

## **B1     APPLICATIONS**

**1     Code No:** DER/1005/1683

**Type:** Full

1.     **Address:** Pennine Health Care, Pontefract Street
2.     **Proposal:** Change of use from factory and warehousing to business/general industry and storage/distribution (Use Classes B1, B2 and B8)
3.     **Description:** Planning permission is sought to extend the use of this building to include B1 business and B8 storage uses. The proposal also outlines the applicant's intention to split the large, 2961m<sup>2</sup> unit into 4 smaller units and to demolish small parts of the existing building to separate properly the units. An existing two storey office and canopy at the front of the building would be demolished. A new roller shutter door, curtain wall and entrance door would be inserted into the newly exposed building behind the demolished offices and canopy. These would match the details on the existing building.

The site is situated within the established Osmaston Park Industrial Estate, off Ascot Drive. It backs onto residential properties on Whitehurst Street but otherwise is surrounded by industrial units.

The property is currently vacant but most recently has been used as a factory. This factory use could be recommenced without any planning permission.

4.     **Relevant Planning History:** Various applications for changes to the building.
5.     **Implications of Proposal:**
  - 5.1     **Economic:** The agent advises that the building has been vacant for 3 years and that it has proved very difficult to find an occupant. The proposal would widen the uses permitted at the building and provide smaller units which could help to bring the site back into beneficial use.
  - 5.2     **Design and Community Safety:** The proposal would involve changes to the front of the building that would be visible in the street scene. However, I am satisfied that the change would not significantly, or adversely, affect the street scene.
  - 5.3     **Highways:** No objections subject to disabled parking provision and cycle parking hoops adjacent to each individual unit.
  - 5.4     **Disabled People's Access:** No objections on these grounds, but recommend that a standard access condition be imposed.

**B1 APPLICATIONS (cont'd)**

**1 Code No:** DER/1005/1683

**5.5 Other Environmental:**

**6. Publicity:**

Neighbour Notification letter	*	Site Notice	*
Statutory press advert and site notice		Discretionary press advert and site notice	
Other			

**7. Representations:** I have received 3 letters of objection and a verbal indication that another letter of objection will be forthcoming. The letters express concern about the impact of the proposal upon residential amenities at Whitehurst Street properties that back onto the site. Copies of the letters are reproduced in this report.

**8. Consultations:** -

**9. Summary of policies most relevant:**

EMP15 - Employment  
T9 - Traffic Management

*The above is a summary of the policy that is relevant. Members should refer to their copy of the CDLP for the full version.*

**10. Officer Opinion:** Planning policy designates this site for employment uses and allows for B1, B2 and B8 uses. As such there is no policy objection to the proposed uses. Moreover, given the established use of the site as a factory, it could be used for general industrial purposes without any subsequent permission.

B1 uses at the site would have less of an impact than the established use and, therefore, I do not consider that there would be any unreasonable effects upon residential amenities.

With respect to B8 uses, in this established industrial location, it would not be appropriate to prevent B8 use of the site. The site currently has unrestricted B2 use and I do not consider that the outputs and impact of a B8 use would be significantly different.

The proposed demolition would be relatively minor and would not, in my view, cause a significant harm to the design and appearance of the building. Similarly, I am satisfied that the proposed division of the unit into 4 separate units would not cause significant, adverse effects upon residential amenities. The plans show that the front elevation would

## **B1    APPLICATIONS    (cont'd)**

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be altered but do not indicate any physical changes to the rear in order to accommodate the changes to the layout. Although there may be some intensification of use due to there being 4 small units rather than one large unit, I do not consider that this change would be unreasonable.

In view of the above, whilst I note objectors' comments, I do not consider that the proposal would significantly alter the status quo. Whilst new users may have different impacts compared with the previous Pennine Health Care factory, for the reasons outlined above, I do not think that the change would necessarily be adverse and am satisfied that it would be reasonable to refuse this application.

#### **11.    Recommended decision and summary of reasons:**

**11.1    Grant** permission with conditions.

#### **11.2    Summary of reasons:**

The proposal has been considered in relation to the provisions of the City of Derby Local Plan and all other material considerations as indicated in 9 above. The proposal would be an acceptable use of this site which is designated for employment uses in the adopted City of Derby Local Plan and would not unreasonably affect the amenities at neighbouring residential properties.

#### **11.3    Conditions**

1. Prior to occupation of the buildings, a parking layout including provision of disabled persons parking and secure cycle parking shall be submitted to, and approved in writing by the Local Planning Authority. The details shall show cycle parking hoops adjacent to, and within, each unit.
2. Standard condition 66.
3. This permission relates to the physical changes to the building, as shown on drawing numbers Plan CBD3 and CBD4 but does not extend to include any further changes that may be required as a result of dividing the unit into 4 separate units.

#### **11.4    Reasons**

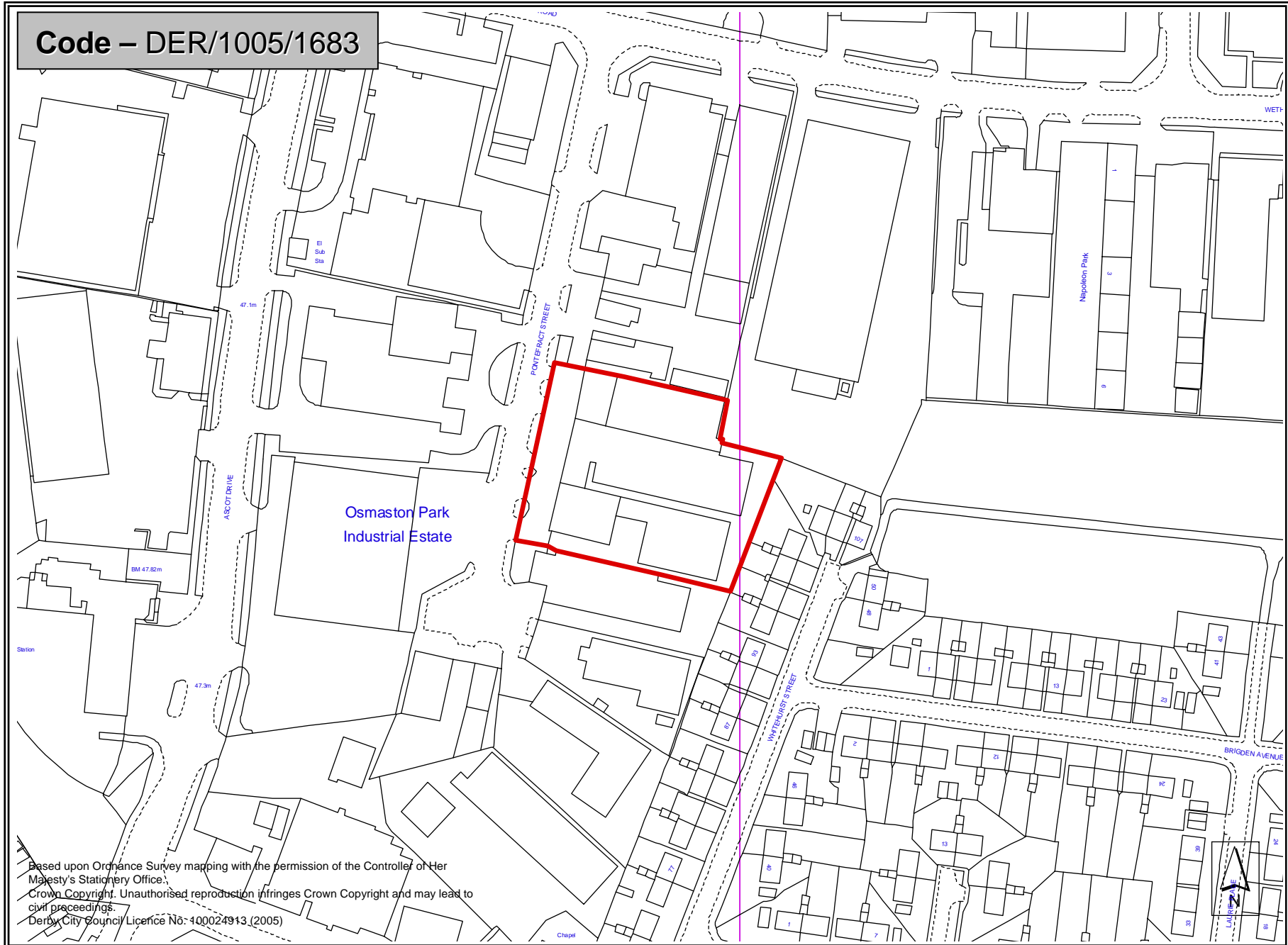
1. Standard reason E35 ... policy T9
2. Standard reason E34 ... policy EMP 15
3. Standard reason E04

**B1    APPLICATIONS   (cont'd)**

**1    Code No:   DER/1005/1683**

**11.5   S106 requirements where appropriate:   -**

**Code – DER/1005/1683**



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## **B1    APPLICATIONS    (cont'd)**

**2    Code No:** DER/905/1574

**Type:** Full - Reg3

1.    **Address:** Site of 12 Vicarage Road, Mickleover, Derby (Vicarage Road Family Centre)
2.    **Proposal:** Erection of Library and alterations to existing car park
3.    **Description:** This regulation 3 application seeks permission for the erection of a single storey building to be used as a public library, together with alterations to the existing car park. The site is at present used as a Family Centre and public conveniences. The proposed building would be located to the front of the site, close to the vehicular access from Vicarage Road. To the rear of the site would be surface parking for 39 vehicles. The proposed building would be 29.5m x 15.7m, with a height to ridge of 7.8m. It would be of a pitched roof design, with some fenestration on all four elevations. The building would be faced in red brickwork, with vertical cedar Boarding and white rendering. The windows would be polyester powder coated aluminium. To the north of the site are residential properties, and this is also the case on the opposite side of Vicarage Road. To the south and east of the site are further residential properties. To the immediate south of the proposed car park is the Mickleover Community Centre.

Vicarage Road is a busy Classified Road, and the application site is situated very close to the defined Mickleover District Centre and the Mickleover Conservation Area.

The position of the proposed building has been amended slightly, and has been moved forward from the original submission. This would require the removal of two trees at the front of the site, in the Council's control.

4.    **Relevant Planning History:** None.
5.    **Implications of Proposal:**
  - 5.1    **Economic:** The proposal will provide new employment opportunities.
  - 5.2    **Design and Community Safety:** I have no objections to raise in respect of design, or community safety implications.
  - 5.3    **Highways:** A new vehicular access is proposed off a Classified Road, in a 30 mph area. A total of 39 car parking spaces are proposed. Any further comments will be reported at the meeting, and a number of details are still to be finalised.
  - 5.4    **Disabled People's Access:** To be reported orally.

## **B1 APPLICATIONS (cont'd)**

**2 Code No:** DER/905/1574

**5.5 Other Environmental:** There are a number of good quality trees on the site. The guidance of the Arboricultural Officer has been sought regarding these.

### **6. Publicity:**

Neighbour Notification letter	*	Site Notice	*
Statutory press advert and site notice		Discretionary press advert and site notice	
Other			

**7. Representations:** I have received three letters of objection, and these are reproduced. The main points raised are:

- objection to the proposed car park from Mickleover Community Centre
- proposal will cause traffic problems
- traffic will obstruct buses
- proposal would have an adverse effect on no. 5 Vicarage Road
- loss of outlook from No. 5 Vicarage Road
- location of proposed access is not safe.

Any further representations will be reported orally at the meeting.

### **8. Consultations:**

CAAC – the committee recommended that the design of the proposed library be reconsidered as it was considered to be uninspired for this site on the edge of the Conservation Area with a use of an inappropriate material (Cedar timber cladding) and with a lack of civic stature as a new community building. It was considered that the proposal failed to make the most of this opportunity of enhancing the character of the Conservation Area with a building of greater distinction. Particular concern was expressed over the proposed illuminated advertisement panel rising out of the new boundary wall as shown on the submitted plan.

DcomS (Arboricultural Officer) – opposed to loss of trees.

Police ALO – to be reported.

**B1    APPLICATIONS (cont'd)**

**2    Code No: DER/905/1574**

**9.    Summary of policies most relevant:** The following CDLP policies:

- C1    - Community Facilities
- E31   - Design
- E32   - Community Safety and Crime Prevention
- T17   - Access for Disabled People
- T22   - Parking Standards.

*The above is a summary of the policies that are relevant. Members should refer to their copy of the CDLP for the full version.*

**10.   Officer Opinion:** This is a very welcome proposal, which will provide a badly needed facility, close to the existing District Centre. I have no objections to raise to the proposed design and appearance of the building. It is of a contemporary design that is acceptable in this location. The site is very close to the defined District Centre, and given the existing use of the site I see no policy objection to such a use in this location.

The form of vehicular access is acceptable in the position indicated, subject to the provision of dropped kerbs. Similarly, the level of car parking provision is acceptable. I am satisfied that the position of the proposed building is acceptable in streetscene terms, and that the loss of the existing trees is justified. I would request that some replacement trees be planted on the Council owned land to the north of the vehicular access on amenity grounds.

I do not consider that the overall impact on No. 5 Vicarage Road would be unreasonable, and satisfactory discussions have taken place between officers and the residents of that property. The proposed building is only single storey, and would not in my opinion unreasonably dominate the cartilage of No. 5 Vicarage Road. I have noted the comments raised by other objectors regarding traffic movements and parking. However, the existing use already generates a high level of such movements both pedestrian and vehicular, and the increase in on-site parking is welcome. In addition the proposed library is readily accessible from the public car parking available in the District Centre.

I heartily support the proposal as one that will greatly benefit this part of the City. I therefore recommend that permission be granted subject to conditions.

**11.   Recommended decision and summary of reasons:**

**11.1   To grant permission with conditions.**



## **B1    APPLICATIONS    (cont'd)**

**2        Code No:    DER/905/1574**

**11.2    Summary of reasons:**    The proposal has been considered in relation to the provisions of the City of Derby Local Plan and all other material considerations as indicated in 9 above.    The proposed complies with the relevant policies, is acceptable in the streetscene and a welcomed proposal for Mickleover generally.

### **11.3    Conditions**

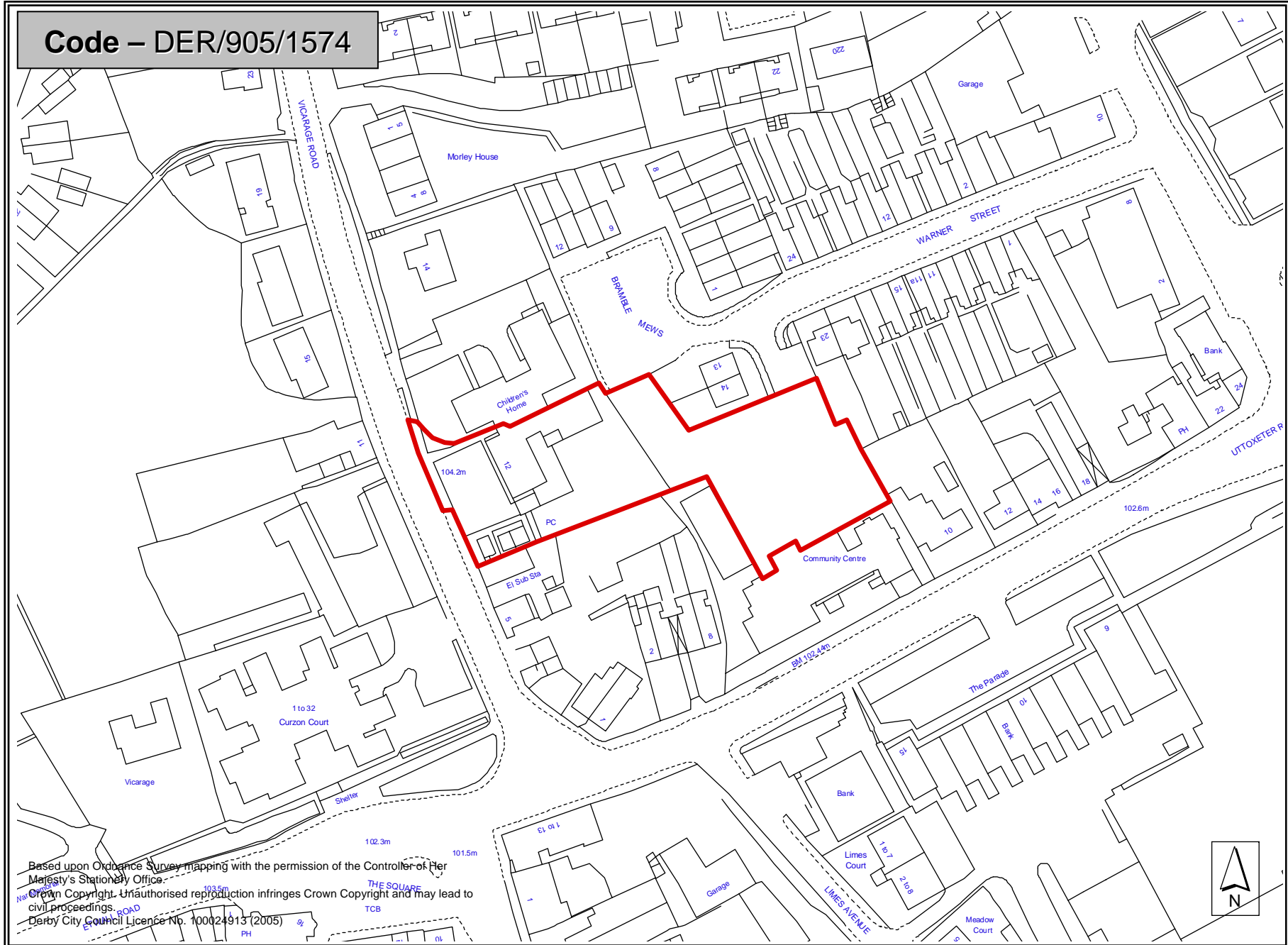
1.    Standard condition 09A (amended plans received on 16 November 2005)
2.    Standard condition 27 (materials)
3.    Standard condition 20 (landscaping scheme)
4.    Standard condition 22 (landscaping scheme)
5.    Standard condition 19 (means of enclosure)
6.    Standard condition 30 (surfaces to be drained)
  
7.    The existing vehicular access to Vicarage Road shall be returned to footway specification in accordance with a scheme to be agreed with the Highway Authority.    The agreed scheme shall be implemented in its entirety within 6 months of the development hereby approved, being commenced.
  
8.    Notwithstanding the submitted details the new access road shall be constructed with dropped and taper kerbs on the Vicarage Road frontage.    Full details of which shall be submitted to and approved in writing by the Local Planning Authority.

### **11.4    Reasons**

1.    Standard reason E04
2.    Standard reason E14 ... policy E31
3.    Standard reason E18 ... policy E23
4.    Standard reason E18 ... policy E23
5.    Standard reason E14 ... policy E31
6.    Standard reason E21 ... policy T22
7.    Standard reason E17 ... policy T9
  
8.    To ensure the safety of vehicular traffic and pedestrians both on the highway and within the application site ... policy T9

**11.5    S106 requirements where appropriate:**    none

**Code – DER/905/1574**



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## **B1    APPLICATIONS    (cont'd)**

**3    Code No:** DER/1005/1685

**Type:** Full

1.    **Address:**    8 & 9 Hartington Mews, Hartington Street
2.    **Proposal:**    Conversion of garage / store building to dwelling house
3.    **Description:**    The application premises is one of a number of two storey mews buildings standing at the rear of 6-26 Hartington Street. Nos. 6-26 are terraced three storey buildings originally designed and occupied as single dwellings but now some are subdivided into flats and bedsits. Similarly designed terraces further along Hartington Street and opposite form the very distinctive character of Hartington Street which defines the core of the Hartington Street Conservation Area. These houses are not listed but do feature on the Councils Local List of important buildings.

The two storey mews buildings are to the rear and are accessed off a narrow unsurfaced private road. The road has three access points; one between 4 and 6, another between 26 and 28 and a third between 48 and 50 Hartington Street. Each access is only 3m wide where it runs between the Hartington Street properties. A number of the properties fronting onto Hartington Street have garages at the rear which are accessed off the private road.

The mews buildings are understood to have been built around 1875 and to have originally been used as stables, haylofts and grooms quarters for the contractors who supplied horse drawn carriages to the residents of Hartington Street. It appears that the mews buildings have been used as workshops and garaging / storage over recent years. Each unit has double doors at ground level which would facilitate the use of these for garaging. In 2003, planning permission was granted for the conversion of 6 & 7 Hartington Mews into a dwelling. Works appear to have commenced on site but the premises currently remain unoccupied. The application form says that the Mews building subject of this application was most recently used for garaging / storage but it is not currently in use. It does not appear that many of the other mews buildings are in active use although the building at the eastern end of the row appears to have been converted to residential use although no permission seems to have been granted for this.

Planning permission is sought for the conversion of 8 and 9 Hartington Mews into a three bedroomed, two storey dwelling. The application states that the land immediately to the front of the mews as far as the rear boundary of the houses fronting Hartington Street, is within the site curtilage and part of this area would be used as vehicle standing space for one car.

**B1    APPLICATIONS (cont'd)**

**3    Code No: DER/1005/1685**

**4.    Relevant Planning History:**

DER/703/1277 Planning permission granted October 2003 for alterations and conversion to dwelling house – 6 & 7 Hartington Street Mews.

DER/681/966 Planning permission refused August 1981 for conversion of out-buildings to dwellings at land at the rear of 6-26 Hartington Street.

The reason for refusal was:

“The proposed means of access, by means of a private drive of substandard width, surface and visibility, is inadequate to accommodate the traffic likely to be generated by the proposed development, with subsequent danger and inconvenience to users of the highway.”

However, Committee at that time instructed the then applicant that, providing access problems could be overcome, there would be no objection to the conversion in that area.

**5.    Implications of Proposal:**

**5.1    Economic: None.**

**5.2    Design and Community Safety: From a pure conservation point of view this would seem to be a sensitive conversion with sensible re-use of openings and minimal new works. Conditions would be needed for prior approval of any new joinery, rain water goods and replacement brickwork / pointing.**

There may be community safety benefits as the presence of residents living within the Mews, may improve surveillance within this backland area and discourage any misuse.

**5.3    Highways: This is the second application that has been submitted for the conversion of these buildings into residential use but it is unlikely that highways objections could be sustained for this particular plot given that it already has an established use that could encourage regular vehicle activity into this area and the indicated parking space for the dwelling is satisfactory.**

There is the difficulty of refuse collection as the man carry distance is excessive and large vehicles could not use the access. A bin storage area should be located closer to the highway and secure cycle parking should be provided within the courtyard area.

**B1 APPLICATIONS (cont'd)**

**3 Code No:** DER/1005/1685

**5.4 Disabled People's Access:** None.

**5.5 Other Environmental:** -

**6. Publicity:**

Neighbour Notification letter	*	Site Notice	*
Statutory press advert and site notice		Discretionary press advert and site notice	
Other			

**7. Representations:**

There have been three letters of objection to the proposal from local residents; one of these has four signatures. Copies of those letters are attached. In summary, the objections are:

- Proposed development is unsafe due to lack of adequate fire brigade access
- The access road is of an inadequate width to accommodate further development
- The access was originally designed for horse and cart traffic and is inappropriate for cars
- Increased vehicle access along the access road will cause structural damage to some dwellings on Hartington Street
- The area already has too many low cost dwellings
- The development will increase social problems in the area
- Increased traffic will make it difficult to gain access to the rear of dwellings on Hartington Street
- Loss of privacy
- Access to the Mews should be made available from Leonard Street and not Hartington Street

**8. Consultations:**

## **B1    APPLICATIONS    (cont'd)**

### **3       Code No:    DER/1005/1685**

CAAC - raised no objection subject to appropriate conditions relating to prior approval of new joinery, rain water goods and replacement brickwork / repointing. The Committee considered it important that these details should match those being employed on the adjacent unit that is currently being converted in a similar manner.

#### **9.       Summary of policies most relevant:    CDLP policies:**

H22 – Residential development on unallocated land  
H26 – Conversions and changes of use  
E24 – Conservation  
E31 – Design  
T21 – Off-street parking  
T22 – Parking standards

*The above is a summary of the policies that are relevant. Members should refer to their copy of the CDLP for the full version.*

#### **10.      Officer Opinion:**

##### **Living Conditions**

The proposal would create a three bedroomed two storey dwelling without garaging and without any outside garden or amenity area but with an area of forecourt sufficient to park a single car. Existing garaging would be converted to living accommodation. This is fairly common with mews type conversions and are the same conditions in which the dwelling at no.'s 6 & 7 is being accommodated. These conditions also offer a reasonable compromise in restoring such buildings back into productive use.

The building itself would convert fairly comfortably into a small three bedroomed dwelling. New roof lights in the rear roof slope would face towards the school grounds to the rear and would be partially screened by trees in the school grounds. As the roof lights would be well above eye level there should be no loss of privacy for the school and privacy should be maintained within the proposed dwelling, although the bedroom at the rear of the property would have no views out. The outlook from the front would be towards the back yards and gardens of the rear elevation of houses on Hartington Street. The outlook is perhaps rather poor but the separation distance between the buildings, in the main, meets normal guidelines and so there should be little loss of privacy for the existing dwellings.

The proposed dwelling would be set in the row of mews buildings. Although the building next door is being converted to residential use, the majority of the buildings have undefined uses but which seem to

## **B1    APPLICATIONS    (cont'd)**

### **3    Code No:    DER/1005/1685**

have over recent years been small workshops or garaging. Exactly what form of workshops is not known. There is, therefore, a question as to the appropriateness of granting planning permission for a residential use so close to what may be industrial type uses albeit they may be small scale B1 uses which would not be any great nuisance to residents. The existing workshops could be seen as a non-conforming use in a residential area potentially detrimental to the living conditions of nearby residents. Conversion to residential uses would remove this potential conflict.

#### **Relationship with Neighbouring Dwellings**

The distance to the neighbouring dwellings is fixed, with a distance of between 19-20m between the proposed windows in the mews and those in the main rear elevation of the fronting terrace. I consider this distance acceptable given that they are both existing buildings and I think the conversion of the mews building is unlikely to cause any serious loss of privacy within the Hartington Street terraces. The proposal does not involve any significant level of alteration to the existing buildings so there would not be any increase in massing, overbearance or enclosure to affect existing neighbours.

The vehicular access already exists and appears to be in regular use serving as a rear vehicle access for some of the houses fronting onto Hartington Street as well as the mews buildings. The mews have been used for garaging over many years and were purpose designed as coach houses so, presumably have been used for parking of vehicles as long as they have been in existence. The proposed conversion of this building into a single dwelling would be unlikely to result in any significant level in increase in usage over and above that already possible. Local residents concerns that this conversion would lead to an increase in vehicles along the private road, resulting in structural damage to existing dwellings cannot therefore be upheld as practical grounds for refusal of planning permission. Overall, I do not consider that the conversion of this mews unit to a dwelling should result in significant traffic difficulties on this private drive beyond that which could be experienced should all the mews units be in constant use for garaging/storage purposes.

#### **Conservation Area Considerations**

The proposal would bring back into productive use a building that forms an integral part of the character of the conservation area. The conversion would, for the main part, re-use the existing window and door openings but incorporate new roof lights in the rear roof slope so neither the outline of the building nor the character of the building would be much affected. This sensitive treatment of the building and its re-

## **B1    APPLICATIONS   (cont'd)**

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use should ensure the proper maintenance of the building and slow down the deterioration of its fabric in the future.

#### **Highway Considerations**

There appears to be no control over the direction of travel along the private road and vehicles may enter or leave the area from any of the access points. As the applicants are not wholly in control of the road they will be unable to improve the access or ensure that visibility is maintained along the highway. Traffic along Hartington Street has been calmed by the use of speed humps and parking is restricted on the side of the road where the accesses exit onto the highway, so the potential for highway conflicts has been considerably reduced.

The site is only accessible through narrow 3m wide accesses between buildings on the unmade surface of the private road. It is clear that occupiers of no. 6 to 26 Hartington Street use the access as evidenced by a number of garages and vehicle hard standings in their rear gardens. However, given the existing garaging use within the mews buildings it would be difficult to argue that the conversion would increase conflict with the vehicles accessing those existing dwellings. The use of the area at the front of the mews building for the parking of a vehicle would restrict the turning and manoeuvring space for other vehicles using the private road, increasing inconvenience to neighbouring occupiers. However, the width of the area to the front of the building is over 7m wide in places there should still be adequate room for vehicles to pass along the access with care.

The close proximity of the site to the City Centre and to major bus routes would encourage low car ownership and usage and the indicated parking provision is satisfactory. Highways colleagues have suggested that cycle parking should be indicated on site but as this conversion proposes only one dwelling which would have a small secure courtyard area, I do not consider it appropriate to require further submission of those details. Further details relating to the provision of bin storage can be required by condition but given the shared ownership of the private access road, the siting of a bin store on the road may not be an achievable solution for the applicant. It is likely that future occupiers of the dwelling would have to take bins to the highway boundary as will the future occupiers of the mews building currently under conversion next door.

One of the mews buildings within this group already has permission for its conversion into residential use and the conversion of this unit would continue to set a precedent for the conversion of the other mews buildings in a similar manner. This may lead to further use of the private access adding further to congestion in the area and



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inconvenience to local residents. However, as the building already has rights of access, I cannot see that the conversion of the unit would offer highway problems significant enough to warrant grounds for refusal of planning permission. There are clear merits to this proposal as it would enhance and restore a building within a conservation area and help to ensure its future maintenance. The proposal can also be considered a brownland regeneration of an under-used site and is therefore welcome in this respect. Overall, I do not consider there are grounds on which to refuse permission for this sensitive conversion.

#### **11.    Recommended decision and summary of reasons:**

##### **11.1   To grant permission with a condition**

**11.2   Summary of reasons:** The proposal has been considered in relation to the provisions of the Development Plan and all other material considerations as indicated in 9. above. The development provides an appropriate use of the site, and is acceptable in terms of its impact upon residential amenity and the conservation area generally.

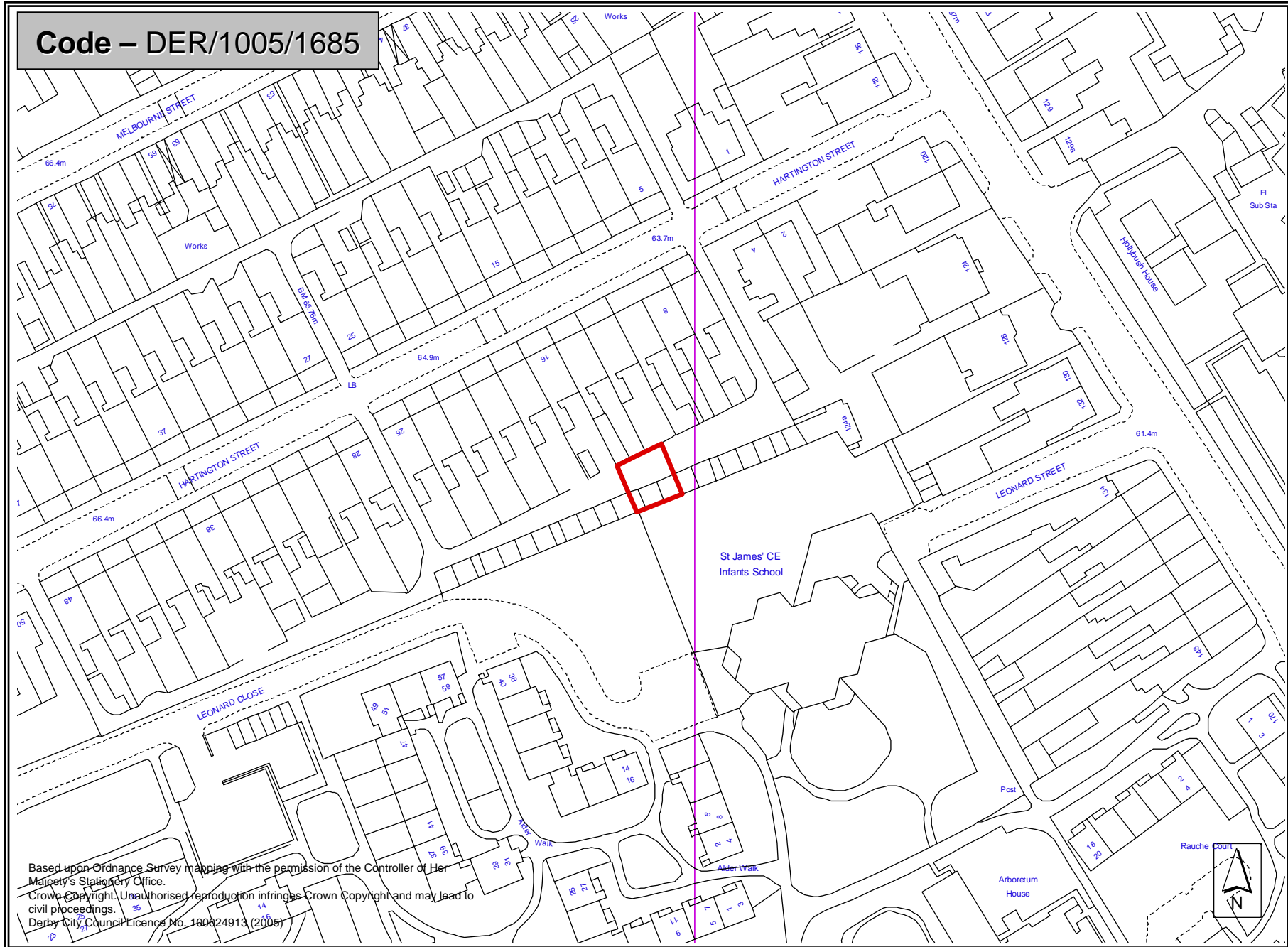
##### **11.3   Condition**

Before work commences, further precise details of the windows, doors and rainwater goods drawn at a scale of 1:10 or 1:20 and details of the repointing and repair brickwork and roof materials shall be submitted to and approved in writing by the Local Planning Authority.

##### **11.4   Reason**

To ensure that the proposal is in keeping with the character of the existing mews buildings and that it serves to enhance the character of the conservation area... policies E24 and E31.

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## **B1    APPLICATIONS    (cont'd)**

**4    Code No:** DER/905/1562

**Type:** Full

1.    **Address:**    Flat 7, Strutts Park House, Chevin Road
2.    **Proposal:**    Installation of uPVC windows
3.    **Description:**    This application for replacement windows relates to a modern, three storey block of flats on Chevin Road, which faces Duffield Road. It is a flat roof, brick building, of limited architectural merit, which lies in the Strutts Park Conservation Area. The building is located in a traditional residential area, characterised by late 19<sup>th</sup> and early 20<sup>th</sup> Century dwellings. It is in an elevated position above the Duffield Road frontage, although the front of the building is visible from the street.

An application for two replacement windows on the side elevation of this building was granted permission at this Committee in April 2005. These were for white uPVC windows of similar design to the original openings, which would not be viewed from the public realm. The current proposal is for replacement of four openings on the second floor of the building, with white uPVC windows of similar design. They would be on the block nearest to Duffield Road and include the large 10 pane window opening on the west elevation. The other 3 openings are relatively small on the south and east elevations of the building.

4.    **Relevant Planning History:**

DER/205/241 – installation of 2 windows on side elevation, granted – April 2005.

5.    **Implications of Proposal:**

5.1    **Economic:** -

5.2    **Design and Community Safety:** The proposed windows would be similar in design and proportion to the existing openings and visually would be in keeping with the appearance and period of the main building. There are no community safety issues.

5.3    **Highways:** -

5.4    **Disabled People's Access:** -

5.5    **Other Environmental:** -

6.    **Publicity:**

## B1 APPLICATIONS (cont'd)

### 4 Code No: DER/905/1562

Neighbour Notification letter	*	Site Notice	
Statutory press advert and site notice	*	Discretionary press advert and site notice	
Other			

7. **Representations:** No representations have been received to date.

8. **Consultations:**

CAAC – Recommends refusal on the grounds that the windows would be uncharacteristic of the design of this particular building and of the Conservation Area as a whole; the windows should be replaced with matching timber windows. Concern expressed over the piecemeal approach to window replacement in this building and potential consequences of such an approach to the appearance and character of the building.

9. **Summary of policies most relevant:** Adopted CDLP policies:

E24 - Development in Conservation Areas

E31 - Design

E26 - Protection of listed buildings

*Summary of policies is given. For full description Members should refer to their copies of the Local Plan.*

10. **Officer Opinion:** The proposed replacement of second floor windows on this 3 storey block of flats requires full planning permission, because flats do not have the benefit of permitted development rights. The windows would be replaced with uPVC openings, as opposed to white painted timber, which are existing and this would amount to a material change, requiring full permission. This application follows a previous proposal for replacing other windows to the communal stairwell of the same building, which were granted permission. These windows were considered to be acceptable, partly due to their location on the south side elevation, where they would have minimal visual impact on the surrounding streetscene.

The proposed window openings would be to one flat on the second floor, which faces towards Duffield Road. Three of the four windows would be viewed from the street frontage and in its elevated position they would be relatively prominent from the surrounding locality. They would be similar in design and appearance to the existing openings, in terms of their proportions, width of glazing bars and depth of reveal. The main difference would be in the material, which would be white

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**4       Code No: DER/905/1562**

uPVC. The proposed windows would not be discernibly different in appearance from the existing, except from close proximity. When viewed from the street frontage on Duffield Road or Chevin Road, I consider that it would not be apparent that the windows are uPVC. There are already some replacement windows in white uPVC on the front and rear of the building which do not have the benefit of planning permission. They have such similarities in appearance to the timber openings, that it is not clear that they are uPVC windows, particularly from the public realm.

Whilst the use of uPVC material would not normally be appropriate in the Conservation Area, particularly on traditional Victorian and early 20<sup>th</sup> Century properties, this building is relatively recent in date and is of a modern design and form. It contrasts starkly with the 19<sup>th</sup> and early 20<sup>th</sup> Century dwellings on either side. The original windows in this building are also progressive in their design, particularly the large openings facing Duffield Road and as such I consider that uPVC would not appear unduly out of place on this building. The visual qualities of the building and indeed the surrounding streetscene would not be unduly compromised or eroded by the use of this material, because in this case the proposed windows would have a limited impact on the appearance of the surrounding area. In addition, the differences would be less discernible as the existing windows are located at the outer wall edge in contrast to the normal location closer to the inner wall edge, thereby leaving a larger reveal, which is more typical of the older buildings in the conservation area. In my opinion, a clear distinction can be made between the degree of difference in this case and the general unsuitability of uPVC material and new buildings in the Conservation Area.

The main test for this type of development is whether the proposed alterations to the building would preserve or enhance the character of the Conservation area. PPG 15 advises that to preserve character, the development can leave the character and appearance of an area unharmed and does not always need to make a positive contribution. In this case, I consider that the design and appearance of the proposed windows would have such similarities with the original windows, that they would not cause material harm to the Conservation Area's character and appearance. The fact that the windows would be in a uPVC material on a prominent elevation of the building is not felt to be sufficient grounds in itself to resist this proposal. The proposed openings would need to have a detrimental impact on the surrounding area, by reason of their appearance. In this case, they would also be similar in appearance to the existing uPVC openings in the building, which replicate the design of the original windows. There is not an obvious difference between the painted timber and the existing uPVC,

**B1    APPLICATIONS (cont'd)**

**4       Code No:   DER/905/1562**

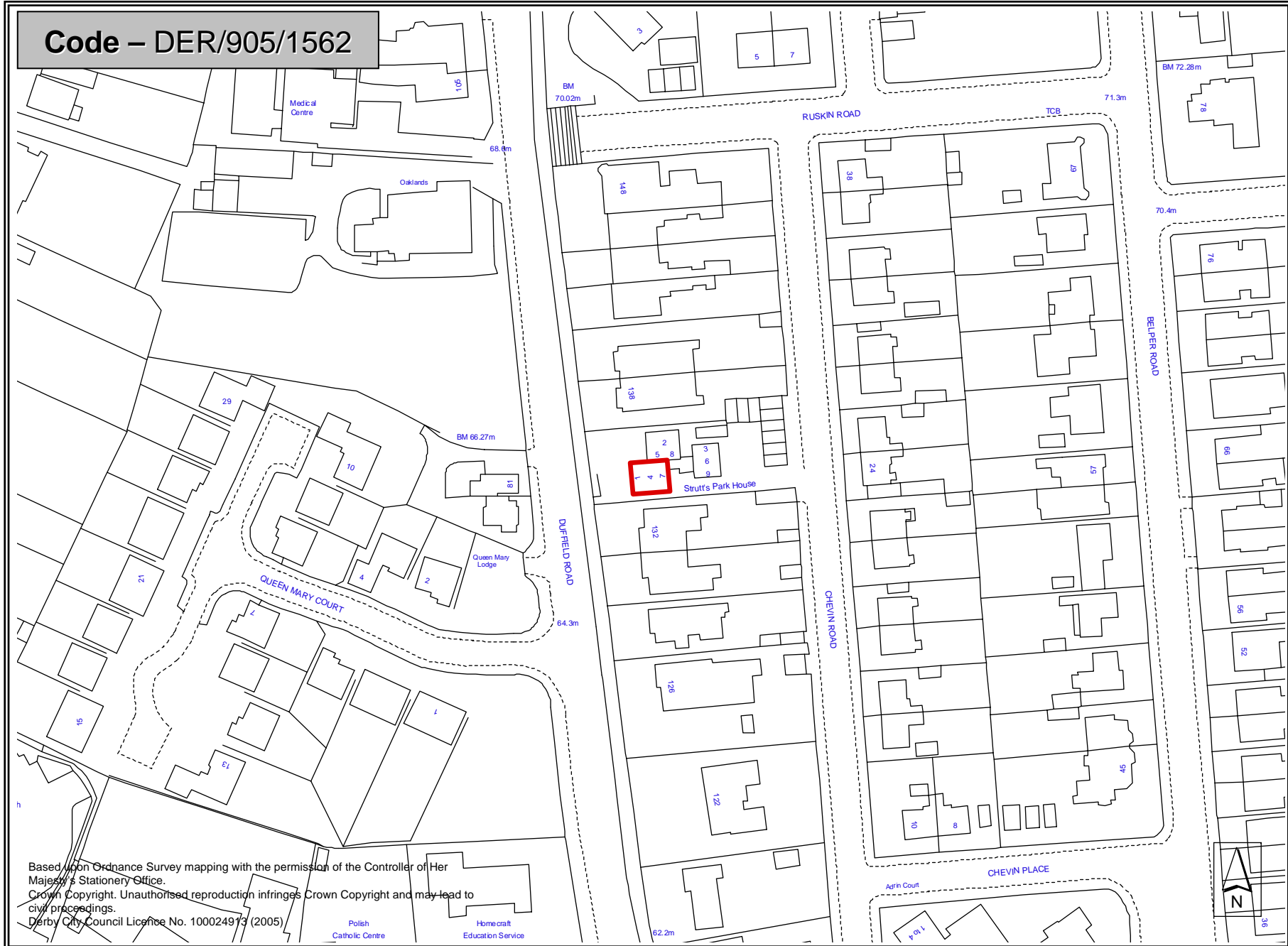
when viewed from the surrounding area and I, therefore, consider that their impact is not harmful to the character of the area. The proposed windows would not, therefore, have a harmful impact on the appearance of the streetscene and would, therefore, preserve the character of the Conservation Area. For these reasons I consider that the proposed replacement windows would be appropriate in this location and it is recommended that permission be granted.

**11.    Recommended decision and summary of reasons:**

**11.1   To grant** permission.

**11.2   Summary of reasons:** The proposal has been considered against the policies of the adopted City of Derby Local Plan as summarised at 9 above and the proposed development would be appropriate, both in its impact on the local streetscene and on the character and

**Code – DER/905/1562**



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## **B1    APPLICATIONS    (cont'd)**

**5    Code No:** DER/805/1399

**Type:** Full

1.    **Address:** Land at corner of Uttoxeter Road and Limes Avenue, Mickleover
2.    **Proposal:** Erection of 4 retail units, 17 apartments and extensions to existing travel shop
3.    **Description:** This full application seeks permission for a two and three storey building fronting both Uttoxeter Road and Limes Avenue, to provide four retail units, an extension to the existing travel agents to the west of the site, and seventeen apartments. The proposed building would be two storey immediately adjacent to the existing shops on the Uttoxeter Road frontage, and would then be three storey to and around the corner into Limes Avenue, becoming two storey again at its southern end close to South Court. The proposed retail units would front both Uttoxeter Road and Limes Avenue. Vehicular access to the site would be from Limes Avenue only. This would require quite extensive works in the highway, and the removal of the elevated footway on the west side of Limes Avenue. A vehicular access would lead to an area of ten parking spaces on the ground floor of the building, with an exit further north along Limes Avenue. This exit area would also allow access to a courtyard area at the rear of the retail units. This would allow for retail servicing, and the provision of seven further parking spaces.

The proposed building has a shallow hipped roof design, and would be faced in red brick and render. Balconies form a feature of the front elevations on both Uttoxeter Road and Lime Avenue. The reduction in site levels, to allow vehicular access from Limes Avenue will require quite extensive retaining wall construction on the southern boundary and on that with the rear gardens of 4 The Hollow and 1 The Green.

The application site abuts the Mickleover Conservation Area, and the proposed extension to the Travel Agents on the Uttoxeter Road frontage is actually within the Conservation Area. The curtilages of three Grade II listed buildings abut the site on its western side, but the buildings themselves are a substantial distance away from the proposed building.

The adjoining property on Uttoxeter Road is a retail shop, and the properties abutting the site in The Square and The Hollow are 2 or 2.5 storeys and on a slightly higher ground level than the application site. On the opposite side of Limes Avenue is a Bank and a four storey apartment building. Limes Avenue slopes to the south, and there are two storey dwelling houses in South Court, at a lower ground beyond a high boundary wall. The properties on the opposite side of Uttoxeter



## **B1    APPLICATIONS    (cont'd)**

### **5    Code No:    DER/805/1399**

Road are dwelling houses and retail shops, and are two storeys in height.

The application site is at present vacant, and was previously a petrol filling station and motor repair garage. The site is situated within the defined Mickleover District Centre, characterised by a wide variety of building types. Members visited the application site in October.

- 4.    Relevant Planning History:** DER/205/216 – erection of 4 retail units and 20 apartments and extension to travel shop. Refused for the following reason in April 2005 – appeal lodged.

“The proposal would represent an over intensive and over dominant form of development, that in terms of height, massing and overall appearance would detract from the appearance of the streetscene and the adjacent Mickleover Conservation Area, and from the setting of nearby listed buildings. It would therefore be contrary to the provisions of policies E24, E27 and E31 in the adopted City of Derby Local Plan

### **5.    Implications of Proposal:**

- 5.1    Economic:** The non-residential elements of the proposal would provide employment opportunities, and would add to the overall vitality of the District Centre.
- 5.2    Design and Community Safety:** I have no community safety objections to raise to the proposal. Concern is expressed about the initial elevational treatment and density of the proposal. These elements were taken up with the applicant, and resulted in some elevational changes. There would be some impact on the appearance of the Mickleover Conservation Area, and on the setting of listed buildings in The Square and The Hollow. The views of the CAAC have been sought, and as a result further discussions carried out with the applicant.
- 5.3    Highways:** No objections in principle. Further details have been requested regarding refuse storage bin location. Reinstatement of the footway on Uttoxeter Road will be required, together with pedestrian dropped kerbs and tactile paving at the Limes Avenue junction. The proposal must not prejudice the 4.5 m x 50 m visibility splay required across the frontage to Etwall Road. The existing stone retaining wall on Limes Avenue is a highway structure, and must not be altered in any way prior to obtaining written consent from the Highway Manager.

## B1 APPLICATIONS (cont'd)

### 5 Code No: DER/805/1399

**5.4 Disabled People's Access:** Accessible units would be secured by Building Regulations. A lift is now proposed for the apartments to provide mobility units at first floor.

**5.5 Other Environmental:** Given the past use of the site, quite a high level of pollution is likely. The advice of the Environmental Health Officer has been sought.

### 6. Publicity:

Neighbour Notification letter	*	Site Notice	*
Statutory press advert and site notice	*	Discretionary press advert and site notice	
Other			

**7. Representations:** I have received six letters of objection, and one of support. The letters are reproduced. The main points raised by the objectors are:

- would increase parking problems
- would badly increase traffic movements
- Mickleover does not need more shops
- would increase local social problems
- loss of residential amenity
- overlooking of adjacent properties
- boundary problems caused by ground level differences
- traffic danger to elderly people
- loss of old retaining wall in Limes Avenue
- scale is too great in relation to surroundings
- proposal is inappropriate in the village
- no information available about the type of shops proposed.

A statement from the applicant is also reproduced.

### 8. Consultations:

CAAC – The Committee noted the amendments that had been made to the previous scheme for the redevelopment of this site but considered that, whilst the footprint and storey height of the proposal was generally acceptable, the elevational treatment (including the roof detailing/materials) still gave rise to concerns and the development still lacked any local distinctiveness. It was considered that the elevations needed greater vertical sub-division to generate a stronger rhythm within the terrace to reflect the traditional character of development of

## B1 **APPLICATIONS** (cont'd)

### 5 **Code No:** DER/805/1399

the adjacent Conservation Area and that appropriate detailing should be incorporated of a distinct shop front fascia across the retail units in order to give a better relationship between the ground floor shops and the upper floor elevation. The comments were passed onto the applicant, resulting in amended elevations.

DCS (Health) – notes the previous uses of the site and suggests that a desk top study be prepared before development commences to identify and possible land contamination of the site.

STW – No objections.

County Archaeologist – Has requested an appropriate condition requesting a programme of archaeological works to be carried out, prior to development commencing.

### 9. **Summary of policies most relevant:** Adopted CDLP policies:

- S1 - Retail Strategy Objectives
- S2 - Shopping Centre Hierarchy
- S3 - Retail Location Criteria
- S4 - Retail Design Objectives
- S9 - District Centres
- H20 - Mobility Housing
- H22 - Residential Development on Unallocated Land
- H28 - Layout and Design of Residential Development
- E24 - Conservation Areas
- E31 - Design
- E32 - Community Safety and Crime Prevention
- L3 - Public Open Space Standards
- L4 - Provision of Public Open Space within Residential Development
- T9 - Traffic Management
- T22 - Parking Standards
- E18 - Contaminated land
- E29 - Archaeology

The guidance of PPG3 (Housing) is also relevant.

*The above is a summary of the policies most relevant and Members shall refer to their copy of the CDLP for the full version.*

### 10. **Officer Opinion:** There are no objections in principle to the proposed uses. Retail at ground floor level, with residential accommodation above is acceptable in this District Centre Location. It is my view that a combination of retail and residential uses on this site, would contribute to the overall vitality of the District Centre and the locality in general.

**B1    APPLICATIONS (cont'd)**

**5       Code No: DER/805/1399**

The proposed physical form is designed to relate reasonably well to the existing streetscene, but at the same time to give scale to the corner of Uttoxeter Road and Limes Avenue. I have considered the scale and massing of the proposed building, and have concluded that given the overall site conditions it is appropriate. It relates reasonably well to the existing frontage properties on Uttoxeter Road, and is a reasonable distance away from, or has an oblique relationship to the properties in The Square and The Hollow to the west. I acknowledge that some of these properties are listed buildings and that the proposal is in very close proximity to the Conservation Area. However, I have had to balance that against the overall benefit of the development for the District Centre as a whole. The listed buildings and the Conservation Area effectively turn their back on this site, and I do not feel that the effect on the setting of listed buildings or on the appearance of the Conservation Area would be sustainable grounds to justify a refusal of planning permission. At the present time, the application site is something of an eyesore, and certainly does not contribute to the appearance of the District Centre. There are elements of the appearance of the proposed building that will require considerable care, and appropriate conditions would be required:

1. I think it is essential that good quality external materials are used, and that particular attention is paid to that used for the quite low angled roof.
2. I do not consider that UPVC windows would be acceptable, on such a prominent site. I would require that alternative materials be sought and this has already been taken up with the applicant.
3. The retaining wall works required on the rear boundary of the site will require particular care, and I am inclined to request greater detail of the proposed engineering works, in order to ensure no adverse effects on the adjacent properties.

I have no adverse comments to raise in respect of the highways and parking issues. Having no vehicular access from Uttoxeter Road is a considerable improvement in road safety terms, and the access arrangement and parking provision are acceptable for a mixed use development of this type. I have looked carefully at the position of the existing residential properties that abut the site and am satisfied that reasonable distance can be achieved to ensure that unreasonable loss of amenity is not caused.

I acknowledge the points raised by the objectors, and have considered them with care. I have concluded that the scale and appearance of the

## **B1    APPLICATIONS    (cont'd)**

### **5       Code No:    DER/805/1399**

proposal is appropriate for this site and that it will greatly benefit the District Centre as a whole. The form of vehicular access is an improvement on the previous situation, and the parking provision is acceptable. I do believe that the proposal will have some impact on the setting of nearby listed buildings and on the appearance of the Mickleover Conservation Area. However, I do not consider that the impact would be sufficient to justify a refusal of permission. Since the previous refusal the applicant, in addition to lodging an appeal against that decision, has negotiated with officers, taken note of the observations made by CAAC and, I feel, produced a scheme that whilst contemporary in design will add to this prominent corner site. The character of this District Centre is very varied, and this positive proposal is to be welcomed both in visual and in economic terms. I therefore recommend that permission be granted subject to conditions, and the conclusion of the Section 106 Agreement.

#### **11.    Recommended decision and summary of reasons:**

**11.1    A.       To authorise** the Assistant Director – Development to negotiate the terms of a Section 106 Agreement to achieve the objectives set out in 11.5 below and **to authorise** the Director of Corporate Services to enter into such an agreement.

**B.       To authorise** the Assistant Director – Development **to grant** planning permission on the conclusion of the above agreement, with conditions.

**11.2    Summary of reasons:** The proposal has been considered against the City of Derby Local Plan policies as summarised at 9 above and would not be unduly detrimental to the streetscene, provides suitable re-use of a brownfield site, and would help enhance this corner site in Mickleover district centre.

#### **11.3    Conditions**

1. Standard condition 09A (amended plans 7 November 2005)
2. Standard condition 27 (external materials)
3. Standard condition 30 (hard surfaces)
4. Standard condition 19 (means of enclosure)
5. The proposed retail units shall be used for A1 (shops), uses only, unless otherwise agreed in writing by the Local Planning Authority.
6. Development shall not begin until:

**B1    APPLICATIONS (cont'd)**

**5       Code No: DER/805/1399**

- a. details of an investigative survey of the site have been submitted to and approved in writing by the Local Planning Authority. This investigative survey shall have regard for ground and water contamination, the potential for gas emissions and any associated risk to the public, buildings and/or the environment.
  - b. the investigative survey has been carried out and a report submitted, to include details of remedial measures to be taken to address any contamination or other problems; and both the report and the remedial measures have been approved in writing by the Local Planning Authority.
  - c. all the necessary remedial measures have been completed in accordance with the approved details and.
  - d. the applicants have certified to the Local Planning Authority that the measures taken have rendered the site free from risk to human health from the contaminants identified.
7. Standard condition 38 (foul and surface water damage)
8. Standard condition 95 (cycle parking)
9. Standard condition 99 (recycling facilities)
10. Before the development commences, further details of the retaining walls at the rear of the site shall be submitted to and be approved in writing by the Local Planning Authority.
11. The two first floor windows on the south elevation of unit 10 adjacent to South Court, and the six staircase/landing windows on the floor adjacent to units, 8,9 and 10, together with the first and second floor stair well windows adjacent to units 7 and 17 on the rear elevation shall be obscure glazed at all times unless otherwise agreed in writing by the Local Planning Authority.
12. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation submitted by the applicant and approved by the Development Control Archaeologist on behalf of Derby City Council.
13. The existing kerb crossings shall be reinstated as footways and pedestrian dropped kerbs and tactile paving shall be provided at the Limes Avenue junction in accordance with a scheme to be submitted to and approved in writing by the Local Planning

## **B1    APPLICATIONS   (cont'd)**

### **5       Code No:   DER/805/1399**

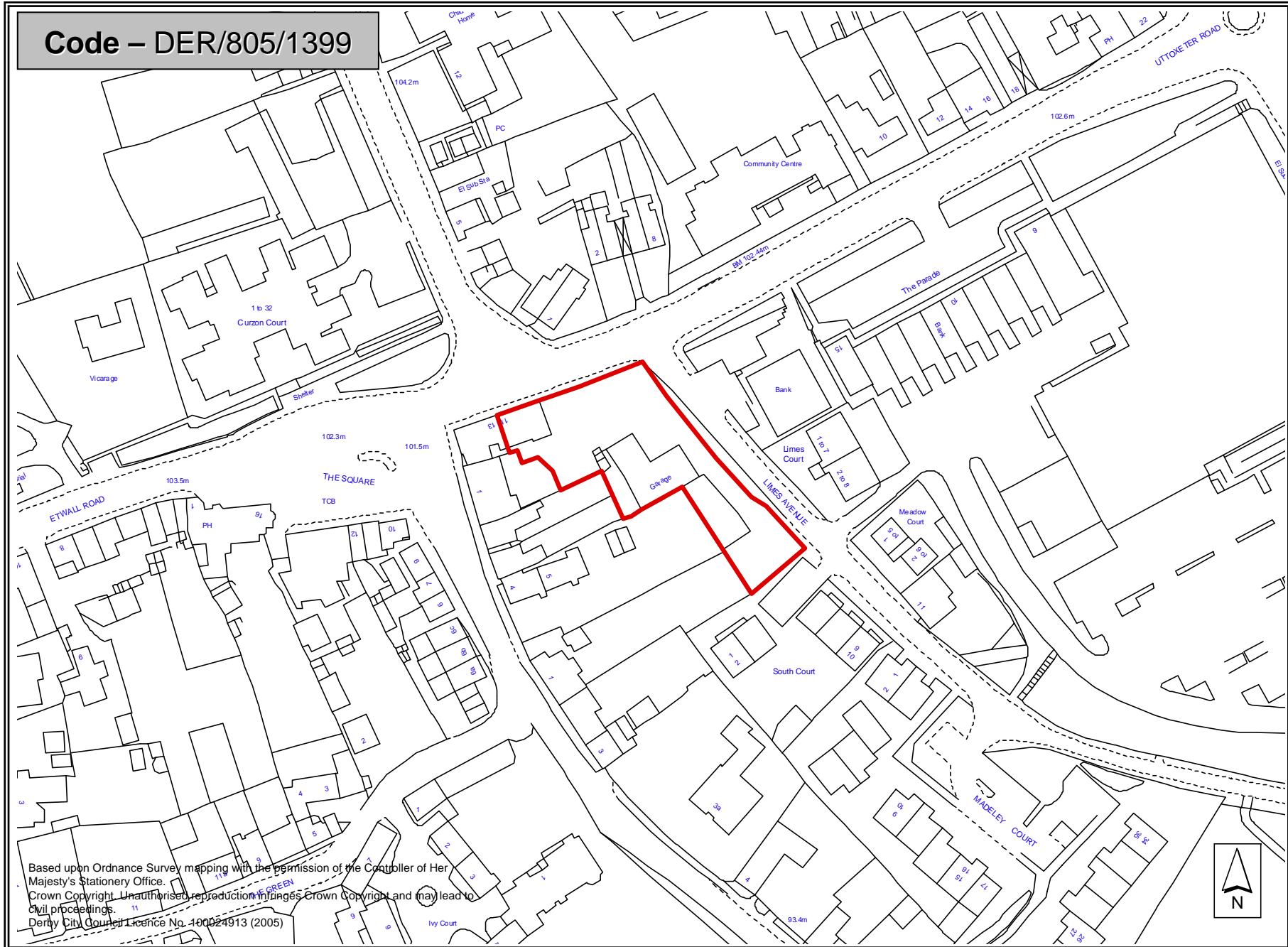
Authority. The approved scheme shall be implemented in its entirety before the new building is brought into use.

#### **11.4   Reasons**

1. Standard reason E04
2. Standard reason 14 ... policy E31
3. Standard reason 18 ... policy E31
4. Standard reason 18 ... policy E31
5. In accordance with the retail policies of the adopted City of Derby Local Plan.
6. To ensure the provision of a safe environment for residential properties, and in the interest of the amenities of future residents on the site ... policy E18
7. Standard reason E21
8. To encourage the use of alternative modes of transport ... policy T22
9. Standard reason 48
10. To ensure the adequate provision of retaining walls, and to ensure that no damage is caused to adjoining properties...policy E31
11. Standard reason E07 ... policy H22
12. In order to determine the archaeological interest of the site, prior to development commencing ... policy E29
13. In the interests of highway safety ... policy T9

#### **11.5   S106 requirements where appropriate:   Contributions   to   off-site highway works, public open space requirements and mobility housing.**

**Code – DER/805/1399**





## **B1    APPLICATIONS    (cont'd)**

**6    Code No:** DER/1005/1662

**Type:** Full

1.    **Address:** Land west of 101 and 105 Station Road, Chellaston
2.    **Proposal:** Residential development (12 apartments and 2 dwelling houses)
3.    **Description:** This full application seeks permission for residential development on this narrow site at the western end of Station Road, Chellaston. Vehicular access is proposed from the east from Station Road itself. To the north of the application site is an extensive area of open space, and residential curtilages abutting Station Road. To the south and west are recently constructed residential properties, while to the south east are conventional two storey dwelling houses in Station Close. At the present time, much of the application site is substantially elevated above the present ground levels of the open space area to the north, and the residential properties to the south and the west. It is proposed to carry out extensive engineering works to reduce the ground level of the application site to that of the land to the north and south.

It is proposed to erect two three storey apartment blocks (each of six units), and 2no. two storey dwelling houses at the western end of the site. The apartments are of a clipped roof design, and the dwelling houses are of a similar design. An extensive area of hard surfacing would provide 22 car parking spaces. In addition, provision would be made for a footpath link from the open space area (north of the site) to Station Road itself. The reduction of the application site's ground level would involve the loss of a great deal of vegetation, and the movement of a considerable amount of material. This application follows on from an appeal decision (Ref. APP/C1055/A/105/1179/77) in respect of DER/1104/1892. That was an outline application for which permission was refused in February 2005. The appeal was dismissed, but the Inspector chose to give a clear indication as to how the site could be developed. This application attempts to follow that guidance.

4.    **Relevant Planning History:** DER/1104/1892 – outline application for residential development (12 apartments and 2 dwelling houses) – refused February 2005 for the following reason:

“The application site is substantially elevated above the adjacent properties to the south and east, and its development would be seriously detrimental to the residents therein by reason of the proximity of buildings at a higher ground level, close to the site boundary. This would be contrary to policy H28 of the adopted City of Derby Local Plan. In addition, the creation of a vehicular access from the east of the site, would be contrary to the provisions of policy H2 in the adopted

## B1 **APPLICATIONS** (cont'd)

### 7 **Code No:** DER/1005/1537

City of Derby Local Plan, which requires that access to the site be from the A514/Wilmore Road Link or Parkway only”.

This application went to appeal, and the appeal was dismissed in August 2005. However, the Inspector's Report gave clear guidance as to the possible future development of the site, and is reproduced with this report.

#### 5. **Implications of Proposal:**

5.1 **Economic:** None.

5.2 **Design and Community Safety:** I have no design or community safety objections to raise, subject to satisfactory agreement on the final ground levels of the application site.

5.3 **Highways:** The highways element of this proposal has been the subject of considerable discussion between the applicant and officers. The amended details indicate a 4.8 m wide access road from Station Road, with footway provision. In addition, it is proposed to incorporate a footpath link from the open space area north of the site, to Station Road this being a well established pedestrian desire line. Car parking provision and turning facilities within the site are quite acceptable. Any further highway comments will be reported at the meeting.

5.4 **Disabled People's Access:** Two disabled people's parking spaces are provided and building accessibility will be achievable through the Building Regulations.

5.5 **Other Environmental:** Several trees and bushes currently on the site will need to be removed as a result of the alterations to the ground levels, although none are protected by a Preservation Order.

#### 6. **Publicity:**

Neighbour Notification letter	*	Site Notice	*
Statutory press advert and site notice		Discretionary press advert and site notice	
Other			

7. **Representations:** I have received 14 letters of objection, one signed by nine people and these are available for inspection in the members' rooms. The main points raised by the objectors are:

- Severe effects on existing residential amenity

## **B1    APPLICATIONS    (cont'd)**

### **7    Code No:    DER/1005/1537**

- Loss of views
- Traffic problems on Station Road
- Loss of trees and general habitat
- Substantial level problems
- Impact on wildlife
- Loss of property values
- General impact on the locality
- Loss of light.

### **8.    Consultations:**

Police ALO – Any comments will be reported orally.

### **9.    Summary of policies most relevant:    The most relevant policies of the adopted CDLP are:**

- H2    - New Residential Proposals – West Chellaston
- H20   - Mobility Housing
- H28   - Layout and Design of Residential Development
- L3    - Public Open Space Standards
- L4    - Provision of Open Space within Housing Developments
- E15   - Sustainable Development
- E31   - Design
- E32   - Community Safety and Crime Prevention
- T16   - Rights of Way and Routes for Cyclists, Pedestrians and Horse Riders
- T22   - Parking Standards

*The above is a summary of the policy that is relevant. Members should refer to their copy of the CDLP for the full version.*

### **10.    Officer Opinion:    This is a somewhat unusual situation following the guidance given by the Inspector in the appeal in respect of DER/1104/1892. Prior to that, residential development in the H2 allocation as defined in the adopted Local Plan was not to be from the east (ie from Station Road). The Inspector effectively reversed that directive, and indicated that in principle access from the east would be acceptable to this relatively small site. The amended details indicate an acceptable form of access from Station Road and I therefore am obliged to accept the Inspectors guidance regarding access to the site. The principle of residential development is acceptable on this land, as it forms part of the H2 allocation for West Chellaston. That principle is of course subject to a number of considerations, the most relevant of which are the proposed land levels of the site, and the relationship with the established residential properties to the south, west and east of the site.**

**B1    APPLICATIONS (cont'd)**

**7       Code No: DER/1005/1537**

The issue of the land levels of the site has been taken up with the applicant. It is proposed to remove a considerable amount of material, to reduce the level of the application site to that of the open space area to the north and the established residential development to the south. In principle I do not have a problem with this, as it makes some form of development of the site quite acceptable. I would however require by condition detailed confirmation of the proposed land levels of the site in relation to the surrounding land. I do not wish to see a form of development here, that would unreasonably dominate the properties to the south and acceptable ground levels are a pre-requisite of that aspect.

I have no major objections to raise to the design of the proposed buildings. I acknowledge that the apartment blocks are three storey, but they are a substantial distance away from the properties to the south, and the Council's normal space standards can be achieved (subject of course to acceptable land levels). There is scope with the scheme for adequate landscaping and planting works, and I do feel that these would improve the scheme, particularly in relation to the properties to the south and east. I have looked carefully at the points raised by the objectors, and examined them closely in relation to the details submitted and the site conditions and relationships to existing properties to the south, east and west. The Council's normal space requirements can be met in relation to the existing properties, and I am satisfied that reasonable relationships can be achieved. I am sympathetic to the concerns of third parties, but have to acknowledge that this site is allocated in the adopted Local Plan for residential development. If acceptable ground levels and relationships to surrounding properties are achieved as indicated in this submission, then a refusal of permission could not be sustained at appeal. A great deal of effort and expense is likely to be required in order to make this site developable, but it is quite acceptable in planning terms, and I am obliged to recommend that permission be granted subject to the conclusion of a Section 106 Agreement, and the conditions suggested. There is no unreasonable conflict with Local Plan policies H2, H28 or T22, or the guidance of PPG 3.

**11.    Recommended decision and summary of reasons:**

- 11.1    A.    To authorise** the Assistant Director – Development to negotiate the terms of a Section 106 Agreement to achieve the objectives set out in 11.5 below and **to authorise** the Director of Corporate Services to enter into such an agreement.

## **B1    APPLICATIONS    (cont'd)**

### **7    Code No:    DER/1005/1537**

- B.    To authorise** the Assistant Director – Development **to grant** planning permission on the conclusion of the above Agreement, with conditions.
- C.    To remind** the applicants of their responsibilities under the Wildlife and Countryside Act 1981 and the Conservation Regulations 1994 in respect of the presence on the site of any protected species.
- D.    If the applicant fails to sign the S106 Agreement by the expiry of the 13 week target period (5 January), consideration be given, in consultation with the Chair, to refusing the application.**

**11.2    Summary of reasons:**    The siting, design, effect on the streetscene and massing impact of the proposed development are acceptable in relation to the character of this location and are in accordance with policies H2, H28 and T22 of the adopted City of Derby Local Plan.

#### **11.3    Conditions**

- 1. Standard condition 09A (amended plans, 14, 17 and 22 Nov 2005)
- 2. Standard condition 27 (external materials)
- 3. Standard condition 20 (landscaping)
- 4. Standard condition 22 (landscaping maintenance)
- 5. Standard condition 19 (means of enclosure)
- 6. Standard condition 30 (hard surfacing)
- 7. Standard condition 13 (Domestic use of garages)
- 8. Before the development commences, more details of the proposed land levels of the application site shall be submitted to, and be approved in writing by the Local Planning Authority.
- 9. Standard condition 38 (drainage)

#### **11.4    Reasons**

- 1. Standard reason E04
- 2. Standard reason E14 (H22)
- 3. Standard reason E18 (H28)
- 4. Standard reason E18 (H28)
- 5. Standard reason E14 (H22)
- 6. Standard reason E14 (H22)
- 7. To preserve the amenities of nearby residents ... (H28)

**B1    APPLICATIONS    (cont'd)**

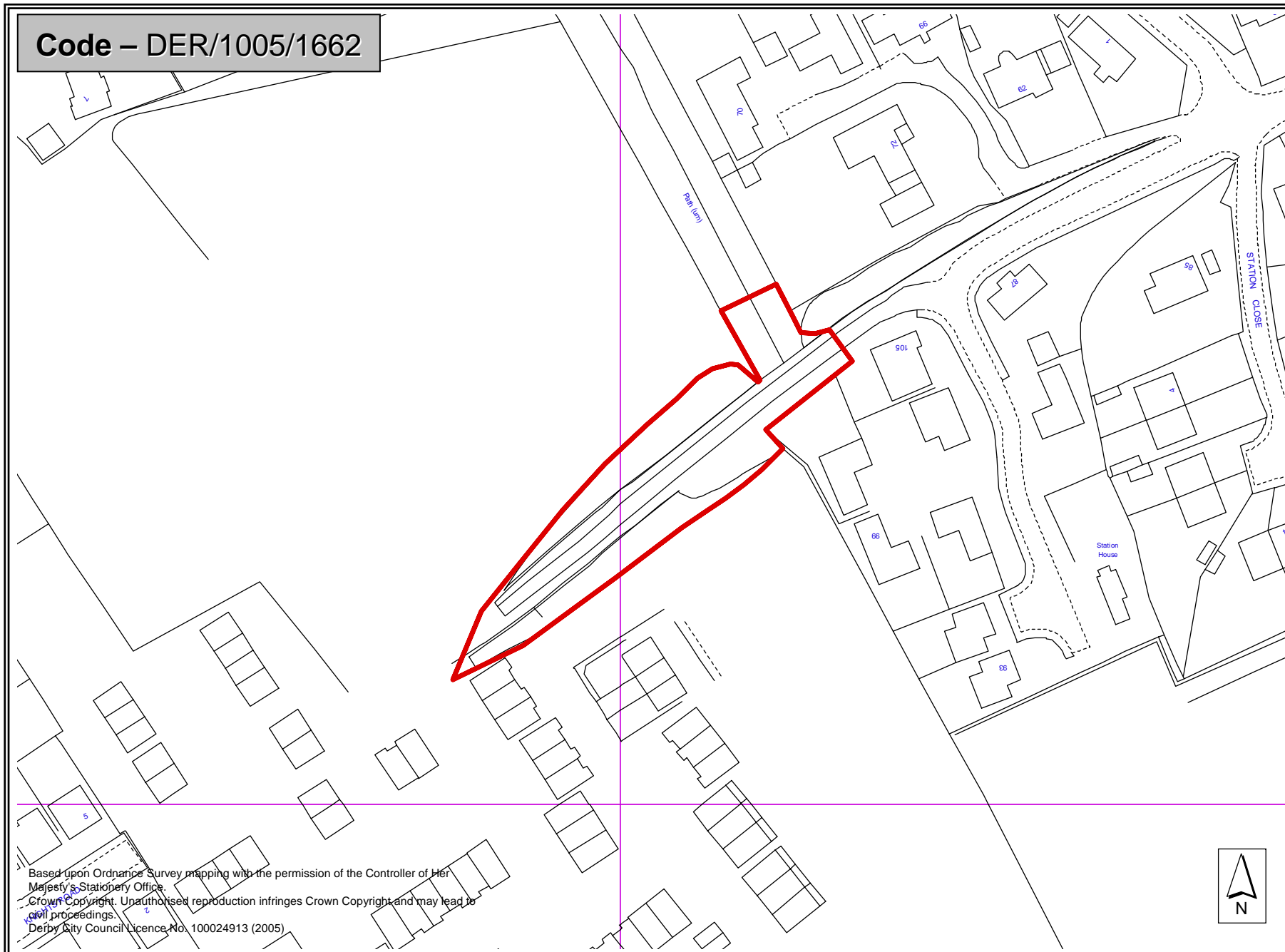
**7    Code No:    DER/1005/1537**

8. In order to ensure that an acceptable land level of the application site is secured, in order to protect the amenities of existing nearby residents ... (H28)

9. Standard reason E14 (H22)

**11.5    S106 requirements where appropriate:**    Public    Open    Space  
requirements, and mobility housing.

**Code – DER/1005/1662**



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## **B1    APPLICATIONS    (cont'd)**

**7    Code No:** DER/905/1537

**Type:** Full

1.    **Address:**    Site of 181 and 185 Station Road, Mickleover
2.    **Proposal:** Demolition of existing dwelling houses and erection of 12 apartments
3.    **Description:** Full planning permission is sought to redevelop this site which is located on the East side of Station Road. The site is located between the junctions of Micklecross Close and East Avenue and it covers an area of approximately 2050 sqm. The site currently accommodates a pair of detached bungalows and these would be demolished to accommodate the development. The site is currently accessed by two vehicle accesses on either side of the frontage. The proposed development would be served by a single vehicle access and egress on the south side of the site, adjacent to the boundary with no. 179 Station Road.

The proposed development includes the erection of two buildings which would individually accommodate six apartments. The siting of the proposed buildings, as amended, would stand back approximately 18m from the site frontage behind the shared parking area, which would accommodate 18 spaces. The proposed three storey buildings are gable-fronted and the architectural design is characteristic of the immediate locality. The Officer Opinion section addresses the proposed design in more detail.

4.    **Relevant Planning History:**    None.
5.    **Implications of Proposal:**
  - 5.1    **Economic:** None.
  - 5.2    **Design and Community Safety:** I raise no objections to the elevational design of the proposed development in this residential context. The applicant has submitted a street-scene drawing which illustrates the relationship of the proposed development to existing neighbours. A copy will be displayed at the meeting.
  - 5.3    **Highways:** I raise no objections to the proposed vehicle access arrangement as included on the revised site layout plan. The required parking provision of 1.5 spaces per unit is provided on the revised site layout. I, therefore, raise no objections to the amended application on highways grounds.
  - 5.4    **Disabled People's Access:** The proposed apartments would be made accessible through the Building Regulations.



## B1 **APPLICATIONS** (cont'd)

### 7 **Code No:** DER/905/1537

**5.5 Other Environmental:** The site is covered by TPO No. 8. The Order includes frontage trees on the site and various trees in the gardens of the neighbours to the north and south, Nos. 185a and 179. The application is accompanied by a Tree Survey and this has been scrutinised by the Council's Arboricultural Manager. The footprint of the building adjacent to the boundary with No. 179 has been amended to accommodate a protected Pine tree which stands in the rear garden of No. 179. The agent has confirmed that the tree has been resurveyed to ensure that the building has been correctly re-sited. A topographical survey has recently been submitted to accompany the application. The site has also been investigated to assess whether any of the other unprotected trees are worthy of formal protection. I am satisfied that there are no other trees on-site that warrant a TPO.

### 6. **Publicity:**

Neighbour Notification letter	*	Site Notice	
Statutory press advert and site notice		Discretionary press advert and site notice	
Other			

7. **Representations:** Forty nine letters of objection have been received in response to this application and will be available in the Members' foyer. Concerns are expressed about the siting, design and impact of the proposed development on the character of the area. Concerns are expressed about the impact of the proposed development on the surrounding protected trees and highway safety. The issue of highway safety is a particular local concern given that there has been a recent road traffic accident fatality on Station Road near the site. Concerns are also expressed about the existence of bats in the building. The application is accompanied by two bat surveys for the existing bungalows and DWT and English Nature have been asked to comment on them.

### 8. **Consultations:**

DCommS (Arboriculture) – to be reported.

Police – the design content of the application is generally praised with regard to Secure By Design features.

DWT – recommends that further work be undertaken with regard to the bat surveys and separate survey work should be undertaken, at the appropriate time of year, to establish whether or not great crested newts are present in the garden pond. It is recommended that English

## B1 **APPLICATIONS** (cont'd)

### 7 **Code No:** DER/905/1537

Nature be consulted on these issues for guidance on the required survey work. English Nature has, therefore been consulted and copies of both bat surveys have been sent for their scrutiny.

STW – recommends the inclusion of a standard drainage condition.

English Nature – to be reported.

### 9. **Summary of policies most relevant:** Adopted CDLP:

- H22 - Residential development on unallocated land
- H28 - Layout and design of residential development
- E9 - Development affecting sites potentially supporting wildlife species.
- E31 - Design
- T22 - Parking standards.

*The above is a summary of the policies that are relevant. Members should refer to their copy of the CDLP for the full version.*

### 10. **Officer Opinion:** There are no objections in principle to the residential redevelopment of this site. The site is located in a residential area and it forms part of the spacious residential context of Station Road. The main planning issues are addressed below.

#### **Siting and Design**

The central siting of the proposed buildings, as amended, addresses the relationship of the development to the protected trees around the site. The proposed buildings are the same architectural design and they include strong design features of the locality. For example, the proposed front elevations of the buildings include three storey gables at either side with ground and first floor level bay windows. The proposed buildings have pitched roofs and both include centralised dormer windows in the front roof plane. In my opinion, this design detail compares favourably with the scale and architectural form of the existing dwellings at Nos. 177 and 179 Station Road. The proposed buildings are, in my opinion, well spaced from the existing neighbours at No. 179 and 185A. For example, the proposed building adjacent to the boundary with No. 185A would not transgress a line of 45° from the rear corner elevation of No. 185A. In my opinion, that demonstrates that the siting of the proposed building is acceptable in general massing terms. The neighbour at No. 179 is sited approximately 10m from the south boundary of the site and, in view of that distance, the scale of No. 179 and the aspect of the site, I consider that no objections could be sustained on general massing grounds. In terms of

## **B1    APPLICATIONS    (cont'd)**

### **7    Code No:    DER/905/1537**

overlooking from the proposed buildings, the amended design includes only single windows on each floor of the side elevations which face the neighbouring dwellings – nos. 185A and 179. The amended scheme includes details that these side elevation windows be non opening and obscure glazed. Therefore, the proposed design confines the principal habitable room windows to the front and rear elevations to avoid unreasonable over-looking into the neighbouring gardens.

#### Highways and Parking

The revised vehicle access/egress and parking layout at the front of the site is acceptable in highways terms. The parking layout provides for 1.5 spaces per unit. This level, which is above the normal 100% parking provision for most brownfield site residential proposals, is required in this case.

#### Environmental Issues

Concern has been raised about the existence of bat roosts in the existing buildings and, in accordance with CDLP policy E9, the City Council has a duty to draw the applicant's attention to this issue. Separate legislation is also in place to address the issue of bat protection which the agent is fully aware of. On the basis of the submitted bat surveys it is concluded that it is unlikely that both of the existing bungalows would support bat roosts. It is important to note that the applicant has provided two bat surveys of the existing buildings. The latter survey, which was undertaken in November 2005, includes thorough investigations for bat activity in both existing dwellings. The latter survey concludes that...'*as no evidence of a roost has been identified on either survey undertaken at the properties the presence of a bat roost should not be considered as a statutory constraint to development. However, as potential access points were identified it is considered that demolition of the current residential dwellings should be undertaken in accordance with a strict method statement*'. The recommended method statement is provided in the report.

The submitted ecological survey concludes that no nature conservation constraints to the proposed development were observed during the survey period. The reports have been sent to DWT and English Nature.

### **11.    Recommended decision and summary of reasons:**

- 11.1    A.    To authorise** the Assistant Director – Development to negotiate the terms of a Section 106 Agreement to achieve the objectives

## **B1    APPLICATIONS    (cont'd)**

### **7    Code No:    DER/905/1537**

set out in 11.5 below and **to authorise** the Director of Corporate Services to enter into such an agreement.

- B.    To authorise** the Assistant Director – Development, on expiry of the 14 day re-notification period for the amended application, **to grant** planning permission on conclusion of the above Agreement, with conditions. Should further objections be received following the Committee **to resolve** that their content be considered by Officers in consultation with the Chair and Vice Chair.
- C.    To remind** the applicants of their responsibilities under the Wildlife and Countryside Act 1981 and the Conservation Regulations 1994 in respect of the presence on the site of any protected species such as bats.
- D.    If the applicant fails to sign the S106 Agreement by the expiry of the 13 week target period – 21 December 2005, consideration be given, in consultation with the Chair, to refusing the application.**

**11.2    Summary of reasons:** The proposal has been considered in relation to the provisions of the adopted City of Derby Local Plan and all other material considerations indicated at 9. above and the siting, design, effect on the street-scene and massing impact of the proposed development are acceptable in this location and are in accordance with policies H22, H28, E31 and T22 of the adopted City of Derby Local Plan.

### **11.3    Conditions**

- 1.    Standard condition 84 (drawing Nos. 9496/PL02, PL03, 04, 05, 06, 07, 08, 09, 10 & J 3493s2)
- 2.    Standard condition 27 (materials)
- 3.    Standard condition 20 (approval of landscaping scheme)
- 4.    Standard condition 22 (landscaping within 12 months (cond. 3))
- 5.    Standard condition 24A (vegetation – protection incl. overhanging)
- 6.    Standard condition 19 (means of enclosure)
- 7.    Standard condition 30 (surfaces to be drained, surface etc)
- 8.    Standard condition 38 (disposal of sewage – details)
- 9.    The side elevation windows facing nos. 185A and 179 Station Road shall be non-opening and obscure glazed windows, as included on drawing nos. 9496/PL 03 and 07, and shall be retained as such thereafter.

**B1    APPLICATIONS    (cont'd)**

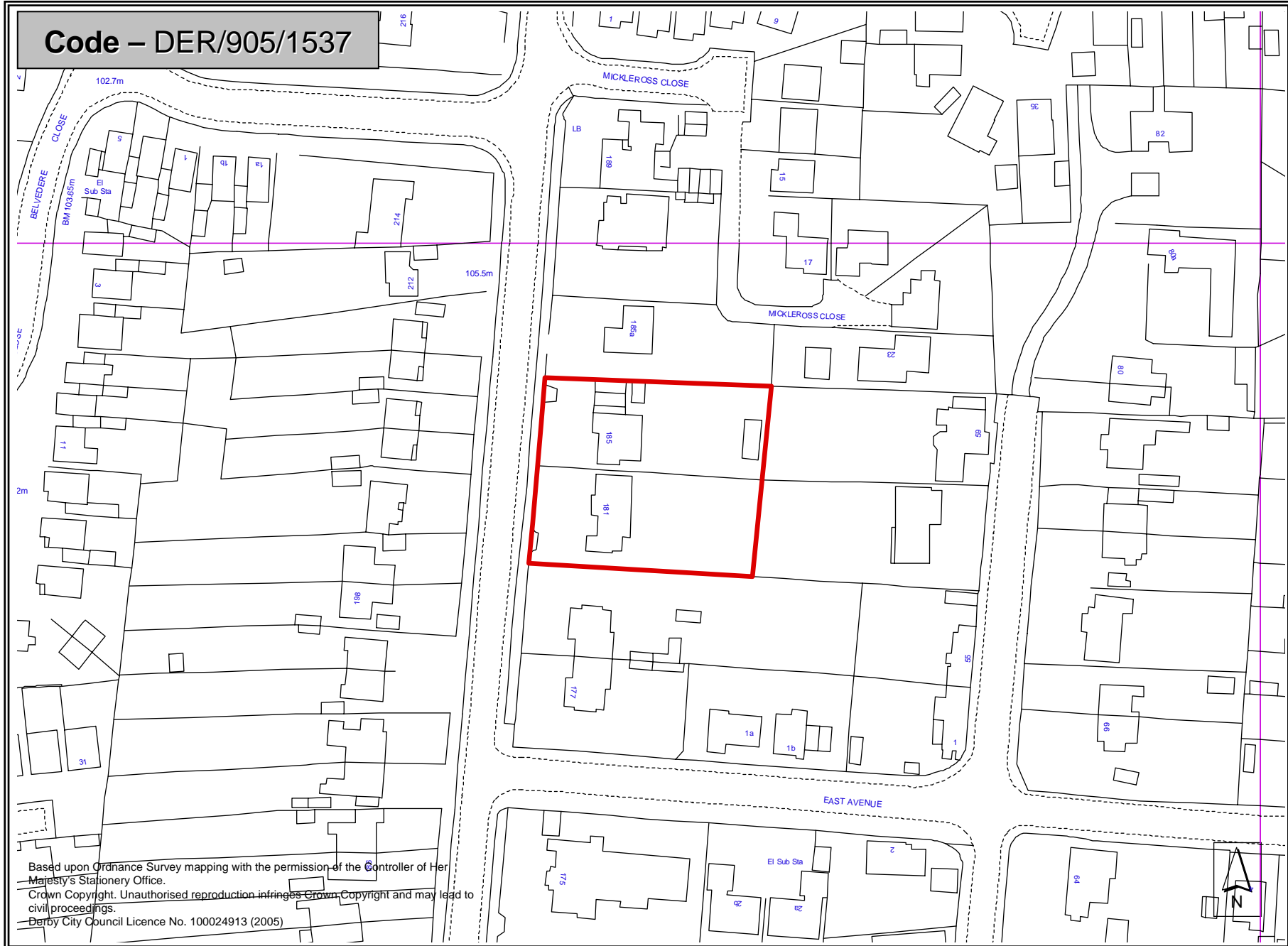
**7    Code No:    DER/905/1537**

**11.4    Reasons**

1.    Standard reason E04
2.    Standard reason E14 (H22/E31)
3.    Standard reason E14 (H22/E31)
4.    Standard reason E14 (H22/E31)
5.    Standard reason E29
6.    Standard reason E14 (H22)
7.    Standard reason E14 (H22)
8.    Standard reason E21
9.    For the avoidance of doubt and to safeguard the privacy of the adjacent residents in accordance with policy H22 of the adopted City of Derby Local Plan.

**11.5    S106 requirements where appropriate:** Incidental public open space contributions, mobility and highways.

**Code – DER/905/1537**



## **B1    APPLICATIONS    (cont'd)**

**8    Code No:** DER/1005/1684

**Type:** Full

1.    **Address:** Car park of the former Sturgess School site, Markeaton Street
2.    **Proposal:** The retention of site accommodation compound for a temporary period of 18 months
3.    **Description:** Planning permission is sought for the temporary use of land to serve as a site compound during the course of construction of the major development of an arts and technology block for the Derby University at Pybus Street. During the course of construction a substantial site compound is required to support the construction works. The site was set up at the former Sturgess school site off Markeaton Street in late August without the benefit of planning permission by the university's contractors who believed that planning permission would not be required for the compound as the site was in the ownership of the university, was close to the development site at Pybus Street and would be development permitted as works necessary to facilitate the development of the arts block. It is the norm for large development projects to have site compounds within or adjacent to development site. Planning permission is not normally required for these temporary compounds however the Council takes the view that siting of this compound is too detached and remote from the development site, to be considered exempt from need to obtain planning permission.

The site is accessed off Markeaton Street which is a narrow lane, with a footway on one side, running alongside mill ponds fed by the Markeaton Brook. On the opposite side, the road runs alongside the side of the Derby University Arts and Technology block now under construction. The contractor's compound itself is sited on an area of existing hardstanding that was associated with the Sturgess School that formerly occupied the land. All of the school buildings were demolished a number of years ago. The cleared land is now mainly covered by grass with some remaining hard surfaced roadways and the hardstanding which had become overgrown. The area of hardstanding is reached from Markeaton Street along the former school access over a small bridge which crosses the mill ponds at a narrow point with a culvert beneath. The bridged culvert between the two mill ponds has been assessed by contractor's engineers. The loadings on the culvert resulting from the delivery of the site cabins, and the light /van and car traffic that now access the site, are considered to be no more onerous than the traffic that has previously used the bridge in the past.

The site compound consists of 15 temporary office units. The majority of these are set at ground level but two are stacked at first floor level. The fifteen units contain offices, toilets, kitchens/canteens meeting

**B1    APPLICATIONS    (cont'd)**

**8       Code No:    DER/1005/1684**

rooms and drying rooms. Of these 9 units are linked together in line forming a major complex of offices. In addition there are 3 storage type containers, a generator and a fuel tank. The site compound area is surrounded by temporary security fencing and is floodlit during the hours of darkness.

There would be no foul water discharge from the site with all discharges being discharged into tanks which would be emptied into bowzers every two to three weeks and removed from the site.

The compound will only operate for office use, meetings and for messing, canteen and toilet facilities for operatives and storage of hand tools. It will not be used for storage of building materials or plant or machinery and it is not intended to serve as the general car parking area for the site operatives. When inspected the site had 25 vehicles mainly cars and light vans of office staff and visiting contractors. This far exceeds the estimated 6 light vehicles each week day, specified in the applicants supporting statement. Additional predicted traffic will include a bowzer for foul drainage once every 2 to 3 weeks and a small diesel bowzer once every week.

The whole of the former Sturgess School site, including the application site is protected by an area tree preservation order which protects all of the trees that were present on the site at the time that the order was made. The site is also within an area designated as green wedge in the City of Derby Local Plan. The site also lies adjacent to the Markeaton Brook and pond complex which is an important wildlife area and an area of outstanding natural history value identified as such on the City of Derby Local Plan.

The developers have submitted a statement which details the areas of search for an appropriate area of land for use as a site compound. The development site itself was eliminated as an option during the early stages of site preparation due to site constraints. These included the retention of some of the existing Pybus Street buildings in active educational use, and the phased clearance of the site. A major consideration was the containment of Japanese knotweed, a pernicious and persistent weed, which has infested part of the Pybus Street site. Following site clearance one of the most suitable parts of the site close to the Pybus street entrance is to be turned into a car park early on for use by site operatives and Pybus Street residents to ease congestion along Pybus Street itself. This would prevent use of this area as a site compound. Once two tower cranes are installed large parts of the site would be under the working areas of the tower cranes and unsuitable for a site compound for health and safety reasons.



## B1 **APPLICATIONS** (cont'd)

### 8 **Code No:** DER/1005/1684

Two adjacent sites in separate ownership were also considered but found to be unsuitable or unavailable. Other than these there are no other suitable sites within the area.

4. **Relevant Planning History:** Planning permission was granted for the erection of a school of art, design and technology on the Pybus Street site in October 2005.

5. **Implications of Proposal:**

- 5.1 **Economic:** None directly.

- 5.2 **Design and Community Safety:** The site cabins are functional in design and strictly temporary. They are concealed from view from the south west and west by trees and to a lesser extent from the east also by trees. The colour scheme of the cabins is quite bold in a red white and blue house style of the contractors.

- 5.3 **Highways:** Any comments will be reported orally

- 5.4 **Disabled People's Access:** None

- 5.5 **Other Environmental:** The proposal stands in an area designated as Green Wedge, adjacent to an area of high wildlife value and with all trees protected by tree preservation order.

6. **Publicity:**

Neighbour Notification letter	*	Site Notice	*
Statutory press advert and site notice		Discretionary press advert and site notice	
Other	Letter to Complainants		

7. **Representations:** None at the time of writing but the notification period does not expire until 7 December 2005.

8. **Consultations:**

Environment Agency - Raises no objections to the proposal but makes the following comment. "Under no circumstances must the foul drainage arrangements become permanent."

Derbyshire Wildlife Trust - Notes that the proposal is already installed and that there have been reports that there has already been an impact on the nature conservation of the adjacent wildlife site including the

**B1    APPLICATIONS (cont'd)**

**8        Code No:   DER/1005/1684**

alleged removal of mature shrubs and small trees and the destruction of a slow worm colony.

It is also noted that there may have been potential for silt run off from the site into the Markeaton Brook during the initial site works which would have been potentially detrimental to nature conservation interests of the Wildlife site. There may be potential for a similar situation when the site is decommissioned. The impacts on nature conservation interest as a result of the retention and continued usage of the site compound are largely related to potential run off of contaminants into Markeaton Brook.

It is recommended that on completion of the temporary usage of the site, appropriate mitigation habitat for slow worms should be incorporated into the site decommissioning programme.

The environmental aspects of the site usage should be subject to the same environmental monitoring as the main development site. The applicants should also be required to supply a method statement detailing the decommissioning procedures for the site to ensure no contamination of the adjacent wildlife site.

Arboricultural Officer - Providing that the compound is to stay the same as it is already. I have no objections.

**9.        Summary of policies most relevant:   CDLP policies:**

- E2        - Green Wedges
- E4        - Sites of outstanding natural history value
- E31      - Design
- L6        - Outdoor recreation.

*The above is a summary of the policies that are relevant. Members should refer to their copy of the CDLP for the full version.*

**10.      Officer Opinion:**

Policy framework

The site is located in an area designated as green wedge. Policy E2 protects the open character of green wedges between communities to define and enhance the urban structure of the City, brings the countryside closer to the City, helps separate parts of the City to maintain their identity reduces the impression of urban sprawl and resists inappropriate development. Policy E4, requires that development will only be permitted where it does not destroy or

## **B1    APPLICATIONS   (cont'd)**

### **8       Code No:   DER/1005/1684**

adversely affect either directly or indirectly, designated or proposed Local Nature reserves Sites of Special Scientific interest or site of outstanding natural history value. The Markeaton Brook system is one of the specified site to which this policy applies.

Committee members will recognise that this proposal is a matter of expediency. The construction of the Arts and Technology School for the University can be seen as an enhancement to the whole City helping to raise the educational profile of the City from a countrywide perspective. A site compound is an essential element in supervision of the development. The applicants have demonstrated the difficulties that would result from using the development site itself and also that there are no other nearby sites which are available to accommodate the use.

The unauthorised setting up of the compound appears to be the result of a genuine misunderstanding of the normal rights to set up a compound in association with nearby development.

The primary concerns are with the affect of the proposal on the open nature of the green wedge; the affect on the nature conservation interests of the nearby site; the affect of the proposals on the nearby water courses and ponds; the affect on trees protected by tree preservation order and the impact of traffic generation on the surrounding highways.

#### **Green wedge**

Although the proposal does not meet any of the criteria for development within the green wedge it is only a temporary intrusion which should be removed within 18 months and the site reinstated to its former open appearance. The precise location is perhaps quite fortunate from the point of view of maintaining the open nature of the area, in that it is screened from view from several directions by trees and shrubs which help to soften the visual impact.

I do not consider that the temporary use would result in any lasting detrimental affect on the appearance of the green wedge or its function in defining the urban framework.

#### **Design**

The site compound structures are strictly functional and are unsympathetic with open countryside character of the site. However they are quite well screened by trees and do not in my view stand out unduly. As they are only intended to remain on site for 18 months I do not consider that their temporary detrimental impact on visual amenity

**B1    APPLICATIONS    (cont'd)**

**8       Code No:    DER/1005/1684**

should outweigh the need for the compound to expedite the completion of the development of the Pybus Street site.

Nature conservation and wildlife interests.

Although there may unfortunately have been some initial disturbance to wildlife interests during the setting up of the site, neither the Environment Agency nor Derbyshire Wildlife Trust have raised any overriding objection to retention of the compound for the temporary period. The concerns of Derbyshire Wildlife Trust appear to be capable of being resolved by imposition of certain conditions on any planning permission that may be granted. These would be aimed most particularly at preventing contamination of the nearby watercourses.

Trees

There does appear to have been some damage to trees and shrubs during the setting up of the compound. This appears to have been limited to the uprooting of a small multi-stemmed willow which was more of large shrub proportions than being recognisable as a tree. Some small branches of another tree were also damaged when the temporary cabins were craned onto the site. The proposal does not propose any works to trees.

Traffic generation

The submitted statement suggest that there would only be in the region of 6 light vehicles a day going to and from the site but in practice this appears to be closer to 25. Of these, around 14 would be the vehicles of resident staff; the others would be visiting contractors and the like. There is no intention to have deliveries of building material, or storage of plant or machinery on the compound site.

Markeaton Street is a narrow lane of single carriageway width that ends in a cul de sac for motor vehicles and only leads to the former Sturgess School site. It is also a major pedestrian and cycling route popular with people who are travelling to Markeaton Park or the A38 and is used as a short cut to Kedleston Road and by dog walkers who use the former Sturgess School site as a place to exercise their dogs, even though the land is private property belonging to the University. Since the closure of the school the lane will have had relatively little use by motor vehicles. However the commencement of construction of the arts and technology school has brought the lane into use by the construction traffic for that development, generating in the region of 80 trips a day of heavy and light traffic. This traffic travels about  $\frac{3}{4}$  of the way along Markeaton Street before entering the construction site through a newly created

## **B1    APPLICATIONS    (cont'd)**

### **8        Code No:    DER/1005/1684**

access. None of this traffic has any reason to continue to the site compound and is not generated as a result of the siting of the site compound. Only the 25 or so vehicles that need to visit the compound will go beyond the development site access. There may however be a perception by local residents that the majority of the traffic is generated by the site compound which is not the case.

I don't consider that the 50 vehicular trips (25 each way) of light traffic a day generated by the site compound use can be considered to significantly prejudice the safety of pedestrians or cyclists.

The applicants have offered to improve street lighting, trim hedges and introduce localised traffic calming along Markeaton Street however similar works are required as part of the Section 106 agreement attached to the planning permission for the arts and technology school. It does not seem to be appropriate to require the same works in connection with this temporary permission.

The disadvantages I see for granting permission are the longer period which the use will impact on the ecological concerns for the area. By granting permission the disturbance to the ecological interests may last for 18 months but conditions can be attached to any planning permission granted to control the use and also require mitigation for any detrimental effect on the ecology, including a method statement for decommissioning, so that this can be carefully controlled. If permission were to be refused then the opportunity to attach conditions for these purposes would be lost. The site would still have to be decommissioned but without any conditions requiring minimisation of any detrimental impact the process may have on the ecology of the pond, brook and surrounding area. On balance I believe that planning permission should be granted with conditions to mitigate the detrimental impact that the proposal would have on these interests

#### **11.    Recommended decision and summary of reasons:**

**11.1    To grant** permission with conditions.

**11.2    Summary of reasons:**    The proposal has been considered in relation to the provisions of the City of Derby Local Plan and all material considerations as outlined in 9 above. It is considered that the proposal would be acceptable for a temporary period.

**11.3    Conditions**

**B1    APPLICATIONS    (cont'd)**

**8       Code No:    DER/1005/1684**

1. The use hereby permitted shall cease 18 months from the date of this permission and the land be restored to its former condition within 28 days thereof.
2. Within four weeks from the date of this permission an evaluation and detailed scheme, for protecting the adjacent brook and pond, and their value as a wildlife ecosystem, from surface water run off during occupation and use of the site, shall be submitted to and approved in writing by the Local Planning Authority. Any details that may be approved shall be implemented within 4 weeks from the date of agreement of the details.
3. Within four weeks from the date of this permission, details of the quality of drained surface water from the contractor's compound, including where necessary the provision of oil interceptors in the car parking areas, shall be submitted to and agreed in writing by the Local Planning Authority. Any such details as may be agreed shall be implemented within four weeks of the council's agreement to the submitted scheme.
4. Before the use is terminated and before any decommissioning and removal of any of the site cabins and storage containers a decommissioning programme of works and remedial works to reinstate the site and its wildlife interest, specifically including the reinstatement of replacement slow worm habitat shall be submitted to and agreed in writing by the Local Planning Authority.
5. The external lighting shall be not be switched on before 7:30 am and shall be extinguished by 7:00 pm every day of the week unless otherwise agreed in writing with the Local Planning Authority.
6. No plant, machinery or builders materials or similar materials associated with the main development shall be stored within the application site without the prior permission of the Local Planning Authority

**11.4    Reasons**

1. The use is a temporary expedient intended to serve a short term local need... policy E2

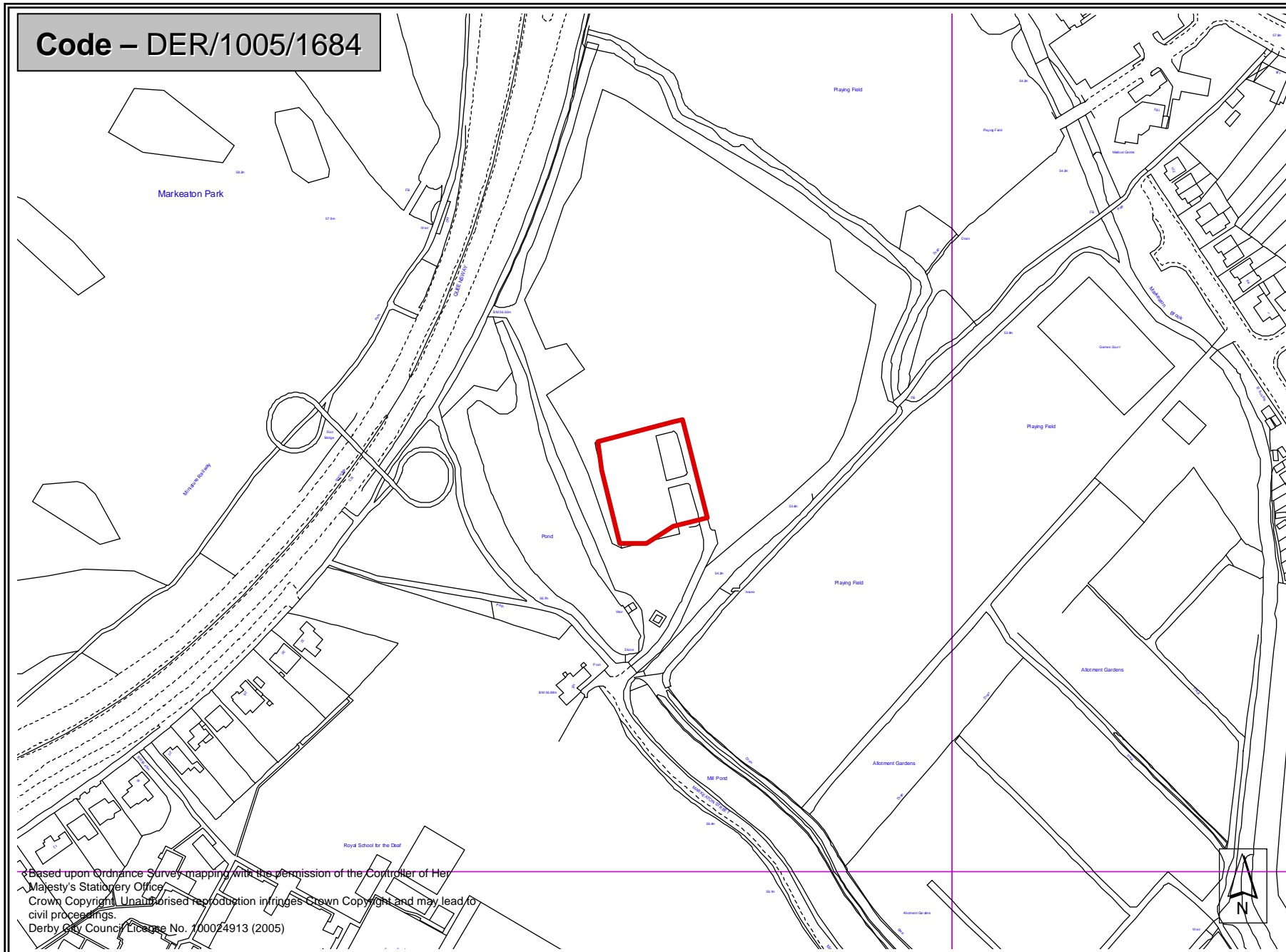
**B1    APPLICATIONS    (cont'd)**

**8        Code No:    DER/1005/1684**

2. To protect the nearby pond and watercourse and their nature conservation interest from the potential detrimental affects of pollution and contaminants that may run off with the surface water run off from the site... policy E4
3. To protect the nearby pond and watercourse and their nature conservation interest from the potential detrimental affects of pollution and contaminants that may run off with the surface water run off from the site... policy E4
4. To minimise the detrimental affects of the decommissioning process on the nearby pond and watercourse and to provide mitigation for the loss of slow worm habitat alleged to have been destroyed during the unauthorised commissioning of the compound... policy E4
5. To reduce the impact of the lighting on nocturnal wildlife and to reduce the visual impact of the development within the green wedge in the interests of visual amenity in accordance with policies...policy E2 and E4
6. The site lies within a sensitive area where this development is permitted only in exceptional circumstances...policy E2 and E4

**11.5    S106 requirements where appropriate: none**

**Code – DER/1005/1684**



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## **B1    APPLICATIONS    (cont'd)**

**9    Code No:** DER/1005/1695

**Type:** Full

1.    **Address:**    Site of 514 Stenson Road
2.    **Proposal:** Erection of 29 dwelling houses and 12 apartments and access road
3.    **Description:** The site is located towards the southern end of Stenson Road close to its junction with Oaklands Avenue. It is presently occupied by a detached dwelling and associated outbuildings set in a large garden. To the north and south, and opposite on Stenson Road, the site is bounded by existing residential properties; to the west are open fields. The site is largely rectangular in shape, relatively flat and approximately 1 hectare in area. There are a number of mature trees on the site and 13 poplar trees fronting onto Stenson Road and a single walnut tree are protected by a tree preservation order. The walnut tree is considered by the applicant's tree survey to be the best specimen on the site and has been retained. The 13 poplar trees are considered to be in a poor condition and are proposed to be removed and replaced with mature Fastigiata upright English oak. The residential surroundings are characterised by a mixture of large modern two storey detached properties to the south, terraced and detached properties, with a terrace of six bungalows, to the north. On the opposite side of Stenson Road to the east are a number of detached and semi detached houses.

The application seeks permission for the erection of 41 residential dwellings ranging from 2 to 3 storeys in height comprising:

12 no. 2 bed 3 storey apartments  
4 no. 4 bed 3 storey town houses  
14 no. 3 bed 3 storey town houses  
7 no. 4 bed 2 storey detached houses  
2 no. 3 bed 2 storey detached houses  
2 no. 2 bed 2 storey detached houses

A new access road to Stenson Road would mean some minor alteration to the horizontal alignment of the main road to achieve the necessary visibility splays.

A planning statement, design statement and an arboricultural survey accompanied the application.

4.    **Relevant Planning History:** none relevant

## B1 APPLICATIONS (cont'd)

**Code No:** DER/1005/1695

### 5. Implications of Proposal:

- 5.1 Economic:** The site is presently a very large residential plot
- 5.2 Design and Community Safety:** The applicant has taken account of the sites surroundings and on site constraints to produce a layout which is simple yet interesting.
- 5.3 Highways:** The new access road and its junction should be fully constructed before the dwellings are occupied. As a result of the application, a contribution towards improvements to the Stenson Road corridor have been secured through a Legal Agreement.
- 5.4 Disabled People's Access:** compliance with the Building Regulations will ensure accessible dwellings
- 5.5 Other Environmental:** 13 protected trees would be lost as a result of the proposal

### 6. Publicity:

Neighbour Notification letter	*	Site Notice	*
Statutory press advert and site notice		Discretionary press advert and site notice	
Other			

- 7. Representations:** To the originally submitted plans I have received 9 objection letters raising the following points:

- Over looking from 3 storey houses
- Devaluing property (not a relevant planning matter)
- Noise during construction
- Loss of trees
- More cars to the area
- Can local schools cope?
- Bats in the vicinity
- Safety concerns regarding the Stenson Road access
- 3 storey is not in keeping with the area
- Insufficient thought for nature conservation
- Loss of light

All the representations will be available in the Members' rooms.

## B1 **APPLICATIONS** (cont'd)

**Code No:** DER/1005/1695

### 8. **Consultations:**

DCS (arboriculture) – has no objections to the revised plans

South Derbyshire District Council – as neighbouring authority to the application site have no observations to make on the proposal.

STW – confirm no objections

### 9. **Summary of policies most relevant:** Adopted CDLP policies:

- H20 - Mobility housing
- H22 - Residential development on unallocated land
- H28 - Layout and design
- E11 - Trees and Woodland
- E31 - Design
- E32 - Community safety
- L3 - Public open space
- L4 - Public open space within housing development
- T22 - Parking standards
- E23 - Landscaping schemes

*The above is a summary of the policies that are relevant. Members should refer to their copy of the CDLP for the full version.*

10. **Officer Opinion:** The site of the proposal is allocated in the CDLP Review under policy H2r for residential development. One objection was made to this allocation raising a concern that the shape of the site could be a constraint on the number of dwellings delivered. No modifications were proposed and this policy now carries weight in the decision making process. In addition the application site is located in a residential area where residential uses are appropriate. It is the detail of this scheme that we must focus upon. The applicant has amended the scheme twice to take account of officer concerns developing a proposal that, I feel, complements the existing townscape.

The streetscene on Stenson Road is maintained and replacement planting continuing the greenery along this stretch of road. The internal access road and layout reflects the more recent development to the south and meets our space standards for distances between buildings. There are no objections in highway terms to the number and location of the car parking spaces.

## **B1    APPLICATIONS   (cont'd)**

**Code No:** DER/1005/1695

I am satisfied that the layout and design is acceptable in this location providing a range of two to four bed accommodation in this part of the City.

Accordingly, I am drawn to conclude that planning permission should be forthcoming for the development proposed.

### **11.    Recommended decision and summary of reasons:**

**11.1    A.    To authorise** the Assistant Director – Development to negotiate the terms of a Section 106 Agreement to achieve the objectives set out in 11.5 below and **to authorise** the Director of Corporate Services to enter into such an agreement.

**B.    To authorise** the Assistant Director – Development **to grant** planning permission on the conclusion of the above agreement, with conditions.

**C.    If** the applicant fails to sign the S106 Agreement by the expiry of the 13-week target period, (11 January) , consideration be given, in consultation with the Chair, to refusing the application.

**D.    To remind** the applicants of their responsibilities under the Wildlife and Countryside Act 1981 and the Conservation Regulations 1994 in respect of the presence on the site of any protected species such as bats.

**11.2    Summary of reasons:** The proposal has been considered in relation to the provisions of the Development Plan and all other material considerations as indicated at 9 above. The proposal involves residential development and the re-development of a brownfield site and would create an acceptable living environment without unreasonably affecting amenities at existing properties or the character of the area.

### **11.3    Conditions**

1. Standard condition 09A (revised plans received on 25 November)
2. Standard condition 27 (external materials)
3. Standard condition 20 (approval of landscaping scheme)
4. Standard condition 22 (landscaping scheme) (condition 2)
5. Standard condition 89 (landscaping management plan)
6. Standard condition 69 (cycle/motorcycle parking)
7. Standard condition 19 (means of enclosure)
8. Standard condition 30 (surfaces to be drained)

**B1    APPLICATIONS    (cont'd)**

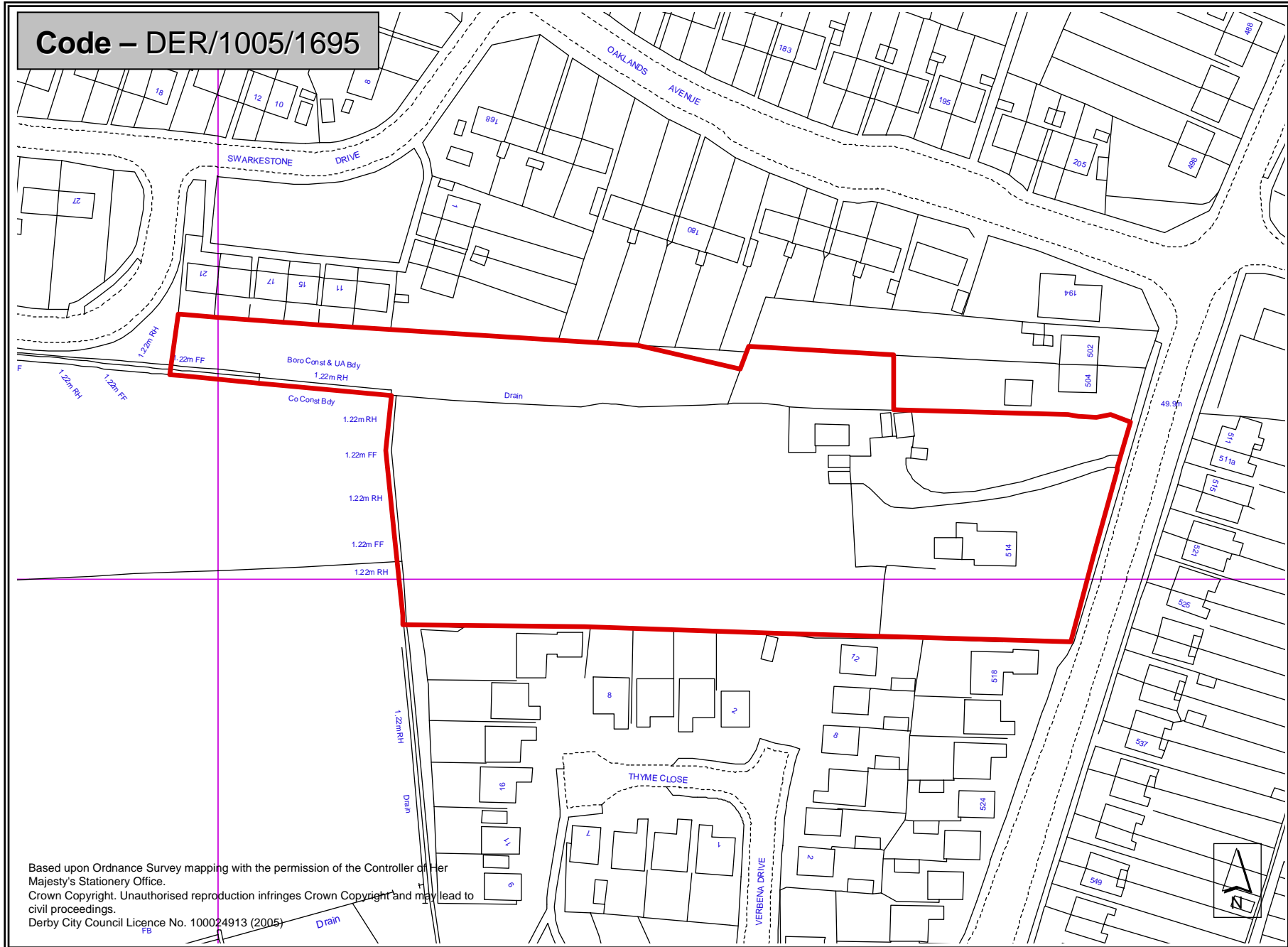
**Code No:** DER/1005/1695

**11.4    Reasons**

1. Standard reason E04
2. Standard reason E14...policy E31
3. Standard reason E10...policy E23
4. Standard reason E10...policy E23
5. Standard reason E09...policy E23
6. Standard reason E35...policy T22
7. Standard reason E08...policy H28
8. Standard reason E21...policy T22 and H28

**11.5    S106 requirements where appropriate:** Contribution to off-site public open space, mobility housing, and improvements to the Stenson Road highway corridor.

**Code – DER/1005/1695**



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## **B2    APPLICATIONS    (cont'd)**

**1    Code No:** DER/405/552

**Type:** Outline  
(Access applied  
for)

1.    **Address:**    Land at Station Road, Spondon
2.    **Proposal:** Residential development

### **Report of negotiated Section 106 terms and proposed conditions**

This application was considered at the meeting held on 25 August 2005 when Members resolved as follows:

1. That residential development is acceptable in principle.
2. To authorise officers to report back the application to a future meeting with a full schedule of recommended conditions and terms for a Section 106 Agreement.

The Section 106 negotiations have been completed. The principal requirements are set out after the recommendation.

### **3.    Recommended decision and summary of reasons:**

- 3.1    **To authorise** the Director of Corporate Services to conclude the Section 106 agreement on the basis set out below and **to authorise** the Assistant Director – Development to issue outline planning permission subject to the conditions set out.

### **Negotiated Section 106 terms**

#### **Affordable housing**

20 of the first 90 units to be provided for affordable housing. Any units over 90 will provide affordable housing at 30%.

80% of the total number of affordable units will be provided for rented accommodation. 20% of the total number of affordable units will be provided as shared ownership units.

All affordable properties must be built to Housing Corporation Scheme Development Standards. They must be pepper-potted throughout the site, in groups of no more than 5 units. All affordable properties must be transferred before the occupation of 50% of the market dwellings. 10% of the affordable dwellings to be to wheelchair standard.

## **B2    APPLICATIONS   (cont'd)**

### **1    Code No:   DER/405/552**

#### Incidental public open space

Incidental open space (to include a toddlers play area to LEAP standards) to be provided on-site to Local Plan Standards. Layout & specification to be approved at the same time as the housing, through reserved matters application. Open space to be laid out before occupation of 50% of the dwellings. If the open space is to be transferred to the Council, once it has been laid out to the satisfaction of the Council, it must be maintained for 12 months & then transferred together with a commuted maintenance sum for 10 years. The Canal corridor must be protected (see also recommended conditions).

#### Major public open space

If more than 100 dwellings are to be constructed on the site, a financial contribution for major open space is required. The sums of £520 per house and £420 per flat, index linked from 4 May 2005, to be paid before the commencement date for the provision of major open space reasonably capable of serving the application site.

#### Mobility housing

10% of the dwellings to be built to the City Council's mobility standards.

#### Education

As there is spare capacity in the local schools, a contribution is not required.

#### Highways

£60,000, index linked to 4 May 2005, to be paid on the commencement date for the provision of, improvements to & maintenance of transport facilities within the A52/ A6005/ A6096 Nottingham Road corridor. Transport facilities can include highway works, public transport, cycling and pedestrian facilities.

## **3.2    Conditions**

1. Standard condition 01 (outline).
2. Standard condition 02a (time limit for applications registered before 24 August 2005)
3. The details submitted under (1) above shall specifically make provision for the following:



## **B2    APPLICATIONS    (cont'd)**

### **1    Code No:    DER/405/552**

- a. a layout providing pedestrian and cycle routes and links to the existing canal route and showing the potential for a link to the west.
  - b. recognition of the proposed restoration of the canal and the creation of a relationship between the housing and the canal corridor that is compatible both with restoration and with an interim treatment.
  - c. open space in accordance with the current standards of the Local Planning Authority.
  - d. particular regard shall be had, in the design of the landscaping scheme, to provide a wildlife habitat area.
4. Before any development is commenced, a scheme for protecting the proposed dwellings from noise from the adjacent railway shall be submitted to and approved in writing by the Local Planning Authority. Any works which form part of the scheme shall be completed before any of the dwellings requiring protection are occupied.
5. A scheme for the remediation of the ground conditions to make such fit for the intended use of the various parts of the site, shall be submitted to the Local Planning Authority. Such scheme as may be agreed by the Local Planning Authority shall be implemented as the first part of the development of the site.
6. Standard condition 24a (tree protection)
7. Standard condition 21 (landscaping maintenance)
8. No development shall be commenced until details of the following have been submitted to and approved in writing by the Local Planning Authority.
  - a. a scheme for the provision of surface water drainage works. The drainage works shall be completed in accordance with the details and timetable agreed.
  - b. a scheme for flood damage limitation in the construction of the development has been submitted to and approved in writing by the Local Planning Authority.

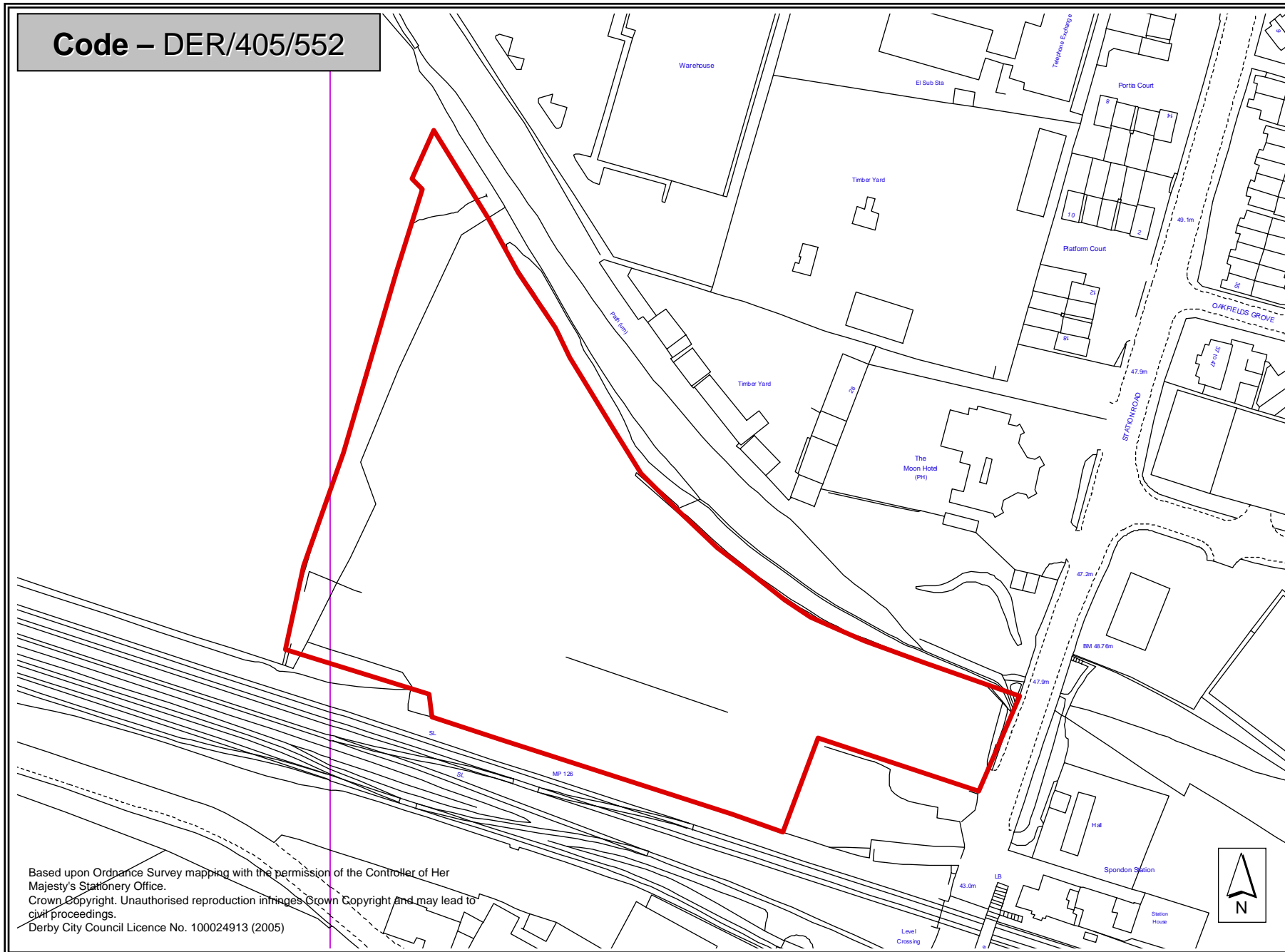
## **B2    APPLICATIONS    (cont'd)**

### **1    Code No:    DER/405/552**

#### **3.3    Reasons**

1. The application was submitted in outline only. In relation to (b), whilst the point of access is acceptable, precise design details are required.
2. Standard reason E02.
3. The incorporation of these principles is essential to ensure that the development achieves the objectives of the following policies:  
  
for (a), adopted City of Derby Local Plan (CDLP) L12, T16 and T18; CDLP Review, L10, T7 and T13.  
  
for (b) CDLP H22(b) (c) and (e), H28(a) and (d), L12, T16 and T18; CDLP Review H21, L10 and T15.  
  
for (c) CDLP L1 and L3; CDLP Review L3 and L4.  
  
for (d) CDLP and CDLP Review, E10.
4. To create a satisfactory environment for residents in accordance with the objectives of policy H22(e) of the adopted City of Derby Local Plan.
5. To create safe ground conditions for residents in accordance with the objectives of policies H22(e) and E18 of the adopted City of Derby Local Plan.
6. Standard reason E24 (add: "in accordance with the objectives of policies E22 and E23 of the adopted City of Derby Local Plan").
7. Standard reason E10 (add: "in accordance with the objectives of policy E23 of the adopted City of Derby Local Plan").

**Code – DER/405/552**



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## ADDENDUM FOR PLANNING CONTROL COMMITTEE 8 DECEMBER 2005

### B1 APPLICATIONS

**Code No:** DER/805/1412 & DER/805/1413

**Type:** Outline (all matters Reserved)

1. **Address:** Land and buildings north east of Exeter Street
2. **Proposal:**  
  
DER/805/1412 – Erection of hotel and residential development  
DER/805/1413 – Residential development
3. **Description:** The site is located at the junction of Exeter Street and Derwent Street and extends to Darwin Place and an elevated section of St Alkmund's Way. It is some 0.67 hectares in extent and contains garage workshops and a carpet shop in the original car showroom.
4. **Relevant Planning History:** -
5. **Implications of Proposal:**
  - 5.1 **Economic:** -
  - 5.2 **Design and Community Safety:** No details submitted except for notional siting. Design and community safety issues are critical on this city centre site within the Cityscape Masterplan area.
  - 5.3 **Highways:** the submitted Traffic Assessment indicates that there would be few highway capacity issues but any increase in capacity within the city centre would not be desired and no off-site improvements would be sought for this purpose. However, improvements to the pedestrian environment would be required, in order to maximise access by walking rather than car. Detailed alterations would be required for aspects such as access visibility and kerbs and improvements to the pedestrian priority at the Exeter Street/Derwent Street junction. A substantial s106 contribution should be sought, particularly with regard to pedestrian improvements and the footbridge provision between North Riverside and the city centre.
  - 5.4 **Disabled People's Access:** accessibility for the hotel and a degree of accessibility for residential will be deliverable through the Building Regulations.
  - 5.5 **Other Environmental:** -

## B1 **APPLICATIONS** (cont'd)

**Code No:** DER/805/1412 & DER/805/1413

### 6. **Publicity:**

Neighbour Notification letter		Site Notice	
Statutory press advert and site notice		Discretionary press advert and site notice	*
Other			

### 7. **Representations:** None at time of writing report.

### 8. **Consultations:** With respect to both applications.

EA – objects on the grounds that the site is located within Flood Zone 3 which is a high risk zone with a 1% or greater risk of flooding. Even if the building is protected and floor levels raised, there is no protected access to or from the building in such an event. According to the latest modelled level, the nearest high ground, St Alkmunds Way, would be below the flood level of 48.66m AOD. This would increase the health and safety risks to occupants and place additional burdens on emergency services.

Additionally, the issue of comparative areas and potential loss of floodplain has not been addressed.

Cityscape – recommended that massing studies be submitted to show how the proposed uses could be accommodated within buildings in accordance with the densities and nature of development indicated in the Derby Cityscape Masterplan. These studies should demonstrate how the proposed development will result in an appropriate scale and not prejudice the comprehensive redevelopment of the wider North Riverside area.

Police - the development should take into account designing out crime with particular relation to parking areas for hotel and residential with natural and formal surveillance maximised.

DCC (Archaeologist) – the submitted report indicates the potential for interest although some of this will have been destroyed by the construction of the canal and other developments. Outside the footprint of existing buildings there is likely to be archaeological evidence of the former canal development. Any permission should contain a condition requiring a written scheme of investigation and mitigation.

DCorpS (Health) – objects on the grounds that the development will be subject to high levels of noise and air pollution.

## B1 **APPLICATIONS** (cont'd)

**Code No:** DER/805/1412 & DER/805/1413

Noise - the submitted noise assessment indicates that the site will be affected by high levels of noise both in the daytime and at night time (73dB and 65dB respectively). The noise level would place the development in noise category C and D. PPG24 (Planning and Noise) indicates that planning permission should normally be refused in respect of category D developments. It also states that sites 'subjected to night time noise at a level which is little below the daytime level' should be afforded 'particular protection' and that 'noise sensitive development should not normally be permitted'. Should the Committee be minded to approve the application, development should not proceed until a detailed noise mitigation scheme has been agreed.

Air Quality – the site borders the nitrogen dioxide air quality management area (NO<sub>2</sub> AQMA). It is not within it as currently there are no sensitive receptors on the site. The submitted air quality study indicates that the development will potentially result in the expansion of the AQMA and will subject future residents to high levels of NO<sub>2</sub> in excess of the air quality objective levels.

Contaminated land – before development commences, an intrusive site investigation and risk assessment should be carried out to determine levels of contaminants and potential risk to end-users and other receptors. Consideration should also be given to contamination of groundwater and surface water. A remediation report and validation statement would be required if contamination is found and need to be agreed before development commences.

9. **Summary of policies most relevant:** The following CDLP policies apply:

- EMP13 - New employment land proposals – city centre sites
- H18 - Affordable housing
- H20 - Mobility housing
- H22 - Residential development on unallocated land
- H23 - Hotels, residential institutions and hostels
- H28 - Layout and design of residential development
- E31 - Design
- E32 - Community safety and crime prevention
- L3 - Public open space standards
- L4 - Provision of public open space within housing development
- T22 - Parking standards

The site is allocated under EMP 13 for a range of uses including residential and hotel. Policy H22 allows residential development on land not specifically allocated for such, subject to a number of criteria, the most relevant of which are:

## **B1    APPLICATIONS (cont'd)**

**Code No:** DER/805/1412 & DER/805/1413

- the development and its design relates well to the existing built-up area and the character of the surrounding area
- there are no significant adverse impacts on existing levels of amenity or the local environment; and
- a satisfactory form of development and living environment can be created

Policy H 23 allows for hotel development subject to a number of criteria, the most relevant being that increased activity does not lead to any adverse effects on the amenity of nearby property or the local environment.

The Cityscape Masterplan identifies the site as part of the North Riverside proposed development. This envisages an hotel and performing arts centre overlooking the river, with residential and commercial uses nearer the Inner Ring Road, plus a multi-storey car park.

The overall strategy of the Cityscape Masterplan has been endorsed by the Council as an important material consideration.

The CDLP Review originally included this site within a policy covering a larger area CC8, which envisaged residential and business development. The Proposals Map designation for CC8 has now been modified to avoid potential conflict with the Cityscape proposals by deleting this site and others east of Derwent Street from the allocation. This leaves the application site unallocated in the Review, with a residential-led allocation remaining on the area west of Derwent Street, where residential development is already proceeding and where other schemes are expected to come forward..

- 10.    Officer Opinion:** The main consideration with these two proposals is the conflict with the Cityscape masterplan and the more technical issues of flooding and noise and air quality.

The adopted local plan would allow residential development subject to design and character, impact on amenity or local environment and creating a satisfactory form of development and living environment. However, whilst this remains for the time being the adopted plan, weight needs to be given to the fact that it was drawn up before the Cityscape vision and is, therefore, in some respects out of tune with current thinking. The CDLP Review does not make any specific allocations on the site to allow some flexibility in the way that the Masterplan proposals are brought forward. Therefore, in my view,

## **B1    APPLICATIONS    (cont'd)**

**Code No:**    DER/805/1412 & DER/805/1413

significant weight can be given to the Cityscape Masterplan in this case as it provides an up-to-date and comprehensive vision for the area. The allocations on the Masterplan are to some extent notional but the overall aim is to achieve a comprehensive development of the area. This would have the benefit of selecting the right location for developments taking into account the attraction and constraints of the various component sites. This would allow prestigious development on the riverside and locate complementary commercial and residential developments logically, and taking into account constraints such as noise, air quality and flooding risk on a comprehensive basis, rather than on the basis of what sites are immediately available.

Whilst due weight must be given to the adopted Local Plan, I consider that significant weight can be given in this instance to the Cityscape Masterplan Overall Strategy as a material consideration. Whilst more limited in weight, the Modifications to the CDLP Review indicate the movement of the local plan to respect the Masterplan strategy.

On that basis I am recommending that outline permission is refused on the grounds that the development is piecemeal and could prejudice the comprehensive development of the area. The outline application seek approval for the principle of the uses applied for and do not indicate either the scale or quality of development or how they fit into the wider development of the area. Whilst it may be reasonable in some circumstances to deal with matters of design and scale at a reserved matters stage, this approach does not allow the proper planning of the area in this instance.

With regard to noise and air quality, the submission does not satisfy the requirement that a satisfactory living environment can be created. Similarly, the submission does not indicate a satisfactory solution with respect to flooding issues.

### **11.    Recommended decision and summary of reasons:**

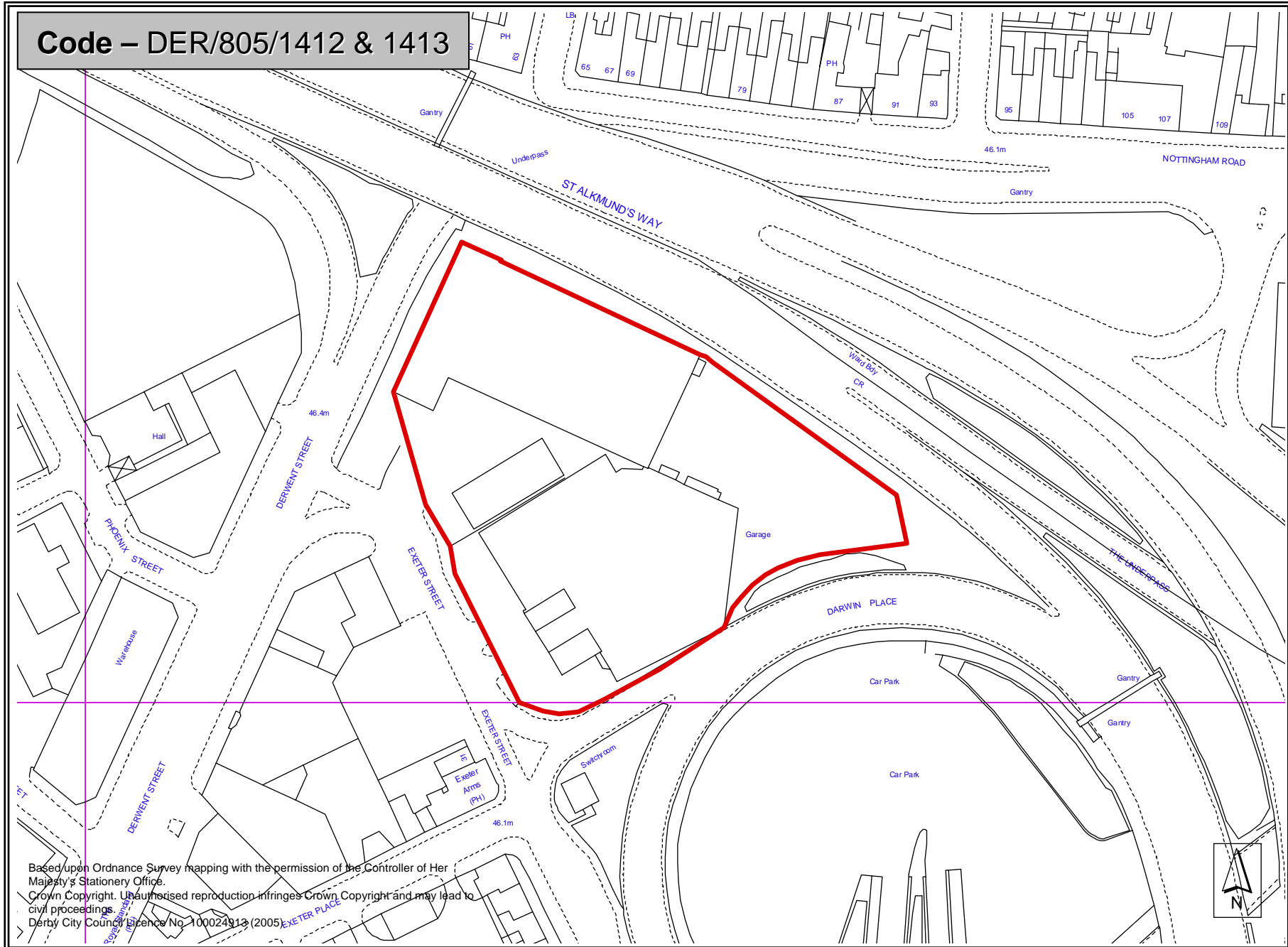
**11.1    To refuse** with respect to both applications.

#### **11.2    Reasons**

The proposed development would result in a piecemeal development which would be likely to prejudice the intentions of the Cityscape Masterplan, the overall strategy for which has been endorsed by the Council as an important material consideration. The proposal as submitted is also contrary to Policy H22 in the adopted local plan in relation to creating a satisfactory living environment by reason of potential risk from flooding, and exposure to noise and air pollution.



**Code – DER/805/1412 & 1413**



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## **D2    SPECIAL ITEMS**

### **1    APPEALS DECISIONS**

Appeals against planning refusal

Code No	Proposal	Location	Decision
DER/605/969	Erection of 16 apartments	Land at Pastures Hill, Littleover	Dismissed
<p>Comments: The Inspector agreed with the City Council that an apartment scheme on this elevated site would seriously detract from the amenities of adjacent residents in Greenway Drive by virtue of the introduction of unsatisfactory levels of noise and nuisance from traffic movements in the rear parking area.</p>			

Appeal against refusal of listed building consent

Code No	Proposal	Location	Decision
DER/405/594	Installation of seven uplighters	9 Strand	Refused
<p>Comments: This was an appeal against the refusal of listed building consent made under my delegated powers. The Inspector observes that the three uplighters already installed on the northern elevation, to Strand, do not satisfactorily illuminate the façade and the four proposed for Wardwick are unlikely to do so. He makes some criticism of past treatment of the building, and concludes that the uplighters are detrimental both to the listed building and to the conservation area street scene.</p> <p>As the three uplighters were still in place at the time of the preparation of this report I have begun the preliminaries to prosecution for unauthorised alterations to a listed building. I intend to include the unauthorised CCTV cameras (which were not part of this application) in such action.</p> <p>Nearby breaches of listed building / advertisement control are being pursued separately.</p>			

**RECOMMENDATION: To note the report.**

### D3 **PRIOR NOTIFICATIONS- Telecommunications**

1 **Code No:** DER/1005/1746 **Type:** Prior Notification

1. **Address:** Harvey Road, Alvaston
2. **Proposal:** Installation of a 15.0 m telecommunications monopole and equipment cabinets
3. **Description of Location:** Highway verge on the northern side of Harvey Road, immediately east of where the line of the former canal crosses, that is some 30m west of the western boundary of the filing station. Notification has been received to install a steel column-type monopole on the existing highway verge.
4. **Description of Equipment:** This is on the dual carriageway length of Harvey Road. The verge is mainly 5m wide but at this point is starting to taper to accommodate the deceleration lane to the "Total" filling station. The monopole would be sited approximately 51 m from the nearest dwellings which are the flats on the southern side of Harvey Road and 45° to the south west. It is required to provide both enhanced 2G and 3G telecommunications coverage in this south-eastern area of the City.

The monopole would be 15 m high in total with the transmitter antennae in a cylindrical plastic shroud occupying the highest 4.5m. This will result in the main part of the steel column being some 250mm in diameter with the higher transmitter-carrying part some 370mm diameter. It would be immediately east of a tree of similar height. The existing lighting columns are 7 m high.

The associated ground level equipment would be in the form of three cabinets, one 1250 mm x 1300 mm x 1400 mm high, a second 1500mm x 700mm x 2000mm high and a third 950 mm x 450 mm x 1000 mm high.

5. **Alternative considered by Applicant:** A schedule of 8 alternatives has been provided. Reasons for their rejection cover:
  - site owner unwilling to provide facilities (2)
  - adverse planning assessment, including sites virtually identical and therefore offering no obvious benefits (3)
  - technically unsatisfactory, (3)

There is some overlap of reasons in most cases and one of the sites (Holbrook Road/Boscastle Road) is being considered for appeal. It is significant that the list includes three refusals in respect of location and design. These were given under my delegated powers and relate to

### D3 **PRIOR NOTIFICATIONS- Telecommunications**

#### 1 **Code No:** DER/1005/1746

circumstances where I was satisfied that a case could be made out for refusal on the specific grounds allowed for in the Regulations.

#### 6. **Relevant Planning History:** None.

#### 6. **Implications of Proposal:**

7.1 **Economic:** None directly arising. The extension of 3G coverage is intended generally to equip the United Kingdom better in relation to all forms of radio communication technology.

7.2 **Design:** This is a new type of monopole designed to house both 2G and 3G antennae in a single cylindrical shroud. It has a marginally greater visual impact than one housing just one system.

7.3 **Community Safety:** There is frequently concern that the steel cabinets can be climbed on. On a streetworks installation, that is one where a secure compound is not created, this cannot be avoided but the hazard is no greater than that from other street furniture.

7.4 **Highways:** To be reported.

7.5 **Health:** The proposal is certified as being in full compliance with the requirements of the radio frequency (RF) public exposure guidelines of the International Commission on Non-Ionising Radiation (ICNIRP). As a result of this and the advice in Planning Policy Guidance Note on Telecommunications (PPG8) the planning authority should not consider further the health implications of the proposal.

7.6 **Other Environmental:** Nearby street trees are not particularly effective in screening but the visually dominant feature in the street scene is the canopy and signage of the nearby filling station.

#### 8. **Publicity:**

Neighbour Notification letter		Site Notice	*
Statutory press advert and site notice		Discretionary press advert and site notice	
Other			

9. **Representations:** At the time of preparation of this report I have received one objection. That is from Councillor Graves and is reproduced. I have to report the notification to this meeting as the 56-day period expires before the next meeting. The publicity period expires on 6 December. Any more that are received by the date of the

...

### **D3 PRIOR NOTIFICATIONS- Telecommunications**

#### **1 Code No: DER/1005/1746**

meeting will be reported orally, circulated or placed in the Members' rooms.

#### **10. Consultations:**

DCorpS (EH and TS) – to be reported.

#### **11. Summary of policies most relevant:**

Policy E38 (telecommunications) of the adopted CDLP states that planning permission will be granted subject to assessment against the following criteria:

- a. impact upon amenities and the surrounding environment, with consideration given to sensitive areas, screening and landscaping
- b. there is no possibility of erecting the mast upon existing buildings or sharing mast facilities
- c. the proposal should not unacceptably inhibit development potential.

*The above is a summary of the policy that is relevant. Members should refer to their copy of the CDLP for the full version.*

The main policy guidance is that in PPG8 (Telecommunications). Members will be aware of this from previous reports on prior notifications and on telecommunications in general. I can provide copies of PPG8 and my report to the Committee of 27 September 2001 to any Member who would like a copy.

L12 – Canal restoration.

#### **12. Officer Opinion: I have had to prepare this report for this meeting, as the 22 December meeting will be beyond the 56 day period.**

Policy E38 of the adopted CDLP is applicable, even though this application seeks prior notification approval for the proposed development and not planning permission. The policy makes it clear that, unless there are conflicting material considerations relating to criteria a, b or c above, permission should be granted where there is an application for permission, or that the Local Planning Authority should not refuse prior notification cases on location and appearance grounds. This is consistent with Government advice in PPG8, which seeks to encourage development of the telecommunications network.

### **D3 PRIOR NOTIFICATIONS- Telecommunications**

#### **1 Code No: DER/1005/1746**

##### Health Considerations

Further to the comments under 7.5 above, a recent case (Harrogate) before the Court of Appeal has expanded the understanding of the basis on which health concerns can be a factor in determining planning applications. Like most cases that reach the Court of Appeal some of the arguments are complex and this case was the follow-up to that in the Divisional Court where the judge had found a Planning Inspector at fault in his determination of an appeal against refusal of permission for a telecommunications base station. In practice the outcome does make it clear that it is only in exceptional circumstances that Local Planning Authorities can properly pursue health grounds where a certificate of conformity is provided.

This is on the basis that, whilst impact on health can be a material consideration for any planning application, it is only in exceptional circumstance that the planning process should conclude that health concerns are an overriding consideration. The health advice in PPG8 is very clear indeed; if an application (or notification) is certified to meet ICNIRP guidelines the Local Planning Authority should not seek to challenge this as health impact is, primarily, a matter for Central Government. I have no doubt that a Local Planning Authority that refused an ICNIRP-certified proposal on health grounds would find itself stranded, unable to produce any credible professional witness, on appeal.

##### Visual Amenities and the Environment

I am satisfied that the proposal would not have any unreasonable impact upon visual amenities or the surrounding environment. The monopole would be sited on a very busy road of substantial width and would not be out of place with the street lighting columns in the area. In my view, the telecommunications industry has listened to past criticism of the ugliness of its early equipment, has developed and continues to develop types which are more sympathetic to conventional street furniture in visual impact, for urban residential locations. This road is lined with tall lighting columns and trees throughout its length, although the trees near to the site are not as mature as those on the single carriageway length to the east.

##### Mast-Sharing and erection upon Existing Buildings

The applicant has submitted supporting information which states that alternative site options have been explored as set out in Section 5 above. I am satisfied that there is none available within the limits that

### **D3 PRIOR NOTIFICATIONS- Telecommunications**

#### **1 Code No: DER/1005/1746**

will give coverage to the cell that have any material advantages over this one.

In relation to site-sharing, I feel that this is one area where technological development has overtaken the advice in PPG8. I consider that a number of monopoles, of the type now available and proposed here, in a locality, is arguably better than site-sharing as this inevitably still requires heavy engineering structures.

#### **Highway Considerations**

The proposed monopole would be sited on highway verge. If the canal is restored the current indications are that the road would need to be raised by a maximum of 1m and the equipment would have to be re-accommodated in some way. In view of the lack of any permission for the canal restoration I have come to the view that it would not be reasonable to resist the current proposal on the basis simply of policy L12. I am aware that a location that would avoid disturbance would inevitably push the site closer to dwellings.

I, therefore, conclude that the Local Planning Authority should not seek to control the siting and appearance of the equipment.

#### **13. Recommended decision and summary of reasons:**

**13.1** That the City Council does not wish to control the details of siting and appearance.

**13.2 Summary of reasons:** The proposal has been considered against the City of Derby Local Plan policy as summarised in 11 above and against Planning Policy Guidance Note 8. It constitutes a telecommunications development in the most suitable of several identified locations, and would improve the network in this part of the city without having a detrimental effect upon local amenities.

**Code – DER/1005/1746**

