

Report to the Chief Officer (Highways and Transportation)

Date: 17 February, 2015

Subject: North Street, Sheepscar - Consent for new culvert

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): City and Hunslet	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

- 1 An application has been received to culvert 27.5m length of Sheepscar Beck, at the junction of Clay Pit Lane and Meanwood Road.
- 2 The new culvert is required to facilitate the development of a new Magnet warehouse and showroom, which has recently been granted planning permission, reference number 14/03821/FU.
- 3 Sheepscar Beck at this location, falls within the '*Leeds Improvement of Becks Act 1866*'. This Act makes LCC responsible for the ongoing maintenance of the channel and walls of the beck. Advice has been taken from Legal and it is not possible for Council to divest itself of this responsibility. However, the developer has agreed to cover Council's maintenance costs as a result of covering over the beck.
- 4 The potential for refusing this application is limited by the fact that the principle of culverting was accepted as part of the planning approval. We can, however, impose reasonable conditions on the proposed culverting works.
- 5 Local councillors, in addition to Flood Risk Management and the Natural Environment team (Parks and Countryside) have been consulted about the proposed works. No objections have been received.

Recommendations

- 6 The Chief Officer (Highways and Transportation) is requested to:
 - i) grant consent under Section 23 of the Land Drainage Act, 1991 as amended by the Floods and Water Management Act, 2010 as well as Section 263 of the Public Health Act, 1936, for the proposed new culvert;

- ii) approve the following conditions, which will be included with any consent:
- a) The works shall be carried out in accordance with the approved drawings: 7391/005-rev A and 7391/007-rev -. Any amendments to the approved drawings will be subject to approval by Council's Flood Risk Management (FRM) section;
 - b) The works shall not commence until a construction method statement has been submitted to and approved in writing by FRM;
 - c) The owners of the site will make an agreement with the Council to meet all future costs of the Council in carrying out any works to this section of Sheepscar Beck. (The expectation is that the site owner will carry out all necessary maintenance and clearance themselves, at their own cost). This Agreement will apply in perpetuity to the covered section of beck;
 - d) The Council reserves the right for their staff to enter and inspect the culvert at any time, and to gain entry to adjacent sections of the beck;
 - e) The works shall be commenced within 3 years of the date of the approval. Should the works not be commenced within this time frame, the current approval will be deemed to have lapsed.
 - f) The applicant shall provide 7 days notice to FRM of their intention to commence the works; and
 - g) Final, as-built, drawings shall be submitted to FRM on completion of the works.

1 Purpose of this report

- 1.1 To inform the Highways and Transportation Board about a proposal to culvert a 27.5m length of Sheepscar Beck, at the junction of Clay Pit Lane and Meanwood Road.
- 1.2 To determine whether or not the aforementioned works can be approved, with appropriate conditions, under the relevant legislation.

2 Background information

- 2.1 On the 23rd October 2014, Planning approval was granted for the redevelopment of a derelict plot of land involving the construction of a warehouse and showroom for the Magnet Group, planning reference number 14/03821/FU.
- 2.2 Prior to the determination of the planning application, Flood Risk Management were consulted about the proposed development and the Flood Risk Assessment for the site. This identified that the site is not at significant risk of flooding. The 1 in 100 year flood levels at this location are significantly below the soffit level of the upstream and downstream culverts.
- 2.3 The Natural Environment team (Parks and Countryside) were also consulted on the planning application and they agreed to a number of conditions, attached to the planning approval, to mitigate the impacts of the proposed development on the watercourse. A copy of these conditions is appended to the back of this report.

3 Main issues

- 3.1 The construction of a new warehouse and showroom for the Magnet Group, will require the partial covering over of a section of Sheepscar Beck. (Location E:430683 N:434675).
- 3.2 Details have been submitted which shown the proposed culvert will be at least 710 mm above the 1 in 100 year plus climate change flood level within the beck. The soffit level of proposed culvert is 32.950m AOD and the flood level is 32.240m AOD at the upstream end of the culvert and 32.060m AOD at the downstream end. [Refer to construction drawing appended to the back of this report].
- 3.2 Sheepscar Beck at this location, falls within the 'Leeds Improvement of Becks Act 1866'. This Act makes LCC responsible for the ongoing maintenance of the channel and walls of the beck. The Act states at paragraph 26. '*The Corporation shall at all Times maintain in good and efficient Repair and working Order all Works affecting the Sheepscar Beck or the Hol Beck - constructed by them under the Authority of this Act.*'
- 3.3 Advice has been taken from Legal and it is not possible for Council to divest itself of this responsibility. However, the developer has agreed to cover Council's maintenance costs, which may result from the covering over the beck. The developer has agreed to enter into a separate agreement to cover these costs.
- 3.4 The potential for refusing this application is constrained by the fact that the principle of culverting was accepted as part of the planning approval. We can, however, impose reasonable conditions on the proposed culverting works.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 The LCC, Nature Conservation Officer has been consulted about the proposed works. He has advised that the Planning Approval includes a number of Conditions for the protection of the flora and fauna. He has asked for a copy these to be included with any culverting approval.
- 4.1.2 Details of the proposed works have been circulated to the City and Hunslet Ward Councillors, but only one Ward Member replied to say that he had no comments. No other responses have been received at the time of writing this report.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 A screening document has been prepared (see Appendix 1). It is concluded that an independent impact assessment is not required and that the proposed works will not have any detrimental impacts on the equality characteristics. However, an impact assessment / screening will be undertaken as part of the signalled junction scheme.

4.3 Council policies and City Priorities

- 4.3.1 The proposed works fall within Council's environmental (non-culverting) policy N39B, within Leeds Unitary Development Plan (Review 2006), Volume 1. This policy nevertheless allows for culverting to be carried out in exceptional

circumstances. These are: (1) in the interests of public safety or (2) where *'development could not be achieved in any other way'*. It is considered that the proposed works meet the above 'exception criteria', and that the proposed mitigation measures are sufficient to minimise any adverse environmental impacts.

4.4 Resources and value for money

4.4.1 The applicant has paid the £50.00 application fee. This is the amount which is stated in section 23(2) of the Land Drainage Act 1991. No local discretion is allowed, to change the amount.

4.5 Legal Implications, Access to Information and Call In

4.5.1 Section 23 of the Land Drainage Act, 1991, states that 'consent shall not unreasonably be with-held'.

4.5.2 "consent" may be given subject to reasonable conditions.

4.5.3 If the application is not determined within two months, the application shall be deemed to have been consented.

4.5.4 Section 263(1) of the Public Health Act 1936 states: "It shall not be lawful ... to culvert or cover any stream or watercourse except in accordance with plans and sections to be submitted to and approved by the local authority."

4.6 Risk Management

4.6.1 Consenting of the works with the attached conditions will ensure that the flood risks associated with the proposed works will be minimised, as far as practicable.

4.6.2 The principle of culverting the beck was accepted when Council granted planning permission, for the site. We understand that the local members are very much in favour of seeing this derelict site being brought back into use.

4.6.3 The developer has agreed to enter into a separate agreement to cover any additional costs incurred by the Council for maintaining the watercourse, in future.

5 Conclusions

5.1 A valid S.23 application for consent to undertake "works affecting a watercourse" has been received by the council. This needs to be considered and either approved, or refused before the 22nd February, 2015, or else the application will be deemed approved.

5.2 These works consists of covering over approximately 27.5m length of Sheepscar Beck.

5.3 Local members and council officers have been consulted about the proposed works and there are no current objections to the scheme.

6 Recommendations

6.1 The Chief Officer (Highways and Transportation) is requested to:

- i) grant consent under section 23 of the Land Drainage Act, 1991 as amended by the Floods and Water Management Act, 2010 for the proposed works, as outlined in drawings;
- ii) approve the following conditions, which will be included with any consent:
 - a) The works shall be carried out in accordance with the approved drawings: 7391/005-rev A and 7391/007-rev -. Any amendments to the approved drawings will be subject to approval by Council's Flood Risk Management (FRM) section;
 - b) The works shall not commence until a construction method statement has been submitted to and approved in writing by FRM;
 - c) The owners of the site will make an agreement with the Council to meet all future costs of the Council in carrying out any works to this section of Sheepscar Beck. (The expectation is that the site owner will carry out all necessary maintenance and clearance themselves, at their own cost). This Agreement will apply in perpetuity to the covered section of beck;
 - d) The Council reserves the right for their staff to enter and inspect the culvert at any time, and to gain entry to adjacent sections of the beck;
 - e) Prior to the commencement of development a detailed method statement for the protection of all retained trees, shrubs and watercourses on, or adjacent to, the site from any physical or chemical disturbance or pollution during all site operations shall be submitted to and agreed in writing with FRM. The method statement shall include the use of protective fencing as per BS:5837 2012 and shall thereafter be fully implemented.
 - f) The works shall be commenced within 3 years of the date of the approval. Should the works not be commenced within this time frame, the current approval will be deemed to have lapsed.
 - g) The applicant shall provide 7 days notice to FRM of their intention to commence the works; and
 - h) As-built, drawings shall be submitted to FRM on completion of the works.

7 Background documents¹

7.1 None.

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

Appendix 1

Equality, Diversity, Cohesion and Integration Screening



As a public authority we need to ensure that all our strategies, policies, service and functions, both current and proposed have given proper consideration to equality, diversity, cohesion and integration.

A **screening** process can help judge relevance and provides a record of both the **process** and **decision**. Screening should be a short, sharp exercise that determines relevance for all new and revised strategies, policies, services and functions. Completed at the earliest opportunity it will help to determine:

- the relevance of proposals and decisions to equality, diversity, cohesion and integration.
- whether or not equality, diversity, cohesion and integration is being/has already been considered, and
- whether or not it is necessary to carry out an impact assessment.

Directorate: City Development	Service area: Flood Risk Management
Lead person: Stuart Pedder	Contact number: EXT 78779

1. Title: Consent for new culvert and associated works at North Street, Sheepscar.

Is this a:

Strategy / Policy
 Service / Function
 Other

If other, please specify

2. Please provide a brief description of what you are screening

These works consists of extending an existing culvert on Sheepscar Beck at North Street. The new culvert is required to facilitate the development of a new Magnet warehouse and showroom, which has recently been granted planning permission, reference number 14/03821/FU. The proposed culvert will have negligible impact on the equality characteristics.

3. Relevance to equality, diversity, cohesion and integration

All the council's strategies/policies, services/functions affect service users, employees or the wider community – city wide or more local. These will also have a greater/lesser relevance to equality, diversity, cohesion and integration.

The following questions will help you to identify how relevant your proposals are.

When considering these questions think about age, carers, disability, gender reassignment, race, religion or belief, sex, sexual orientation and any other relevant characteristics (for example socio-economic status, social class, income, unemployment, residential location or family background and education or skills levels).

Questions	Yes	No
Is there an existing or likely differential impact for the different equality characteristics?		X
Have there been or likely to be any public concerns about the policy or proposal?		X
Could the proposal affect how our services, commissioning or procurement activities are organised, provided, located and by whom?		X
Could the proposal affect our workforce or employment practices?		X
Does the proposal involve or will it have an impact on <ul style="list-style-type: none"> • Eliminating unlawful discrimination, victimisation and harassment • Advancing equality of opportunity • Fostering good relations 		X

If you have answered no to the questions above please complete sections 6 and 7

If you have answered yes to any of the above and;

- Believe you have already considered the impact on equality, diversity, cohesion and integration within your proposal please go to section 4.
- Are not already considering the impact on equality, diversity, cohesion and integration within your proposal please go to section 5.

4. Considering the impact on equality, diversity, cohesion and integration

If you can demonstrate you have considered how your proposals impact on equality,

diversity, cohesion and integration you have carried out an impact assessment.

Please provide specific details for all three areas below (use the prompts for guidance).

- How have you considered equality, diversity, cohesion and integration?

(think about the scope of the proposal, who is likely to be affected, equality related information, gaps in information and plans to address, consultation and engagement activities (taken place or planned) with those likely to be affected)

- Key findings

(think about any potential positive and negative impact on different equality characteristics, potential to promote strong and positive relationships between groups, potential to bring groups/communities into increased contact with each other, perception that the proposal could benefit one group at the expense of another)

- Actions

(think about how you will promote positive impact and remove/ reduce negative impact)

5. If you are **not already considering the impact on equality, diversity, cohesion and integration you **will need to carry out an impact assessment.****

Date to scope and plan your impact assessment:	N/A
Date to complete your impact assessment	N/A
Lead person for your impact assessment (Include name and job title)	N/A

6. Governance, ownership and approval

Please state here who has approved the actions and outcomes of the screening

Name	Job title	Date
Roy Coello	Head of Engineering Services	22/01/2015 (PD)

7. Publishing

This screening document will act as evidence that due regard to equality and diversity has been given. If you are not carrying out an independent impact assessment the screening document will need to be published.

If this screening relates to a **Key Delegated Decision, Executive Board, full Council** or a **Significant Operational Decision** a copy should be emailed to Corporate Governance and will be published along with the relevant report.

A copy of **all other** screening's should be sent to equalityteam@leeds.gov.uk. For record keeping purposes it will be kept on file (but not published).

Date screening completed	
If relates to a Key Decision - date sent to Corporate Governance	
Any other decision – date sent to Equality Team (equalityteam@leeds.gov.uk)	

PLANNING CONDITIONS

14/03821/FU

- 19) Prior to commencement of development an Ecological Design Statement for Bats (EDSB) that addresses any adverse impacts on bats commuting and foraging from the area shown as "Area of existing beck to remain uncovered" as indicated on Drawing 1395/100 Rev J dated April 2014 will be submitted to and approved in writing by the Local Planning Authority

The EDSB shall include the following:

- a) Purpose and conservation objectives for the proposed works - to include continued unobstructed use of the feature for commuting and foraging bats.
- b) Review of the site potential and constraints.
- c) Detailed design and working methods to achieve the stated objectives - to include timing of works to cover the remaining section of the culvert which avoid disturbance to commuting/foraging bats, and features to encourage bats to emerge from the culvert.
- d) Extent and location of proposed works on appropriate scale maps and plans.
- e) Appropriate scaled drawings of the open culvert section showing features to allow bats to move to and from the culvert.
- f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- g) Appropriately qualified persons responsible for implementing the works.
- h) Details of initial aftercare and maintenance.
- i) A monitoring programme to include 3 bat activity surveys between May and September to take place within 12 months of completion of works to assess whether bats are able to continue emerging and returning into the covered culvert sections, copies of which to be passed to the Local Planning Authority within 6 weeks of the final survey taking place. The EDSB shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

To protect and monitor a known bat commuting and foraging feature and in accordance with the National Planning Policy Framework and UDPR Policy GP5.

- 20) Prior to commencement of development a Lighting Design Strategy for bats" shall be produced by an appropriately qualified ecological consultant and submitted to and approved in writing by the Local Planning Authority. The strategy shall:
- a) Identify those areas/features on site that are particularly sensitive for commuting and foraging bats, using an appropriately scaled map to show where these areas are b) Show how and where external lighting will be installed (through the provision of
 - b) appropriate lighting contour plans and technical specifications) so that it can be clearly
 - c) demonstrated that areas to be lit will not disturb commuting and foraging bats
 - d) All external lighting shall be installed in accordance with the specifications and
 - e) locations set out in the Strategy, and shall be maintained thereafter in accordance with
 - f) the Strategy. Under no circumstances should any other external lighting be installed
 - g) without prior consent from the Local Planning Authority in the areas identified in the

- h) Strategy as particularly sensitive for commuting and foraging bats.
- i) To safeguard a protected species (bats) and in accordance with the National Planning Policy Framework and UDPR Policy GP5
- j) Policy Framework and UDPR Policy GP5

- 21) Prior to the commencement of development a method statement for the control and eradication of Giant hogweed and Himalayan balsam shall be submitted to and approved in writing by the Local Planning Authority. The agreed plan shall thereafter be implemented in full.

To control the spread of invasive plant species and in accordance with the National Planning Policy Framework and UDPR Policy GP5.

- 22) No removal of trees or shrubs or works to built structures including the open culvert walls shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation and built structures for active birds' nests immediately before (within 24 hours) the works commence and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority within 3 days of works being carried out.

To protect nesting birds and in accordance with the National Planning Policy Framework and UDPR Policy GP5.

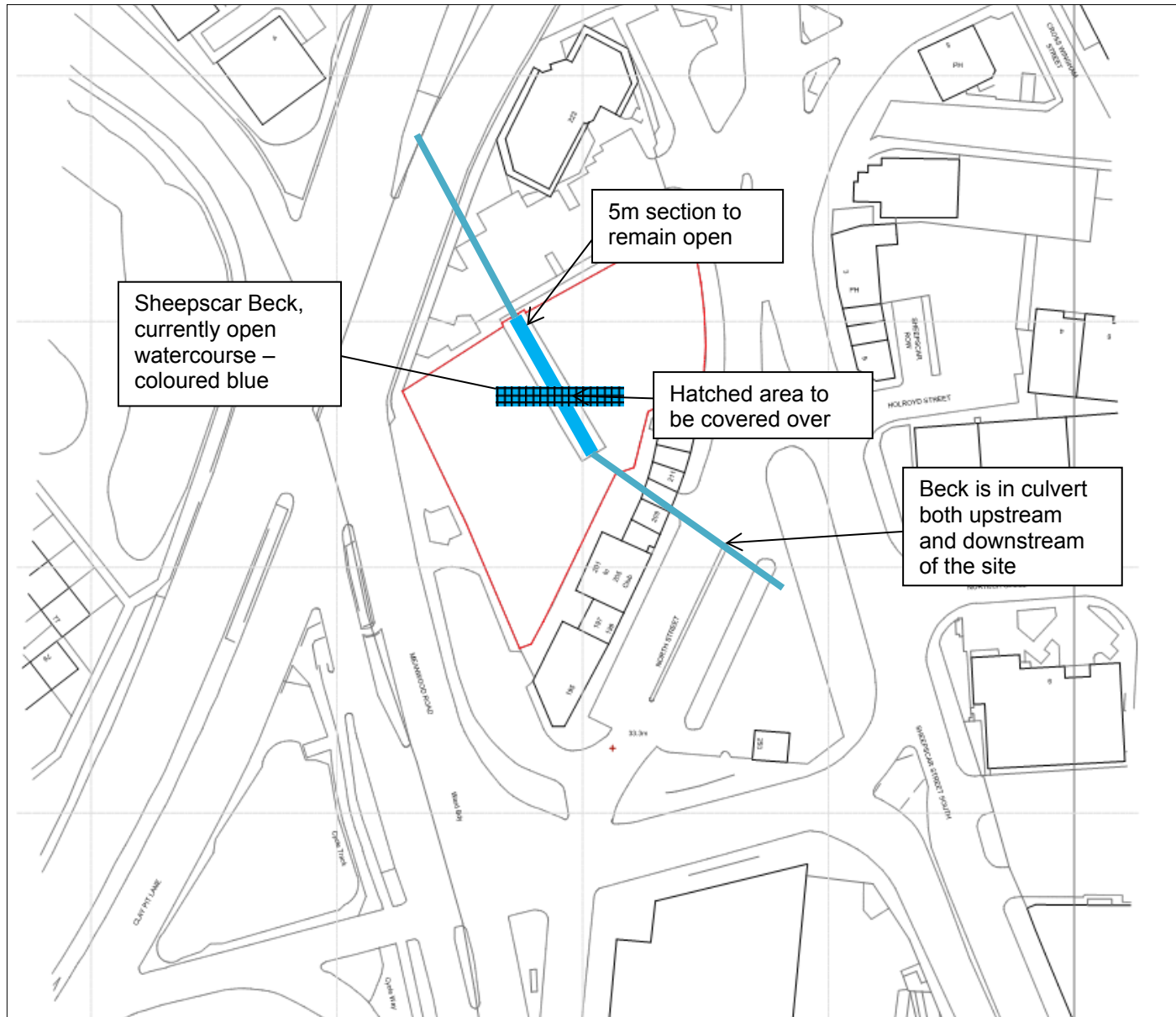
- 23) Prior to the commencement of development, a Plan shall be submitted to and approved in writing by the Local Planning Authority of bat roosting and bird nesting opportunities (for Grey Wagtails) to be provided within the covered and open section of the culvert. The agreed Plan shall show the number, specification of the bird nesting and bat roosting features and where they will be located, together with a commitment to being installed under the supervision of an appropriately qualified bat consultant.

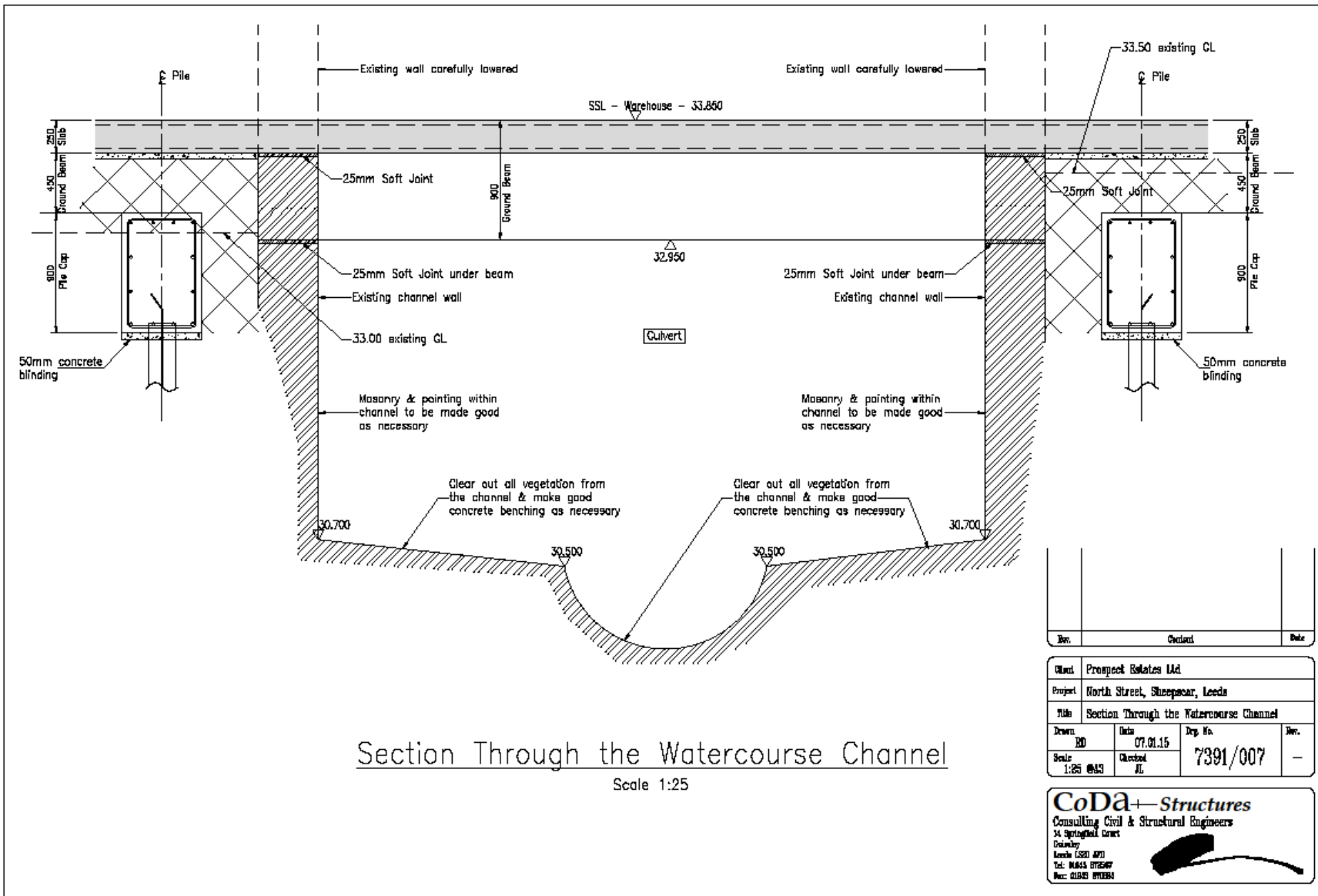
The Plan shall include a minimum of one bat hibernation roost feature designed for use underground to be located within the covered section, and two bat roosting features within the vicinity of the open section of the culvert. All approved features shall be installed prior to first occupation of buildings on the site and retained thereafter.

To maintain and enhance biodiversity and in accordance with the National Planning Policy Framework and UDPR Policy GP5.

North Street, Sheepscar - Consent for new culvert

Location Plan and Proposed Works





Section Through the Watercourse Channel

Scale 1:25

Rev.	Checked	Date

Client	Prospect Estates Ltd		
Project	North Street, Sheepscar, Leeds		
Title	Section Through the Watercourse Channel		
Drawn	Date	Dep. No.	Rev.
RD	07.01.15	7391/007	-
Scale	Checked		
1:25 @A3	JL		

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