March and April 2026. This specific consultation is designed to gather feedback on a proposed strategic approach to development and a refined schedule of sites that have passed initial technical screenings. The Council aims to complete this work for final submission to the Secretary of State by 31 December 2026, in accordance with the government's transitional arrangements for plans prepared under the legacy plan-making system.
- 2.3 Miller Homes previously responded to the Issues and Options Consultation on Strategic Issues in August 2025.
- 2.4 The Council has now commenced a second stage of the Regulation 18 process, effectively a Phase 2 engagement, prior to the plan proceeding to the Regulation 19 Publication stage scheduled for Autumn 2026. This engagement process repeats and refines some of the strategic matters and site assessments considered during the Issues and Options consultation held in the summer of 2025. The core purpose of the consultation is to now invite feedback on the proposed strategic approach, defining the “filter” and priority hierarchy through which potential development sites will be assessed for suitability and providing the opportunity to comment on a shortlist of sites that have passed initial high-level technical screenings regarding constraints such as ecology, landscape and highway safety.
- 2.5 In December 2025, MHCLG published a consultation of a draft NPPF. The Council will need to keep a watching brief on the consultation version of the December 2025 NPPF and the challenges to writing a plan in a period where the system is changing rapidly. The draft NPPF sets out clear intentions to streamline the development plans process and policies. Draft Policy PM6 [General Principles for Plan Making] states:

1. *All plan-makers should, in preparing plans:*
 - a. *Only address matters, and include policies, that are necessary and relevant to the plan being prepared, and which avoid unnecessary duplication of other parts of the development plan;*
 - b. *Only include policies which extend beyond site or location specific requirements where these are necessary and where plan makers consider there is a clear and justified reason for inclusion;*
 - c. *Not duplicate, substantively restate or modify the content of national decision-making policies unless directed by other policies in this Framework.*

The Site

2.6 The area of land controlled by Miller Homes is shown below:

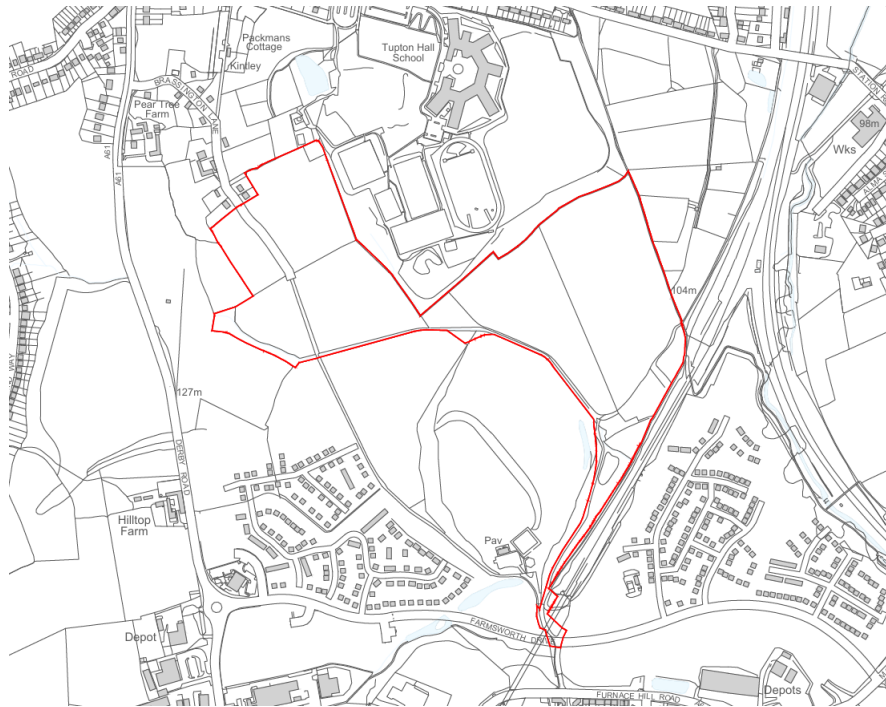


Figure 2-1 Title Plan Extents

- 2.7 Land North of Former Biwater Site is located on the northern side of Clay Cross. The site is approximately 19.8 hectares in size, consisting of agricultural and wooded areas. Within the adopted Local Plan, the site is covered by a blanket designation of Policy SS11 [Local Settlement Gaps] with formal sports pitches beyond the site boundaries to the north (Tupton Hall School) and south (Egston Recreation Ground). A public right of way crosses the site. Land beyond the site boundary to the south is in part a former landfill quarry site, which would require further investigation for potential contamination and ground gases. No part of the site is within Flood Zones 2 and 3 and surface water is largely limited to boundary extents. The land to the south contains primary surface water flow paths that broadly correspond to historic ditch courses. The terrain on the Site features a steep slope, with altitudes ranging from 100 metres to 130 metres above Ordnance Datum and the land slopes downwards from the northwest to the south.
- 2.8 The Site is located to the north of the current Biwater development (Egston Park) that is being built out, with a slither of land that stretches southwards to abut the new spine road (Farnsworth Drive/Howe Grove) stretching east-west through the development site. The Site is situated between the Biwater development and Old Tupton settlement to the north.
- 2.9 The Site is within a coal mining reporting area.
- 2.10 The Church of St Lawrence in North Wingfield is a Grade I listed building (Entry Number: 1335463) and is located 500m to the east of the Site. The Site presents an opportunity to enhance views of the Church from within the Site and create a 'sense of place' around this attractive feature.

- 2.11 As indicated at the introduction, assessment work remains in progress. Consequently, TT wish to provide the relevant updated technical evidence to the open call for sites submission in due course.
- 2.12 An indicative masterplan proposal is being worked up and will continue to evolve.
- 2.13 For the reasons set out and given that the site is sustainably located at one of the district's key settlements where there are no insurmountable constraints that preclude development, it is clear that the Site should be considered for allocation ahead of the Regulation 19 stage consultation.

3.0 STRATEGIC APPROACH TO DEVELOPMENT NEEDS

- 3.1 The following section responds to the Council's approach to meeting development needs, as set out at chapter Strategic Approach to the Location of Development of the consultation document.

Meeting Housing Needs

- 3.2 The Council previously sought views on the housing needs options and the most appropriate to include in the emerging Plan. The Council are not inviting comments on this matter at this time. Nonetheless, TT welcome the Council's recognition of the fact that for plan-making, a presumption in favour of sustainable development means providing for objectively assessed needs for housing and other uses, as well as unmet needs from neighbouring areas, unless protected assets or adverse impacts justify restrictions, based on the NPPF as a whole.
- 3.3 It is also welcomed that the Council recognise they must make every attempt to meet the standard method housing target, including considering all possible sustainable locations for development.
- 3.4 It is understood that the current consultation is based on meeting the overall housing target set by the standard method: 12,100 dwellings (605 x 20 years) over the period 2024 – 2044.
- 3.5 TT would reiterate that to achieve the objective of sustainable development in their area, plans should provide a strategy which, as a minimum, seeks to meet the area's objectively assessed needs (NPPF, para 35). This forms one of the soundness tests against which the new Plan will be examined under (positively prepared). The standard method figure of 605 is the 'minimum' number of homes that the Council should be planning to meet the needs of North East Derbyshire ("NED") in the new Plan.
- 3.6 TT contend that there are a number of factors that indicate the new housing requirement should be higher than the minimum number of homes required.
- 3.7 Firstly, according to the Council's own monitoring data 1,874 net new dwellings were delivered over the previous three years (2021-2024) (AMR 2023/24, Figure 8). This equates to an average of 624 dpa. In 2022/23, 776 dwellings were built. This demonstrates that capacity exists to support 'above minimum' levels of growth in NED, and significantly in excess of the housing requirement in the adopted Plan (also 330dpa).
- 3.8 Second, in regard to affordable housing need, at a local level, North East Derbyshire remains an unaffordable area to live. As indicated through recent affordability data in the authority². In 2025, house prices are 6.95 times that of workplace-based earnings, a figure which remains close to the national average (7.6 times). Over the past 6 years since 2020, the average affordability ratio for North East Derbyshire has been 7.7 times that of workplace-based earnings. The ONS affordability ratio is one metric that considers affordability in an area, however it does not consider additional factors of affordability such as savings, stamp duty and other associated moving costs. The Council's own

² [Housing affordability in England and Wales - Office for National Statistics](#)

Housing Needs Assessment 2024³, paragraph 7.45 suggests that “24% of households would be unable to access the market. Focussing on non owners, an estimated 71% are unable to afford. Additionally, the analysis points to a particular difficulty in non-owners buying homes, with just 19% being able to buy a lower quartile home – this looks in part to be due to low levels of capital available to put towards a deposit and the impact of debt”.

- 3.9 Housing has simply become unaffordable for a significant proportion of the local population. The Council should be taking tangible steps, through the new Plan, towards not only addressing the future need for affordable homes but also to address the significant backlog in affordable provision. To remedy this, the new Plan should look to allocate more sites to address shortfalls.
- 3.10 Third, the Council should also consider the potential for assisting neighbouring authorities in helping to meet their needs working across the wider housing market area. Local housing need under the standard method is significantly higher to those addressed through the current adopted plans across the HMA. This is highlighted in the table below.

Table 3-1 Adopted requirements and local housing need – ND&BHMA

Area	Annual requirements (adopted plans)	Local housing need (March 2026)	Change (pa)
North East Derbyshire	330	601	+271
Bassetlaw ⁴	540	634	+94
Bolsover	272	364	+92
Chesterfield	240	491	+251
Total HMA	1,385	2,090	+708

- 3.11 Three of these authorities are at the very early stages in their respective plan reviews (these are Chesterfield, Bolsover, and NED). It is apparent that Chesterfield may face difficulties in meeting its higher need and recognise that a requirement for 500 dwellings per annum “*will be a significant challenge and will mean house building and growth in population on a scale not previously seen in the borough*”⁵. Cumulatively, it is evident that a significant uplift in the total Housing Requirement across the HMA is needed to achieve the most recent Local Housing Need figures.
- 3.12 Given that housebuilding in NED has been in excess of their own need by 500 dwellings or more annually in recent years, we consider that NED is well-placed to assist Chesterfield should they require assistance towards meeting any unmet housing need.

³ <https://www.ne-derbyshire.gov.uk/documents/the-housing-needs-assessment-2024-pdf-6-29mb/download>

⁴ The Bassetlaw Local Plan was adopted in May 2024 and so is not subject to the new standard method for the next five years

⁵ Page 28 of the Chesterfield Borough Council Local Plan Reg 18 Consultation (Mar – May 2025).

- 3.13 Based on the foregoing analysis, there are clearly a number of factors which point towards setting a housing requirement higher than the minimum need based on the standard method. This is a matter that should be addressed ahead of the Regulation 19 consultation stage.

4.0 SPATIAL STRATEGY

- 4.1 This section responds to the main strategic matters associated with the overall distribution of development and the approach to settlement hierarchy.

Support for the settlement hierarchy methodology

- 4.2 TT welcome the preparation of the new Settlement Hierarchy (March 2026) and the Settlement Role and Function Study. The Council correctly identifies that preparing a new Local Plan requires an up-to-date and robust evidence base that responds to significant changes in national planning guidance and local priorities.
- 4.3 TT support key aspects of the emerging methodology, including:
- An evidence-led approach based on four key sustainability factors: population size, service provision, employment opportunities, and public transport connectivity.
 - The use of GIS-based assessment via the PlaceMaker⁶ tool to review site availability on a consistent basis and define functional relationships through the identification of settlement clusters.
 - The inclusion of service weighting and accessibility scoring, which assigns higher points (1, 3, or 5) to essential facilities like GP surgeries, food shops, and primary schools, while utilising walking distance thresholds (such as 800m to local services and 1km to schools) to reflect sustainable transport patterns.
- 4.4 This methodology provides a proportionate and up-to-date baseline for the district. Notably, it confirms that Clay Cross, alongside the other main towns, performs at the highest level of sustainability and should continue to be a primary focus for growth. This represents a sound platform for the Plan's spatial strategy, provided these conclusions are carried through consistently into site allocations and the Priority 1 location hierarchy.

Clay Cross as a sustainable focus for future housing growth

- 4.5 The functional relationship between North East Derbyshire and the neighbouring major centres of Chesterfield and Sheffield is recognised within the Council's evidence base, noting that the district surrounds Chesterfield on three sides and has strong commuting links to both urban areas. Clay Cross is identified as a Level 1 Main Town, which functions as a critical economic and social hub within the South Sub-Area, and is well-connected to Chesterfield via the A61 corridor. As a Priority 1 Location in the emerging spatial strategy, Clay Cross is viewed as a logical and sustainable focus for growth, capable of delivering development that supports sustainable commuting patterns and provides integrated access to jobs, education, and leisure. This approach ensures the district can meet its Local

⁶ Paragraph C.1.1.3 of Sustainability Appraisal Regulation 18 Addendum to the Issues and Options SA (March 2026) report

Housing Need figure – now 605 dwellings per year - in locations where infrastructure and service capacity are most concentrated. TT supports this approach.

- 4.6 In terms of service provision and accessibility, the Settlement Hierarchy Topic Paper (March 2026) explains that the emerging hierarchy is not based solely on population size. Instead, it utilises a multi-criteria scoring system that evaluates employment opportunities, public transport connectivity, and service provision. This methodology applies a weighted scoring approach to services, assigning higher points (up to 5) to essential facilities like GP surgeries, food shops, and primary schools based on their importance to the community. Furthermore, sustainability is assessed using walking distance thresholds, such as 800m for local services and 1km for schools, to prioritise locations that facilitate active travel and reduce reliance on the private car. These are features that are addressed later at Section 6 of these representations.

Green Belt and other constraints

- 4.7 The Settlement Role and Function Study (March 2026) acknowledges that constraints such as Green Belt, flood risk, and environmental designations provide essential context for the Local Plan. TT would emphasise that the Site and the entirety of Clay Cross is not located within the Green Belt, which bolsters its sequential preference in consideration for its allocation in the Local Plan prior to consideration of Green Belt release sites. In the context of paragraph 146 of the NPPF, the Council is required to demonstrate that it cannot meet its identified housing need through "other means" before exploring exceptional circumstances for Green Belt boundary changes. These "other means" clearly include the prioritisation of suitable, sustainably located non-Green Belt sites like land north of former Biwater Site.
- 4.8 Notwithstanding these strategic constraints, the Land North of Former Biwater Site⁷ has been demonstrated through technical appraisals to be a sustainable and logical urban extension to Clay Cross, which functions as a Level 1 Main Town and a Priority 1 Location for growth. Whilst a desktop overview identifies localised constraints - including an undulating topography and a public right of way - these are considered manageable through sensitive site-specific design and the integration of blue and green infrastructure. Furthermore, the site is free from statutory ecological designations and benefits from onward access via Egstow Park to the A61 corridor and the services within the Clay Cross town centre. By prioritising this non-Green Belt land, the Council can aim to exhaust all reasonable options outside of protected designations.

Relationship with strategic economic and corridor-based growth

- 4.9 The Settlement Hierarchy Topic Paper (March 2026) also highlights the importance of considering transport accessibility, including links to major employment centres within and beyond the district. This approach recognises that North East Derbyshire has a close socio-economic relationship with Chesterfield Borough and maintains strong connections to Sheffield to the north.

⁷ Council reference: Site 45920

- 4.10 This alignment supports the direction set by the East Midlands Combined County Authority (EMCA) and its Vision for Growth⁸, which aims to create 100,000 new jobs and deliver 52,000 new homes across the region. A central component of this strategy is the A61 Strategic Growth Corridor, which focuses on upgrading infrastructure between Chesterfield and Clay Cross to improve connectivity and unlock housing and employment land. Clay Cross, identified as a Level 1 Main Town and a Priority 1 Location, lies within this primary corridor and is well-placed to support housing and economic growth together, providing new homes in close proximity to major jobs and services.
- 4.11 The EMCA Vision for Growth aims to deliver 52,000 new homes across the region. As a Priority 1 Location situated within a Level 1 Main Town, Clay Cross as a settlement provides a sustainable and deliverable location for residential development. By allocating this Site, the Council can make a direct and meaningful contribution toward North East Derbyshire's target of 600 homes per year in a location where infrastructure and services are already concentrated. Clay Cross is identified as a top-tier settlement (Level 1) with an employment score of 10+, hosting approximately 4,375 jobs - the second-highest concentration in the district, development at the site north of Biwater Site provides future residents with direct access to established employment areas like the Coney Green Business Park and the town centre.
- 4.12 Nonetheless, to ensure the settlement hierarchy evidence base is fully reflective of the emerging Local Plan strategy, TT suggest the following modifications:
- Amend relevant sections of the Settlement Role and Function Study to make clear that the A61 Corridor settlements, led by Clay Cross, represent the most sustainable locations for accommodating both strategic and non-strategic growth, given their superior service provision and connectivity to regional employment hubs.
 - In translating this evidence into policy, ensure that the high sustainability ranking of Clay Cross (Total Score: 40+) is reflected in the selection of housing allocations, including scope for logical urban extensions that align with the Clay Cross Town Investment Plan and broader regional economic objectives.

Recognition of Clay Cross and its role in the settlement hierarchy

- 4.13 The Settlement Hierarchy Topic Paper (March 2026) provides an explanation of the criteria for qualifying Level 1 Settlements - Main Towns, including Clay Cross as one of the district's primary sustainable hubs. These are described as:
- Possessing a recognised town centre with an extensive range of important and supporting services and facilities that meet all day-to-day needs of residents and serve a wide geographic area.
 - Representing the most sustainable locations in the district, performing highly across all functions with wide-ranging employment opportunities and strong public transport connectivity.

⁸ [East Midlands Vision for Growth - East Midlands Combined County Authority](#)

- 4.14 TT strongly support this. In strategic planning terms, the identification of a Level 1 Town tier and the inclusion of Clay Cross at the top of this hierarchy (achieving a Total Score of 40+) is fully justified by the evidence. While Clay Cross is a town with its own distinct identity and historic character, it functions as a critical economic and social hub within the A61 strategic growth corridor, maintaining strong physical, economic, and transport linkages to Chesterfield.
- 4.15 Clay Cross has a fundamentally different role to the more remote rural villages and even to many of the Level 2 Larger Villages identified in the hierarchy. Clay Cross has been correctly identified as a Priority 1 Location for future development within the Plan area. This provides a strong evidential basis for directing further significant growth to this highly sustainable location. Maintaining the role and function of Clay Cross settlement is a key objective of the new Local Plan.

5.0 HOUSING LAND AVAILABILITY ASSESSMENT

- 5.1 This section covers the suitability of the Site and the Housing Land Availability Assessment (“LAA”) methodology in the context of the Council’s refined schedule of sites.

The suitability of the Site

- 5.2 As explained in Section 2, the Site extends to approximately 19.8 hectares and comprises agricultural land and woodland. It is located to the north of existing development at Egstow Park (former Biwater site), situated on the north / north western edge of the town. The topography is undulating and slopes steadily downhill to the south. The site lies within the Local Settlement Gap under Policy SS11 and is bordered by formal sports pitches at Tupton Hall School to the north and Egstow Recreation Ground, which forms part of residential development to the south.
- 5.3 TT wish to highlight an apparent discrepancy in the overall scoring with the LAA, compared to an email⁹ from the Planning Policy Officer dated 06 March 2026 which was received at the start of the consultation period. A copy of the Officer’s email to TT setting out the overall conclusion for the ‘amber’ rating is enclosed to these representations at **Appendix B**. In contrast, the LAA 2026, as displayed on the Council’s website, appears to score the Site with a ‘red’ RAG rating. TT therefore wish to clarify the position with the Council but would welcome an ‘amber’ scoring as set out below.
- 5.4 In the Planning Policy Officer’s e-mail, it was confirmed that *“the site has resulted in an overall suitability ‘amber’ RAG rating. This ‘amber’ score means the site is identified as having one or more constraints that need to be explored more fully to assess whether they can be satisfactorily mitigated. The site is considered to have potential for housing allocation subject to demonstration these constraints can be overcome”*.
- 5.5 A summary of the required actions to overcome identified constraints was set out the Officer’s e-mail as highlighted below.
- 5.6 *“Before we can consider the site for possible residential allocation in the Local Plan, we would need you to address the potential landscape impacts of residential development, through an initial masterplan or landscape and visual impact assessment. Please be aware that the site is designated as a Local Settlement Gap within the current Local Plan, where residential development should be avoided, to prevent settlement coalescence. We are intending to reevaluate all Local Settlement Gaps, but in the meantime, we would expect you to address any coalescence risks”*.
- 5.7 *“Comments from the archaeological specialist classifies the site as having significant archaeological/historic environment issues, but might be suitable for allocation with appropriate site specific policy. A short stretch of earthwork MDR10814 centred SK 39104 64712 at the western edge of the site may represent remains of the Ryknield Street Roman Road (and could be schedulable if so).*

⁹ Enclosed with these representations

This would need archaeological evaluation as part of a planning application with provision for the relevant area to be safeguarded outside development if it were to prove Roman”.

- 5.8 *“The southern eastern area includes a priority habitat area. Desktop ecology advice finds a medium impact level of development upon biodiversity, stating the following: “Low / Medium impact - there are no known features of high nature conservation interest or designations within the site. The site is dominated by arable land with smaller areas of deciduous woodland, scrub as well as hedgerows and trees. The arable land is probably of low value, but the woodland could be a Habitat of Principal Importance. The extent of the impact on the woodland is not known. It is a large site so there may be opportunities to avoid and minimise impacts. Impacts on protected species are likely but can probably be mitigated.”*
- 5.9 *“A site visit will be needed in the spring to update the advice. If site visits confirm the medium impact level, we will contact you again to ask for further evidence, before we can consider the site for possible residential allocation in the Local Plan”.*
- 5.10 *Access to the site “....will be assessed as part of a next batch of specialist assessments, including from the Local Highway Authority, between May and July 2026. If you wished to speed up the process, you could liaise with the Local Highways Authority through their pre app process and provide us with these results”.*
- 5.11 *“There is also some risk of surface water flooding (approximately 10%). An indication of how this would be addressed through a masterplan would be appreciated”.*
- 5.12 *“The site is also within coal authority development high risk area, with some shallow workings. Any indication from you that this will not prevent development would be appreciated”.*
- 5.13 *It has been requested that further evidence to address the above is provided by 1st June 2026.*
- 5.14 *Miller Homes contends that the constraints identified within the LAA are not insurmountable and can be mitigated through high-quality design. TT wish to reiterate that further technical work is currently in progress, including specialist assessments in highways, ecology, and landscape, which will be submitted to the Council by the 1st June deadline to support the site’s allocation. The site is wholly located outside the Green Belt and is capable of making a valuable and sustainable contribution toward the district’s housing needs.*

6.0 SUSTAINABILITY APPRAISAL AND HABITATS REGULATIONS ASSESSMENT

- 6.1 The following section provides responses to the Sustainability Appraisal (“SA”) which has involved an appraisal of reasonable alternative sites for potential allocation in the Local Plan, to help inform which sites to take forward and which to exclude from further consideration. In addition, this section responds to the Habitats Regulation Assessment and the further work that has been undertaken to screen the refined list of sites in this document to identify those impact pathways that may give rise to Likely Significant Effects at European sites.

Sustainability Appraisal

Socio-economic performance

- 6.2 The SA recognises that sites well-related to existing settlements, such as Clay Cross, perform positively against social and economic objectives (SA Objectives 9-12)¹⁰. This reinforces the view that Clay Cross is and should remain a primary focus for sustainable growth. TT support this.

Site-specific performance

- 6.3 TT supports and welcomes the decision to recommend the Site as a ‘refined site’ as part of the new Local Plan. Nonetheless, TT has reviewed the elements of the SA relevant to the site-specific performance of the land north of former Biwater site (ID: 45920). A number of inconsistencies with the approach have been identified, as set out below. TT request changes need to be made to address these inconsistencies before being addressed in the Regulation 19 SA report.

Inconsistencies between the SA and the Call for Sites

- 6.4 The first relates to the assumptions regarding net developable area (and site capacity) suggested for the Site. Tables 3.1 and C.1.1. refers to Site ID 45920 as having a site capacity of 617 dwellings. It is unclear how this figure has been derived. Further masterplanning work currently being undertaken will help inform the appropriate capacity for the Site. We welcome the opportunity to discuss unit numbers and density with the Council further upon completion of this exercise.
- 6.5 TT recommends that the Council revisit this capacity in order for it to be used in this site assessment and to present a clear and consistent approach that can be readily understood. TT look forward to working with the Council in this regard, prior to the Regulation 19 Plan being completed.

¹⁰ Paragraph E16 of Sustainability Appraisal (March 2026)

SA findings with respect to the Site north of former Biwater Site ('the Site')

SA Objective 1 – Biodiversity and Geodiversity Methodology

- 6.6 The Council's assessment of the Site against SA Objective 1 is a minor negative overall. However, this is inconsistent with the SA methodology and should be amended to 'neutral' at worst. The table below sets out a response to the SA Table B.2.1. which sets out the specific methodology used by the Council.

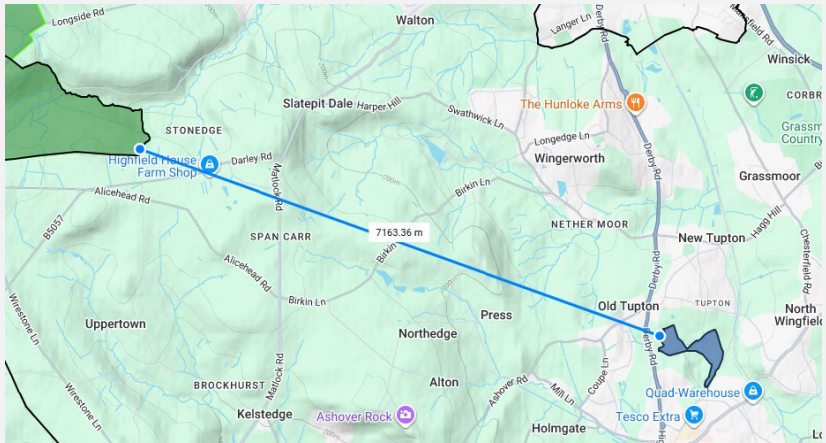
SA1 Receptor	Scoring for a minor negative (-)	TT response
SSSI and IRZ	Development within an IRZ indicating the proposed development should be consulted on with Natural England. Likelihood of direct or indirect impacts.	TT has used the Natural England search tool to determine if a consultation with Natural England is required. The Impact Risk Zones for Sites of Special Scientific Interest (SSSI IRZs) indicate that at the location selected, the proposed development (as housing) is unlikely to have a harmful effect on terrestrial Sites of Special Scientific Interest (SSSIs) and the Special Areas of Conservation (SACs), Special Protection Areas (SPAs) or Ramsar sites that they underpin. This indicates the site should score as 'neutral' against this receptor.
Ancient Woodland	Development proposal over 15m from an ancient woodland but with potential for indirect or minor direct adverse impacts.	No ancient woodland exists adjacent or near to the Site. Development proposals not anticipated to affect ancient woodland. This would score as 'neutral' against this receptor. The map below highlights the distance between the site and designated ancient woodland in the vicinity (c. 900m).
Local Nature Reserve	Development proposals adjacent or in close proximity to an LNR, with potential indirect or minor direct adverse impacts.	TT considers given the nearest LNR is 2.9km from the Site. The potential impact is either uncertain or not anticipated to affect LNRs.

Local Wildlife Site	Development proposal where less than 50% of the site area coincides with an LWS, or where development is adjacent to / in close proximity to an LWS, with a likelihood of direct and/or indirect adverse impacts.	Given no LWS exists within the vicinity of the Site. It is considered at this stage, development is not anticipated to result in adverse impacts on an LWS. Neutral score.
Regionally Important Geological Site	Development proposal where less than 50% of the site area coincides with a RIGS, with a likelihood of direct and/or indirect adverse impacts.	It is not considered any part of the Site coincides with a RIGS. The effect should therefore be neutral scoring.
Priority Habitat	Development proposal where less than 50% of the site area coincides with priority habitat and there is potential for habitat loss or deterioration.	The Site does not coincide with a priority habitat, and no net change in priority habitat coverage is expected. Neutral score.
Tree Preservation Orders (TPOs)	Development proposals where more than 5% but less than 50% of the site area coincides with TPO areas or where fewer than 5 individual TPO trees are located within the site boundary.	No part of the Site coincides with a TPO. Minor positive score. 
Overall	Minor negative (-)	Neutral (0)

- 6.7 When considering all these factors in the round, TT would suggest a more appropriate score would be 'neutral'. TT contend that this point should be revised when the next version of the full SA is published in respect of SA Objective 1.

SA Objective 2 – Landscape methodology

- 6.8 The Council's assessment of the Site against SA Objective 2 is a major negative overall. This scoring is inconsistent with the SA methodology and should be amended to neutral, at worst. The table below sets out a response to the SA Table B.3.1. which sets out the specific methodology used by the Council.

SA2 Receptor	Scoring for a minor negative (--)	TT response
Peak District National Park (PDNP)	Development proposals with potential to significantly detract from the special qualities or setting of the PDNP.	Neutral effects can be envisaged generally small in scale, as the Site is situated amongst existing settlements where it is more likely that development can be integrated without significant change to the local character. These sites are not expected to result in significant adverse impacts on any identified landscape assets within the Plan area, based on the available information at this stage. However, this assessment does not account for landscape sensitivity/capacity. The site is c.7km from the PDNP, with intervening terrain. 
Landscape character	Not applicable for major negative.	Uncertain. Further technical information is being prepared to address potential impacts on landscape

Areas of Multiple Environmental Sensitivity (AMES)	Development proposals where 50% or more of the site area coincides with Primary AMES, indicating a high likelihood of adverse effects on sensitive landscapes.	Uncertain.
Coalescence (Local Settlement Gaps)	Development proposals where 50% or more of the site area coincides with a Local Settlement Gap.	The Site is within a Local Settlement Gap. However, in any case, the Council should take a 'policy off' approach to the SA methodology.
Green Belt	Not applicable for major negative.	The Site is not within the Green Belt. However, in any case, the Council should take a 'policy off' approach to the SA methodology.

- 6.9 When considering all these factors in the round, TT would suggest a more appropriate score would be 'neutral'. TT contend that this point should be revised when the next version of the full SA is published in respect of SA Objective 2.

SA Objective 3 – Cultural heritage

- 6.10 The Council's assessment of the Site against SA Objective 3 is a major negative overall. This scoring is inconsistent with the SA methodology and should be amended to uncertain, at worst. The table below sets out a response to the SA Table B.4.1. which sets out the specific methodology used by the Council. Due to the length of the list of receptors and the absence of further technical work available to date for the Site, TT has focussed on impact to listed buildings as relevant to the Site, as the Site is not within the vicinity of other receptors.

SA3 Receptor	Scoring for a major negative (-)	TT response
Grade I Listed Buildings	Development proposals coinciding with, immediately adjacent to, or likely to significantly affect the setting of, a Grade I Listed Building.	There is one Grade I listed building in the vicinity of the Site (c. 550m) and with intervening residential development and railway lines. The intervening distance and vegetation is likely to mean a very minor alteration and affect to the setting of the Grade I listed building if the Site is developed. TT consider the score should be 'neutral'. 
Grade II Listed Buildings	Development proposals coinciding with, or likely to significantly impact the setting of, a Grade II* Listed Building.	At this stage, until further detail of the proposed development is known the effect of the proposed development on Grade II Listed Buildings and its setting is uncertain. This relates to the nearby assets to the north west and east of the Site, but in both cases existing intervening development exists. 
Historic Environment Record (HER)	Development proposals where 50% or more of the site area coincides with HER features.	The potential effect of the proposed development on HER features is uncertain (unknown).

6.11 When considering all these factors in the round, TT would suggest a more appropriate score would be 'uncertain'. TT contend that this point should be revised when the next version of the full SA is published in respect of SA Objective 3.

SA Objective 6 – Natural resources and waste methodology

- 6.12 The Council's assessment of the Site against SA Objective 6 is a minor negative overall. This scoring is inconsistent with the SA methodology and should be amended to neutral, at worst. The table below sets out a response to the SA Table B.7.1. which sets out the specific methodology used by the Council.

SA6 Receptor	Scoring for a minor negative (-)	TT response
Best and Most Versatile (BMV) land	Development sites located on previously undeveloped land of Grade 4 or 5 ALC, representing low-quality agricultural land of limited significance.	The Site is located on Grade 4 land. This equates to a neutral scoring.
Landfill sites	Sites coinciding with, or within 250m of, a former or existing landfill site where impacts on soils, waste management and redevelopment potential cannot be determined without further investigation	Part of the Site does coincide with the buffer of a former recorded landfill site, but this amounts to an uncertain scoring rather than minor negative. 

- 6.13 When considering all these factors in the round, TT would suggest a more appropriate score would be 'neutral'. TT contend that this point should be revised when the next version of the full SA is published in respect of SA Objective 6.

SA Objective 8 – Climate change adaptation methodology

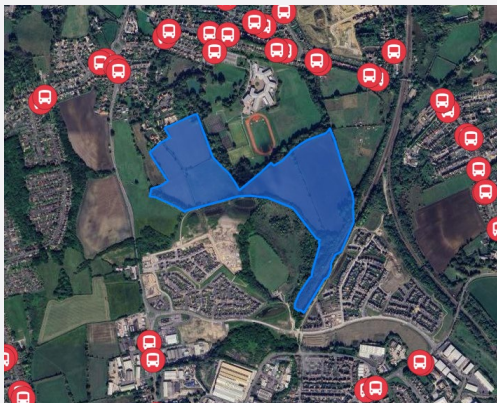
- 6.14 The Council's assessment of the Site against SA Objective 8 is a major negative overall. This scoring is inconsistent with the SA methodology and should be amended to minor positive, at worst. The table below sets out a response to the SA Table B.9.1. which sets out the specific methodology used by the Council. Whilst the SA narrative acknowledges current limitations, such as the absence of site-specific climate-informed data, and recommends that these gaps be addressed via the Strategic Flood Risk Assessment (SFRA) before the Regulation 19 stage to ensure full compliance with the NPPF. However, TT contend that while paragraph 175 notes exceptions where built development can be shown to avoid the risk area, the SA methodology takes a "worst-case scenario" approach at this stage, identifying potential constraints before detailed site-specific layouts are known. TT has therefore set out its rationale below:

SA8 Receptor	Scoring for a minor negative (-)	TT response
Fluvial flooding	Development proposals where more than 5% but less than 50% of the site area lies within Flood Zone 2.	No part of the Site coincides with Flood Zone 2/3 and the red line boundary for the Site. The entirety of the Site is within Flood Zone 1 – this is a minor positive score. 
Surface water flood risk	Development proposals where more than 5% but less than 50% of the site area coincides with high SWFR, or where more than 5% coincides with medium or low SWFR.	The Site is not subject to surface water flood risk at less than 5% ($\approx 1\%$ of the site). The development would clearly include the integration of GI, open space, SUDS. This equates to a minor positive scoring in the SA methodology. 

- 6.15 When considering all these factors in the round, TT would suggest a more appropriate score would be 'minor positive'. TT would reiterate that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future. TT contend that this point should be revised when the next version of the full SA is published in respect of SA Objective 8.

SA Objective 12 – Transport methodology

- 6.16 The Council's assessment of the Site against SA Objective 12 is a minor negative overall. This scoring is inconsistent with the SA methodology and should be amended to neutral, at worst. The table below sets out a response to the SA Table B.13.1. which sets out the specific methodology used by the Council.

SA12 Receptor	Scoring for a minor negative (-)	TT response
Access to bus services	Development proposals located over 400m from a bus stop, where access to public transport is more limited.	A bus stop is present on Derby Road (in both north and south directions c. 350m) (operating hourly). The appropriate scoring is therefore minor positive. The map below shows bus stops within the vicinity of the site. 
Access to train station	Development proposals located over 2km walking distance to a railway station, where access to public transport is more limited.	No part of Clay Cross is within 2km of a railway station. However, both bus routes that operate along Derby Road, travel onwards to Chesterfield Vicar Lane Shopping Centre (northbound) and Derby Bus Station (southbound), both locations of which are in proximity to respective Railway Stations in each.

- 6.17 When considering all these factors in the round, TT would suggest a more appropriate score would be 'neutral' at worst. TT contend that this point should be revised when the next version of the full SA is published in respect of SA Objective 12.

Summary of Adjustments to SA scoring for the Site

- 6.18 Based on the foregoing analysis, TT recommends that the SA scoring for the Site is incorrect and should be amended Table 3.2 of the SA. The adjusted score is set out below alongside that shown in the SA.

	1	2	3	4	5	6	7	8	9	10	11	12	13
Site. 45920	Biodiversity and Geodiversity	Landscape	Cultural heritage	Air	Water	Natural resources & waste	Climate change mitigation	Climate change adaptation	Sustainable communities	Economy	Health	Transport	Housing and equality
Tetra Tech	0	0	+/-	-	0	0	+/-	+	+	+	+	0	++
Council's SA	-	--	--	-	0	-	+/-	-	+	+	+	-	++

Figure 6-1 Adjustment to SA Scoring for the Site, Tetra Tech amends

- 6.19 It can be seen that the Site, when reassessed against the methodology scores favourably when the SA Assessment Methodology is applied in the correct manner and the appraisal properly reflects the available evidence. TT trust the Council can accept this inconsistency and make the necessary changes and ensure the Site is not scored as such again when the next version of the full SA is published.

Habitats Regulations Assessment

Air Quality and Traffic Mitigation

- 6.20 The HRA Addendum screens in all potential allocations for cumulative traffic-related air quality impacts on European sites like Gang Mine SAC and South Pennine Moors SAC. However, it should also be recognised that prioritising growth in Priority 1 locations like Land North of Biwater Site, which benefits from existing public transport links and active travel potential, is the most effective way to mitigate these impacts compared to more dispersed, car-dependent development patterns. This should be reflected in the HRA.

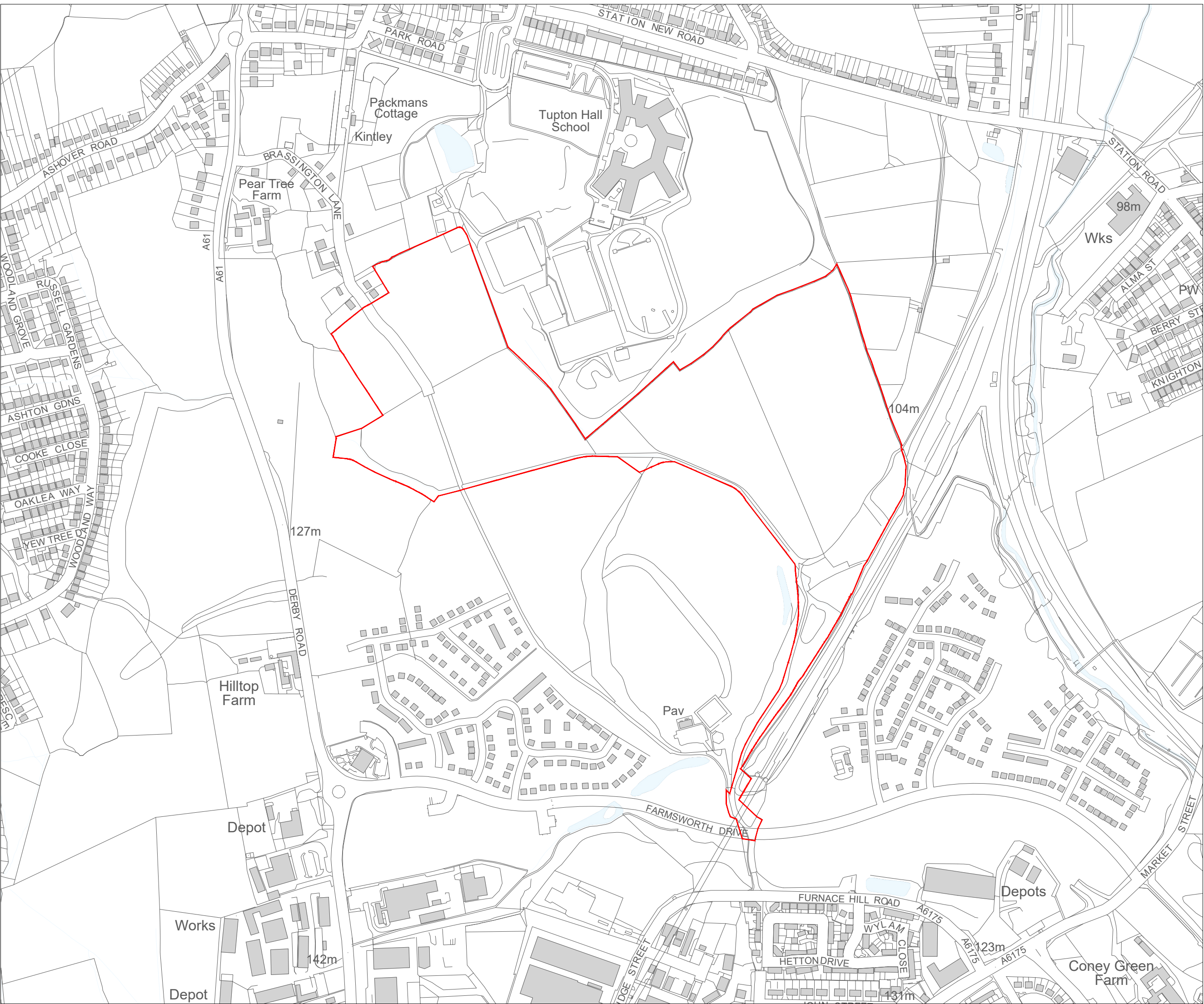
Exclusion of Urbanisation Effects

- 6.21 The HRA has screened out Likely Significant Effects (LSEs) related to urbanisation (e.g., noise, lighting, wildfire) because no site allocations are within the 400m precautionary buffer of a European site. This simplifies the assessment process for sites in the Clay Cross area, as they only need to address wider cumulative pathways like air and water. TT supports this aspect of the HRA.

7.0 CONCLUSION

- 7.1 These representations demonstrate that the Site North of Former Biwater Site, has the potential to contribute to meeting the current and future housing needs of the area. This report also provides feedback on the settlement hierarchy and function; site assessment methodology of the emerging Plan and suggests ways to improve the assessments undertaken by the Council.
- 7.2 The main conclusions from our representations are as follows:
- In strategic terms, TT supports the Council's acknowledgement that housing need should be planned positively but argues that the emerging Plan should go beyond the standard method minimum. TT points to recent delivery rates, significant affordable housing shortfalls, and the possibility that North East Derbyshire may need to assist neighbouring authorities within the wider housing market area. On that basis, TT finds that a higher housing requirement than the minimum standard method figure would be justified and should be addressed clearly before Regulation 19.
 - TT concludes that Clay Cross is one of the district's most sustainable locations for growth. TT supports the Council's settlement hierarchy methodology and agrees that Clay Cross, as a Level 1 Main Town and Priority 1 location, should remain a principal focus for future development. The report finds that the town's service base, public transport links, and role within the A61 growth corridor make it a logical and sustainable location for additional housing.
 - TT broadly supports the Council's methodology and notes that the site has been given an "amber" rating, meaning it has development potential subject to further work on identified constraints. TT concludes that the site is capable of accommodating residential development and that further technical evidence due to be submitted to the Council should assist in demonstrating its suitability for allocation. TT recommends that the Council make clearer how updated evidence will be used to revisit site conclusions and RAG ratings as the plan progresses.
 - TT argues that several of the site's scores are inconsistent with the Council's own methodology. It contends that the site has been scored too negatively in areas such as biodiversity, landscape, heritage, water, natural resources, climate change adaptation, sustainable communities and transport. TT finds that when the evidence and methodology are applied consistently, the site performs more favourably overall, particularly in accessibility and sustainability terms, and that the SA should be amended before the Regulation 19 stage.

Appendix A: Site Location Plan



Revision Note: -

Notes:

Site Boundary



Status: PLANNING

Client Name & Project Number: 1586649
Miller Homes Ltd

Project title: Land North of Biwater Site,
Clay Cross (Miller Homes)

Drawing title: Site Location Plan

Scale: 1:5,000@A3	Drawing no.: 01	Revision: -
Drawn by: SM	Checked by: MS	Date: 30.04.26



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Appendix B: NEDDC Policy Officer Email (06 March 2026)

[REDACTED]
Sent: 06 March 2026 12:35

[REDACTED]
Subject: North East Derbyshire Land Availability Assessment March 2026

 **CAUTION:** This email originated from an external sender. Verify the source before opening links or attachments. 

Dear Sir / Madam

I write to update you on progress of the Land Availability Assessment in relation to the site you submitted through the Call for Sites for housing for the new North East Derbyshire Local Plan: "ID45920 Land north of Biwater, Clay Cross".

Our latest assessment of the suitability of the site has resulted in an overall suitability 'amber' RAG rating. This 'amber' score means the site is identified as having one or more constraints that need to be explored more fully to assess whether they can be satisfactorily mitigated. The site is considered to have potential for housing allocation subject to demonstration these constraints can be overcome. The information below provides more detail on the constraints identified and the actions you need to take to address the issues raised in relation to the site.

Our assessment has included comments from a landscape specialist, which identify development on the site as having a moderate level impact. It states that despite large parts of the site having been previously opencast, the land has now matured post restoration and has some strength of character consistent with the wider landscape. The land plays an important physical role in the spatial separation of Tupton to the north and Clay Cross to the south, which is a defining characteristic of the Coalfield Village Farmlands LCT. Any allocation should omit land to the west of Brassington Lane to reduce the overall visual impact of any development and reduce the perception of urban sprawl along the A61 corridor.

Before we can consider the site for possible residential allocation in the Local Plan, we would need you to address the potential landscape impacts of residential development, through an initial masterplan or landscape and visual impact assessment. Please be aware that the site is designated as a Local Settlement Gap within the current Local Plan, where residential development should be avoided, to prevent settlement coalescence. We are intending to re-evaluate all Local Settlement Gaps, but in the meantime, we would expect you to address any coalescence risks.

Comments from the archaeological specialist classifies the site as having significant archaeological/historic environment issues, but might be suitable for allocation with appropriate site specific policy. A short stretch of earthwork MDR10814 centred SK 39104 64712 at the western edge of the site may represent remains of the Rykniel Street Roman Road (and could be schedulable if so). This would need archaeological evaluation as part of a planning application with provision for the relevant area to be safeguarded outside development if it were to prove Roman.

Please also note that the north portal to the Clay Cross railway tunnel is Grade II listed, which would need to be taken into account.

The southern eastern area includes a priority habitat area. Desktop ecology advice finds a medium impact level of development upon biodiversity, stating the following: “Low / Medium impact - there are no known features of high nature conservation interest or designations within the site. The site is dominated by arable land with smaller areas of deciduous woodland, scrub as well as hedgerows and trees. The arable land is probably of low value, but the woodland could be a Habitat of Principal Importance. The extent of the impact on the woodland is not known. It is a large site so there may be opportunities to avoid and minimise impacts. Impacts on protected species are likely but can probably be mitigated..” A site visit will be needed in the spring to update the advice.

If site visits confirm the medium impact level, we will contact you again to ask for further evidence, before we can consider the site for possible residential allocation in the Local Plan.

Highway access from Brassington Lane is considered unsuitable.

There is also some risk of surface water flooding (approximately 10%). An indication of how this would be addressed through a masterplan would be appreciated.

The site is also within coal authority development high risk area, with some shallow workings. Any indication from you that this will not prevent development would be appreciated.

The Housing Land Availability Assessment includes a housing capacity, based on prevailing density of adjacent existing residential areas, net developable area calculation and density uplift for the more sustainable settlements. For this site the capacity was found to be 617 dwellings. Mitigation measures to address any constraints have not been applied yet, and it would be good to understand how you think constraints would affect the capacity.

Please provide any further evidence by the 1st June 2026 to local.plan@ne-derbyshire.gov.uk .

It is important to recognise that any result of the Land Availability Assessment does not in itself determine whether the site should be allocated for housing in the new Local Plan. The new Local Plan will set out a spatial strategy and strategic policies for the scale and distribution of new housing development, and any sites identified with potential for housing allocation through the Land Availability Assessment will need to align with the Plan’s spatial strategy.

The Land Availability Assessment will be published, alongside consultation on the Local Plan Issues and Options on the Strategic Approach to the Location of Development and Refined Schedule of Sites, on the 12th March 2026.

Please do not hesitate to contact me if you have any further questions.

Lucinda Chapman (she/her)

Principal Planning Officer

Planning Policy and Environment Team

[North East Derbyshire District Council](#)



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