



## Applications to be Considered

### SUMMARY

- 1.1 Attached at Appendix 1 are the applications requiring consideration by the Committee.

### RECOMMENDATION

- 2.1 To determine the applications as set out in Appendix 1.

### REASONS FOR RECOMMENDATION

- 3.1 The applications detailed in Appendix 1 require determination by the Committee under Part D of the Scheme of Delegations within the Council Constitution.

### SUPPORTING INFORMATION

- 4.1 As detailed in Appendix 1, including the implications of the proposals, representations, consultations, summary of policies most relevant and officers recommendations.

### OTHER OPTIONS CONSIDERED

- 5.1 To not consider the applications. This would mean that the Council is unable to determine these applications, which is not a viable option.

This report has been approved by the following officers:

<b>Legal officer</b> <b>Financial officer</b> <b>Human Resources officer</b> <b>Estates/Property officer</b> <b>Service Director(s)</b> <b>Other(s)</b>	Ian Woodhead
--	--------------

<b>For more information contact:</b> <b>Background papers:</b> <b>List of appendices:</b>	Ian Woodhead Tel: 01332 642095 email: <a href="mailto:ian.woodhead@derby.gov.uk">ian.woodhead@derby.gov.uk</a> None Appendix 1 – Development Control Monthly Report
---	---

Index  
Planning Control Committee 20 July 2017

Item No.	Page No.	Application No.	Address	Proposal	Recommendation
1	1 - 45	12/15/01570	Site of Rose and Crown PH and St. Ralph Sherwin Centre, Swarkestone Road, Chellaston	Demolition of existing buildings and structures and erection of retail store (use class A1), car parking and servicing areas, access and associated works.	<p><b>A. To authorise</b> the Director of Strategy Partnerships, Planning and Streetpride to negotiate the terms of a Section 106 Agreement to achieve the objectives set out below and to authorise the Director of Governance to enter into such an agreement.</p> <p><b>B. To authorise</b> the Director of Strategy Partnerships, Planning and Streetpride to <b>grant permission</b> upon conclusion of the above Section 106 Agreement.</p>
2	46 - 110	01/17/00030	Site of former Derbyshire Royal Infirmary, London Road, Derby.	The construction of up to 500 dwellings (Class C3 and Class C2) and for 1,000 sqm (max) Class A1 (shops); 500 sqm (max) Class A3 (restaurants & cafes); and 1,100 sqm (max) Class B1(a)(offices)/A2 (financial & professional services); and for Class D1/D2 (non-residential institutions/assembly and leisure), Class A4 (drinking establishments) together with access, public open space, landscaping and associated engineering works and the demolition of a former hospital building.	<p><b>A. To authorise</b> the Director of Strategy Partnerships, Planning and Streetpride to negotiate the terms of a Section 106 Agreement to achieve the objectives set out below and to authorise the Director of Governance to enter into such an agreement.</p> <p><b>B. To authorise</b> the Director of Strategy Partnerships, Planning and Streetpride to <b>grant permission</b> upon conclusion of the above Section 106 Agreement.</p>

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

## **1. Application Details**

**Address:** Site of the Rose and Crown PH and the St. Ralph Sherwin Centre, Swarkestone Road, Chellaston.

**Ward:** Chellaston

### **Proposal:**

Demolition of existing buildings and structures and erection of retail store (Use Class A1), car parking and servicing areas, access and associated works.

### **Further Details:**

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan/12/15/01570>

### **Brief description**

The site of the proposal comprises approximately 0.71 ha of land fronting Swarkestone Road. The site is currently occupied by the Rose and Crown PH (and associated garden and buildings) and the St. Ralph Sherwin Centre (place of worship) and the associated parking area. At the time of writing, both the public house and place of worship are in active use. The majority of the site is allocated as part of the Chellaston District Centre and for reference the boundaries of the District Centre are shown on the Ordnance Survey base at the end of this report.

To the immediate north of the site is the Corner Pin Public House, with fencing and vegetation demarking the boundary; to the east is the A514 carriageway; to the south are the grounds and school buildings of Chellaston Academy; to the west is the Bowling Club and pavilion and beyond to the north-west are residential properties on Station Road. The Rose and Crown PH building is a part two storey part single storey structure which fronts Swarkestone Road. The St. Ralph Sherwin Centre is an angular block shaped mono-pitched roof building set back from the highway, with a side blank brick gable facing Swarkestone Road. Two separate existing car parks occupy the site serving both the Public House and place of worship. Land levels are relatively flat across the site. The buildings would be demolished to accommodate the proposed development.

Tree Preservation Order (TPO) 585 covers three individual trees, two groups and one area of trees within the curtilage of the Rose and Crown PH and the St. Ralph Sherwin Centre. The site is not located within a Conservation Area. The tree stock includes a group comprising 1 Willow tree, 2 Oak trees, 1 Beech tree, 1 Rowan tree, 3 Ash trees and 1 Cherry tree situated to the rear of the Rose and Crown PH, adjoining an outdoor seating area. A group of 6 Hornbeam trees are situated on the boundary between the St. Ralph Sherwin Centre and the Chellaston Academy. A group of Ash and Damson trees are situated on the boundary between the St. Ralph Sherwin Centre and Rose and Crown PH.

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

The submission

The application is accompanied by a suite of documents which include:

Design and Access Statement

Planning and Heritage Statement

Land Contamination Assessment

Preliminary Ecological Survey and Updated Emergence and Activity Survey - following surveys in early May 2017

Heritage Appraisal

Noise Assessment

Statement of Community Involvement

Transport Assessment and Travel Plan

Tree Survey

The proposal

Full planning permission is sought for the construction of a single retail unit covering approximately 2,051sqm gross floor area with a proposed sales area of approximately 1,331sqm (net). The applicant is the 'deep discount' retailer Lidl UK.

The proposed retail store itself would be positioned to the south of the site with its main elevations fronting both the car park and Swarkestone Road. The amended footprint of the proposed building would accommodate a large rectangular sales area and the north (front) elevation would house the main entrance and delivery bay components which would both project from that elevation. The proposed roof design would include a shallow mono-pitch with a maximum height at the front of the store of approximately 6.7m sloping down to approximately 5.5m at the rear of the building. The proposed elevations would comprise glazed curtain walling for the main entrance which would return around the side elevation facing Swarkestone Road, grey and white coloured panels for the other elevations and upper level cladding for the roof.

The applicant indicates that they seek to operate the proposed retail store between the hours of 07:00 - 22:00 Monday to Saturday and 10:00 – 17:00 on Sundays and Bank Holidays. The development, once operational, would employ between 25 and 40 full-time and part-time staff members.

The latest amendments to the application include the following details.

- 1) Relocation of the proposed vehicular access approximately 15m further south toward the proposed store building and modifications to the design of the access. Other highways improvements have been negotiated and these include the provision of a ghost island within the highway to serve the proposed access, enlargement of the right turn (High Street) lane for northbound vehicles and other carriageway and footway improvements. These improvements constitute 'off-site highways works' and would be subject to separate agreements with the City Council in its role as local highway authority.
- 2) Revision of the proposed site layout to accommodate the retention of trees in the centre of the site and on the boundary adjacent to the proposed western elevations of the building. The footprint of the store has been amended by the applicant and this has reduced from a gross floor area of approximately 2,312sqm to a gross floor area of approximately 2,051sqm. The overall parking

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

layout has been modified by the applicant and it would accommodate a total of 115 parking spaces with 7 spaces allocated at the front of the proposed building for disabled people's vehicles. The proposed car parking layout has also been amended to provide a wider access route to the delivery bay at the western end of the proposed building. The majority of the landscape component would be around the periphery of the site.

- 3) The proposed boundary treatments for the site have also been amended. In terms of the northern boundary a brick wall with coping is proposed along its full length. Acoustic barriers are proposed on part of the length of the western boundary at a height of 1.8m from ground level and an acoustic double gate is proposed on that boundary to provide access to the bowling green. An acoustic barrier at a height of 2.4m from ground level would be sited directly to the north of the proposed delivery bay and it would link into a 2m high 'paladin' fence which would stand on the western and southern site boundaries.

## **2. Relevant Planning History:**

<b>Application No:</b>	DER/09/06/01490	<b>/Type:</b>	Full Planning Permission
<b>Decision:</b>	Granted	<b>Date:</b>	01/11/2006
<b>Description:</b>	Extension to Public House – Veranda		

<b>Application No:</b>	DER/05/03/00864	<b>Type:</b>	Full Planning Permission
<b>Decision:</b>	Granted conditionally	<b>Date:</b>	14/07/2003
<b>Description:</b>	Alterations to Public House – Repositioning of the front entrance, addition of toilets for disabled people and amendments to the ground floor drinking area.		

## **3. Publicity:**

Neighbour Notification Letters sent to surrounding properties

Site Notices displayed near the site

Statutory Press Advert in the Derby Telegraph

*This publicity is in accordance with statutory requirements and the requirements of the Council's adopted Statement of Community Involvement.*

Members should note that the applicant submitted updated documents on 16 June 2017. These have been the subject of a re-consultation exercise involving consultees, neighbours and other interested parties.

## **4. Representations:**

The application has generated a large number of comments from neighbours and other interested parties. There are 375 representations in objection to the application and 105 representations in support of the application.

Ward Councillors Grimadell and Ingall object to the application and they consider that the proposal is not in keeping with the current street scene, it will increase traffic on what is already a busy road, it will cause issues with children crossing the roads on the way to school and it will create a high level of light pollution.

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

The Chellaston Residents Association object to the application on the grounds that the proposal fails to preserve or enhance the character and appearance of the centre, by reason of the siting, scale, appearance, massing, overall design and boundary treatment of the development. Objections are also raised in relation to the loss of trees, the adverse impact on the listed building, the living conditions of neighbouring properties, the loss of the public house as an asset of community value, the vitality of the centre and highway safety.

**Summary of representations in objection**

- Loss of willow tree
- Already have a Tesco and Co-op and Aldi proposed at Chellaston Fields
- Scheme will distort Chellaston High Street
- Dangers of school pupils next door
- Harmful and irreversible effect upon the setting of the Grade II listed building
- Unsuitable building in the village centre
- Assessment of existing community facilities flawed
- Cars pulling into and out of car park being dangerous for pedestrians
- Unsuitable to have a large store next to a school
- Traffic chaos in an already busy village centre
- The traffic modelling 'Linsig' is incorrect in assessing the traffic movements and impacts and trip rates
- It will kill off remaining small business in the area
- Part of site is outside of district centre and should be subject to an impact assessment
- Adding to pollution and congestion
- Increased traffic volume on an already very busy road, plus near to existing traffic signals on busy crossroads.
- The large articulated lorries that will be delivering will stop the traffic behind
- A new road is to be opened to ease the traffic but it will not be a solution as there are 4 new housing developments that will flow into the A514 causing further problems - the Tesco further up cause's problems
- Loss of historic pub is unacceptable
- 115 car parking spaces will mean a high density of traffic entering and exiting the car park
- Residents want the pub not another supermarket
- The large glass frontage is also still very out of keeping with the neighbouring properties which maintain a 'village feel' to the surrounding area

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

Summary of representations in support

- There is demand for another foodstore
- New development along A514 would breathe new life into the centre
- Good and cheap prices
- Not only would it be a most useful facility but would provide a large number of new jobs to Chellaston
- Range of items and products not found elsewhere in Chellaston
- Many retired people would benefit from the store
- The store in Chaddesden is a drive away, closer proximity is a good thing
- Chellaston is in a need of a good supermarket that gives value for money
- Fresh injection of employment opportunities
- Good for pensioners

Members should note that there have been a large volume of representations submitted throughout the life of this application. The web link at the start of this report provides access to the application file should members wish to peruse the individual comments in more detail.

**5. Consultations:**

**Conservation Area Advisory Committee:**

The minutes of the meeting on 10 March 2016 are as follows:

...The committee recommends refusal on the grounds that the loss of a building which complements a nearby listed building adversely affects the street scene.

Amendments were never referred back to the Advisory Committee as they did not address the objection.

**Built Environment:**

The comments of my colleague in relation to the latest amendments of 16 June 2017 are as follows:

4 Swarkestone Road

The site is adjacent to the grade II listed No.4 Swarkestone Road, a small brick built cottage with exposed cruck frame visible in the south gable. Although the frame is thought to date from the 1600s, it is a remnant of a now demolished building and embedded within the wall of a later cottage, probably of 18th century construction. The cottage now forms part of The Corner Pins Pub, with the timber frame facing the proposal site and immediately adjacent to the road. Development on this site will therefore affect the setting of the listed building.

The Rose and Crown

The Rose and Crown public house is not on either the statutory or local list, and does not lie within a conservation area. It is a brick-built pub, with some built elements dating from the late-18th to early-19th century, and possibly earlier. These have been

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

largely obscured by 20th century extensions, although in an appropriate form retaining the basic character of the historic street scene leading north along Swarkestone Road and forming a group with the Corner Pins public house and No.4.

The application is accompanied by a detailed Heritage Appraisal, which analyses the survival of historic features internally and externally. The buildings have been substantially altered both internally and externally in the 20th century, and I agree with its conclusion that the building is not of sufficient historic interest to merit inclusion on the local list. However, it does have historic form and character which contributes historic context to the setting of the adjacent grade II listed No.4 Swarkestone Road, as well as having evidential value for potential evidence of earlier historic structures.

#### The Development

The Rose and Crown and The Corner Pins are currently the sole survivors of the historic street scene, being otherwise surrounded by later 20th century development of widely varying character. Demolition of The Rose and Crown would remove the surviving historic neighbours of No.4, which contribute to its setting and the understanding of its former historical context. It is noted however, that the buildings are not necessarily contemporary with No.4 and the original setting of the cruck-framed building, and that demolition of the Rose and Crown would open up views of the cruck frame in more distant approaches from the south along Swarkestone Road. The replacement of the pub with a car park and modern retail building, however, would be comparatively harmful to the setting of No.4.

The listed building currently has a sense of enclosure created by the historical north wall of the Rose and Crown and some boundary trees. Previous objections to the proposed 2m Paladin fencing have been addressed by proposing a 1.1m high brick wall with stone coping, which would continue the existing historic enclosure to the rear of the Corner Pin and create a better sense of separation between the two sites. Subject to materials, this would be an enhancement of the immediate setting and curtilage boundary of the listed building.

The proposed supermarket would be a modern construction of form and materials typical of its age and function, and in conjunction with the large expanse of car parking would fail to protect the wider setting and views of the setting of the listed building.

#### Conclusion

The Rose and Crown has 'evidential' value as a historic building, and such loss could be mitigated by building recording. However the demolition of the Rose and Crown and replacement with modern retail unit and car park, would be harmful to the setting of the listed building at No.4 Swarkestone Road in terms of its context as part of a remnant group of historic buildings.

Harm to the setting of a listed building is contrary to Local Plan Review policy E19c, NPPF paras 132 and 134, and S. 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. As defined in the NPPF, the harm would class as 'less than substantial' and so fall to be weighed against any other public benefits of the development.

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

### **Highways Development Control:**

The comments of my colleague are reproduced below.

#### Introduction

The proposal seeks full planning approval for the development of a 2,312sqm Gross Floor Area (GFA) Lidl Discount food store. The proposed store is Lidl's new format and is significantly larger than existing discount stores in Derby. By way of comparison, the Nottingham Road Lidl Store is 1576sqm GFA, making this proposed development approximately 46% larger. The proposed store is well located within the Chellaston District Centre. There are other nearby discount food stores at:

Store name and Location	Distance from Lidl Chellaston
Co-op – Swarkestone Road, Chellaston	adjacent
Tesco – Swarkestone Road, Chellaston	210 metres
Proposed Aldi, Swarkestone Road, Chellaston adjacent to the A50 – South Derbyshire App No: 9/2016/1208	700m
Co-op – Swarkestone Road, Chellaston	1.7 miles
Aldi – Coleman Street, Alvaston	2.5 miles
Lidl – Nottingham Road, Chaddesden	5.9 miles
Aldi – Southmead Way, City Centre	4.5 miles
Aldi – Nottingham Road, Chaddesden	5.8 miles

#### National Planning Policy Framework (NPPF)

Set out below is the criteria against which the highway impact of the proposed development should be tested. It is important that this is the criteria used, as it is the NPPF that will be considered by an Inspector should the application be determined by the Secretary of State.

Paragraph 32 of the NPPF says:

*“All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:*

- *the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;*
- *safe and suitable access to the site can be achieved for all people; and*
- *improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”*

The following comments are provided in the context of the above guidance from NPPF:

#### Transport Assessment (TA)

When assessing a new development it is standard industry practice to consider existing traffic (background traffic) i.e. traffic on the road at present, plus the future

**Classification: OFFICIAL**

traffic from any committed development, plus trip making by all modes generated by the development.

Committed development can include developments with planning permission or development allocated in a current local plan. This also includes infrastructure improvements such as T12 and these elements of the transport assessment process are considered in greater detail below.

**Background Traffic**

At the time that the scope of transport assessment (TA) for the above was being considered the new link road between the A50 and Wilmore Road called T12 was under construction. The modelling for T12 showed that the new route would remove traffic from the A514, however as the new route was not open the actual impact of the new road was unknown. Therefore to seek to ensure the proposed store was considered in a robust manner the developer was advised to assess the proposed store without T12 in place i.e. using existing traffic levels on the A514. Then, to make allowance for future development, growth was applied to the surveyed flows by applying a local traffic growth rate for Derby (TEMPRO 7).

Whilst the above application has been being considered the T12 link road has opened providing the opportunity to understand the actual impact of the new road on the A514, albeit the new road has only been open for a relatively short period and therefore traffic patterns may still be changing. To seek to understand if the background traffic flows used in the modelling are robust DCC have compared current observed flows on the A514 (17/18 March 2017) obtained from the MOVA controlled traffic signals at High Street. The results are shown below.

<b>Background Traffic: Comparison of Nov 2015 to March 2017</b>				
<b>Day/Time</b>	<b>Direction of Travel on A514 at High St. traffic signals</b>	<b>Traffic Count 13/14 Nov 2015</b>	<b>Mova Count 17/18 March 2017</b>	<b>Difference</b>
<b>Fri 16-17</b>	S/B	783	679	<b>-104 (15%)</b>
	N/B	589	529	<b>-60 (11%)</b>
<b>Fri 17-18</b>	S/B	757	645	<b>-112 (17%)</b>
	N/B	599	597	<b>-2</b>
<b>Fri 18-19</b>	S/B	623	629	<b>+6</b>
	N/B	455	501	<b>+46 (10%)</b>
<b>Sat 12-13</b>	S/B	583	669	<b>+86 (15%)</b>
	N/B	510	504	<b>-6</b>
<b>Revised survey Figures from the Systra tech note dated</b>				
	<b>Direction of Travel on A514 at High St. traffic signals</b>	<b>Survey flows from the revised TA Note</b>	<b>Mova Count March 2017</b>	<b>Difference</b>
<b>Fri</b>	S/B	771	645	<b>-126</b>
	N/B	594	597	<b>+3</b>
<b>Sat</b>	S/B	629	669	<b>+40</b>
	N/B	564	504	<b>-60</b>

(N.B. The figures entitled 'Revised survey Figures from the Systra tech note' are the figure that have been modelled but differ from the actual survey data. The reason is unknown.)

The results generally show there has been a reduction in southbound traffic on the A514 between 1600-1800 hrs, which is probably explained by Rolls Royce employees using T12 to get to the A50. The results for the northbound flows are mixed but does not show a reduction in the Friday development peak hour 1700 to 1800 which has been modelled. On Saturday the southbound flows have increased and the northbound flows stayed the same.

**Development Traffic**

**Foodstore Trip Generation**

It is industry standard practice to obtain predicted development related traffic generation figures from a national data base of traffic surveys called 'TRICS'. At Derby we request that 85<sup>th</sup> percentile trip rates are extracted from TRICS to provide a robust assessment. The Council made the applicant aware of surveys it had undertaken which indicated that the trips rates for discount food stores as shown in TRICS may be underestimating the level of trip generation produced by this type of development. This view came from experience of a recently completed Aldi on Coleman Street, which opened in April 2015. To seek to validate trip rates at another similar development proposal the Council undertook a survey at the Coleman Street store, the result of the survey was so surprising that other pm peak traffic surveys where undertaken at other discount food stores in the area.

The results of those surveys are shown below, and demonstrate that discount food stores observed trip rates are significantly higher when compared to those shown in TRICS (highlighted in yellow).

Name of the Store	Friday pm peak trip rate per 100sqm GFA	
	In	Out
Aldi Coleman Street, Derby (1859sqm GFA)	9.09	10.22
Lidl Nottingham Road, Derby (1576sqm GFA)	6.28	5.96
Lidl Beeston, Nottingham (1810sqm GFA)	6.57	6.63
Lidl Arnold, Nottingham (2461sqm GFA)	3.738	3.576
Proposed Lidl Swarkestone Road (2,312sqm GFA)	4.238	4.758
	Tuesday pm peak trip Rate	
Aldi Coleman Street, Derby	9.93	8.7

It is considered the increased trip rates may be because the status and popularity of discount food retailers has surged in recent years, becoming brand leaders. This has influenced shopping habits where shoppers have moved away from traditional large food stores to smaller discount food retailers such as Lidl and Aldi.

DCC advised Lidl’s consultants Systra of their findings in a technical note dated 5th October 2016. Systra responded by undertaking their own comparative traffic generation survey at Lidl’s food store in Arnold Nottingham. The Arnold store was considered to be comparable in size and location to the proposed Chellaston food store. The Arnold store is approximately 2,461sqm of GFA, 149sqm GFA bigger than the proposed Chellaston food store.

Lidl undertook surveys at Arnold on Friday 21<sup>st</sup> and Saturday 22<sup>nd</sup> October 2016 of all arrival and departures during the peak periods of 1600-1900 (Friday) and 1000-1400 (Saturday). The results shown below:

<b>Lidl Arnold GFA 2461sqm Surveyed 21/22 Oct 2016</b>	<b>Friday pm peak trip rate per 100sqm GFA</b>	
	<b>In</b>	<b>Out</b>
	3.738 (4.238)	3.576 (4.758)
	<b>Sat peak trip rate per 100sqm GFA</b>	
	<b>In</b>	<b>Out</b>
	4.795 (7.529)	3.941 (8.101)

The surveyed results are lower than the trip rates used to assess the Chellaston store, which are shown in brackets in the table above. The Arnold store is located on the A60 Mansfield Road, a major route into Nottingham City Centre. The access is adjacent a major 4 armed staggered signalised junction which is difficult to access. This means any traffic wishing to enter the Arnold store will have to cross 3/4 lanes of traffic. This is equally difficult for exiting right turners who also have to cross 3 or 4 lanes of traffic. Consequently, the low trip rates could be influenced by the difficult access to the site.

Comparison of trip rates at different stores is difficult because the actual level of traffic produced by a particular trip rate depends on the size of the store. Therefore below is a comparison of the actual number of trips generated by each of the surveyed stores when compared to the trip generation that has been assessed for the proposed Chellaston store.

<b>Name of the Store</b>	<b>Friday pm peak trips</b>	
	<b>In</b>	<b>Out</b>
Aldi Coleman Street, Derby	169	190
Lidl Beeston, Nottingham	119	120
<b>Proposed Lidl Swarkestone Road (2,312sqm GFA)</b>	<b>98</b>	<b>110</b>
Lidl Nottingham Road, Derby	99	94
Lidl Arnold, Nottingham	92	88
<b>Tuesday pm trips</b>		
Aldi Coleman Street, Derby	129	162
<b>Sat peak trips</b>		
Proposed Lidl Swarkestone Road (2,312sqm GFA)	174	187

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

It can be seen from the above table that arrivals range from 92 to 119 trips in the peak hour and departures 94 to 120 (with the exception of Coleman Street, which sits well outside the range). The traffic numbers that have been used to assess the above site lie within these ranges and are above those for the store at Arnold.

#### Foodstore Trip Distribution

During the PM peak the developer suggests that the split of trips departing at the access will be approximately **65** trips heading Northbound towards the High Street junction and **45** trips heading southbound towards the A50. The split of trips arriving at the access will be **82** trips traveling southbound from the High Street junction and **16** trips travelling northbound from the A50. It should be noted that during the Friday peak trading hours many of the trips visiting the above site are likely to be either diverted trips from people who are normally turning left into High Street or people who are passing the site.

#### Parking Provision and Servicing

The development seeks to provide 112 car parking spaces. This includes 6 disabled spaces and 6 parent and child spaces. DCC raised concerns with Lidl in their briefing note dated 5<sup>th</sup> October 2016 over whether the proposed level of parking provision is adequate to meet the demands for a store of this size. Particularly, when the level of parking proposed is comparable to the other smaller discount food stores in Derby (see surveyed sites below).

Currently the site provides unauthorised parking for Chellaston Academy sixth form students and the bowls club. Lidl have agreed to provide authorised parking to the bowls club by means of a valid permit system; however this could be revoked at any time as there is no guarantee in the future that Lidl won't revoke their agreement due to "operational reasons". Lidl have confirmed they will not be allowing parking for Chellaston Academy sixth form students.

<b>Name of Store</b>	<b>GFA</b>	<b>No Spaces</b>	<b>Space/100sqm GFA</b>
Lidl Arnold Nottingham	2461	114	21.6
Lidl Chellaston	<b>2312</b>	112	20.6
Aldi Coleman Street Alvaston	1859	91	20.4
Lidl Beeston Nottingham	1660	100	16.6
Aldi Southmead Way	1577	106	14.9
Lidl Nottingham Road Derby	1576	89	17.7

To seek to address the Council's concerns Lidl commissioned parking surveys and the parking surveys were carried out were on Friday 21<sup>st</sup> October 2016 and Saturday 22<sup>nd</sup> October 2016 on both days the surveys were undertaken from the hours of 8am to 9pm in line with the store opening hours. The food store in Arnold currently provides a total of 114 car parking spaces. The survey results demonstrated that parking occupancy levels did not exceed 50% and 40% respectively, indicating spare parking capacity at this store. Lidl consider the provision of 112 parking spaces can adequately accommodate the demands of the proposed store in Chellaston and is

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

comparable with the surveyed Arnold food store. However the low demand for parking is directly related to the low trip rates at the store.

A tracking assessment was undertaken on the original layout as shown at Appendix F of the original TA. I am content the revised layout can be serviced adequately.

Concerns have been raised about the displacement of vehicle who currently park in the existing car parks at the pub and church. The private car parks at the church and the pub are just that, private. If the site owners choose to sell their sites including the car parks then the users who have benefited from the use lose that benefit, with the exception of any agreement with Lidl as part of their acquisition of the development site. Under the terms of the legal agreement required to undertake the highway improvements the Council has the ability to require Lidl to fund traffic regulation order to address issues directly related to the development.

- ***the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;***

#### **Sustainable Transport Modes**

The site is well located in respect of sustainable modes of transport.

- ***safe and suitable access to the site can be achieved for all people; and***

The difficulty in providing access to the above site is the proximity of the traffic signals at the junction of the A514/High Street as traffic often queues back across the site frontage. One reason for this is that the lack of stacking space for vehicles turning right into High Street, consequently right turners can block drivers wishing to go ahead reducing overall capacity. This means that visitors to the store will have to access the store through queuing traffic at certain times.

The location of the access to the store was raised with Lidl at the pre-application stage. The Council suggested that the access to this site should be located as far from the High Street traffic signals as possible because of traffic blocking back from the traffic signals. Lidl's response was that they could not do this as the large format store they wished to place on the site could not fit on the site other than at the location proposed. The planning application was lodged with the access located approximately 65m from the High Street Traffic signals. However following further discussions with the applicant, Lidl revised the application relocating the access approximately 80m from the traffic signals, which is the location of the access being considered.

To seek to improve the space available for the right turning traffic into High Street, Lidl were asked to relocate the existing refuge further south to provide a long right turn lane. Lidl agreed to do this increasing the length of right turn lane to approx. 30m and would be able to store 5 vehicles. This longer right turn lane would significantly improve the operation of the signals throughout the day.

Another concern raised was the impact of drivers waiting to turn right into the store, particularly as has been pointed out above there will be times when the entrance to the store may be blocked by traffic queuing from the traffic signals. To address this concern Lidl were asked to undertake localised carriageway widening to form a

**Classification: OFFICIAL**

'ghost island' to provide a space for drivers wishing to turn right into the store to wait safely. The ghost island can hold approximately 5 cars. The ghost island will also assist drivers wishing to turn right out of the store as it provides them with a space to wait in the centre of the road thus allowing the right turn to be undertaken in two stages.

A third concern is the proximity of the proposed development to Chellaston School, which is immediately to the south of the site. Twice a day significant numbers of children walk past the site. 'Manual for Streets' provides some advice about footway widths, see below:

Para 6.3.22 "*there is no maximum width for footways. In lightly used streets (such as those with a purely residential function), the maximum unobstructed width for pedestrians should generally be 2m. Additional width should be considered between the footway and a heavily used carriageway, or adjacent to gathering places, such as schools and shops.*

Para 6.3.23 "*Footway widths can be varied between different streets to take account of pedestrian volumes and composition. Streets where pedestrians walk in groups or near schools or shops, for example need wider footways. In areas of high pedestrian flow, the quality of the walking experience can deteriorate unless sufficient width is provided. The quality of service goes down as pedestrian flow density increases. Pedestrian congestion through insufficient capacity should be avoided. It is inconvenient and may encourage people to step into the carriageway.*"

The Council asked Lidl to widen the footway across the store frontage to 3m to seek to accommodate the pedestrians at school peak times. The current plan of the access Drg No NW91354\_006 currently shows the footway across the front of the site widened to 2.5m. However, Lidl have agreed that should the proposed store obtain planning permission they will work with the Council through the detailed design process to seek to provide a path as close to 3m as is possible (see condition below)

- ***improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.***

To seek to address the concerns raised above, Lidl have agreed to fund local widening scheme as shown on Drg No. NW91354\_006. The improvement consists of widening the through lanes to 3.65m and providing a 3m wide ghost island (waiting space) in the centre of the road. As mentioned above the scheme also increases the length the right turn lane into High Street. It also provides a wider footway across the store frontage to accommodate pedestrians. The bus stop will also be relocated albeit the exact location is to be determined through the detailed process.

#### Conclusion

In general terms the above proposal is well located being within the Chellaston district centre. This affords the opportunity for linked trips with other shops within the centre. It is also likely that the car park will be used by shoppers visiting the centre.

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

There are however a number of issues to be considered:

- proximity of the site to the High Street traffic signal junction;
- proximity to Chellaston School;
- Uncertainty over the level of traffic generation.

The proximity of the access to the High Street traffic signals means that at certain times visitors will have to enter and leave the site through a queue of traffic blocking backing from the traffic signals. Albeit this manoeuvre currently happens at present.

The proximity to Chellaston School means twice a day significant number of school children will walk past the site.

To seek to address the above issues Lidl have agreed to fund a localised widening scheme to form a ghost island adjacent to the proposed access and also to lengthen the right turn lane at the traffic signals for driver wishing to turn right in to High Street. They are also proposing to widen the footway across the site frontage.

The above report shows that smaller discount foodstores have been surveyed and do attract significantly more traffic than is suggested by the applicant. It is not possible to know what the actual trip attraction will be at this store until the day it opens however if the store attracts the same level of trips that has been recorded at Coleman Street it is likely to result in some congestion in the vicinity of the store.

Should you be minded to approve the above proposal it is recommend any consent should be subject to the following conditions and notes:

**Suggested Conditions:**

1. No development shall take place on the application area unless or until details of the widening of the footway across the site frontage have been submitted to and approved in writing by the LPA. The footway shall be widened to 3m unless otherwise agreed by the LPA.
2. The proposed development shall not become operational unless or until:
  - a. the proposed vehicular access and ghost island, as shown on Drg No NW91354\_006 have been constructed to the satisfaction of the LPA in accordance with details to be submitted and approved in writing;
  - b. The proposed car parking and servicing areas have been provided to the satisfaction of the LPA in accordance with details to be submitted and approved in writing;
  - c. secure cycle parking has been provided to the satisfaction of the LPA in accordance with details to be submitted and approved in writing;
3. A travel plan is in place the details of which have been submitted to and approved in writing by the LPA.
4. Any access made obsolete by the development shall be reinstated to the satisfaction of the LPA in accordance with details to be submitted and approved in writing.

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

Notes to Applicant

The above conditions require works to be undertaken in the public highway, which is land subject to the provisions of the Highways Act 1980 (as amended) and over which you have no control. In order for these works to proceed, you are required to enter into an agreement under S278 of the Act. Please contact Robert Waite Tel 01332 641876 for details. Please note that under the provisions of S278 Highways Act 1980 (as amended) commuted sums may be payable in respect of all S278 works.

**Additional Comments in response to amendments which have been received:**

The following additional comments are provided in response to the latest revised proposal presented by Lidl. The original highway comments (shown below) remain extant.

Reduction in Store Size - Lidl has revised the store type and are now seeking full planning approval for a store of 2,051sqm Gross Floor Area (GFA), which is a reduction of 261sqm GFA.

Traffic Generation - as a result of the reduction in GFA, the revised proposal is likely to reduce the two trips in the Friday PM peak by approximately 22 (-11 in and -13 out) and 41 (-20 and -21) in the Saturday peak.

Parking Provision - Lidl are proposing to increase availability by 3 spaces to 115. This includes 7 disabled spaces and 6 parent and child spaces.

Sustainable Transport Modes - the Council asked Lidl to widen the footway across the store frontage to 3m to seek to accommodate the pedestrians at school peak times. The current plan of the access Drg No AD022-Rev B currently shows the footway across the front of the site widened to 2.5m. However, Lidl have agreed that should the proposed store obtain planning consent they will work with the Council through the detailed design process to seek to provide a path as close to 3m as is possible (see condition below) The widening of the footway will be addressed through the Section 278 agreement governing the off-site works.

Store Access - Officer requested that the alignment for inbound vehicles should not be directed towards the hatched area behind the disabled parking space. Lidl have revised their entrance in proximity for inbound vehicles by providing lining to guide vehicles to pass around the disabled parking hatching. DCC considered this acceptable. The latest access layout is shown on Drawing No NW91354\_009 Rev A.

Drawing No NW91354\_009 Rev A shows the latest proposals for the site access and off-site highway improvements. However as well as the footway mentioned above there are other matters that will be resolved through the S278 detailed design process, these are:

1. The bus stop will be relocated to the most appropriate location to minimise the disruption to through traffic, whilst at the same time ensuring the bus stop is well located for bus users;
2. Lidl have agreed to undertake additional localised widening in front of the co-op and library to ensure as much as is possible, free flow for southbound traffic.

**Road Safety** - Road Safety audits will be carried out as part of the S278 process.

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

### **Natural Environment (Tree Officer):**

The applicant has sought to retain trees within the amended design and negotiations surrounding this component of the application are ongoing at the time of writing the report. My colleague has supplied the following comments in relation to the current design and layout of the proposed development. These are reproduced in full.

My observations are:

- There will be significant tree/canopy loss if the proposal is permitted.
- Trees are shown for retention but they need to demonstrate that the trees can be retained. I am not convinced that all the trees can be successfully incorporated into the proposed development. This should not be left to condition as we must be sure what the final proposed scheme will look like.
- The supplied AIA states 'The physical removal and replacement of soft and/or hard surfacing's within RPAs will be dealt with by way of detailed Method Statement and it is advised this is secured by way of a suitable Planning Condition. In summary, it is envisaged that all construction work will be materially completed and only then will existing surfacing (hard or soft) be removed within retained tree RPA areas. The installation works can then be completed by hand and under arboricultural Supervision'.
- The AIA goes onto to say 'Landscape Ecology Limited has not been provided with detail relating to any proposed level changes within existing tree RPA's and none are anticipated. Most trees are located to the edge of the proposal or in areas where level change is not anticipated, as such levels are likely to remain similar to tie in with boundary and existing levels. Should level changes within the RPAs of retained trees be proposed then it is considered this is covered within a site specific Method Statement secured by way of a suitable Planning Condition'. I feel the AIA is a bit ambiguous with too many variables left to once development has commenced. With the information available they should be able to state what the changes in levels are, the impacts and mitigation.
- Trees to be retained should not have soil levels changed within the RPA. Proposed hard surfaces over existing turfed areas must be permeable and must not be invasive (only the turf layer can be removed and new surface constructed, using non methods, over). This will have level issues between the remaining soil level and the new construction. They must demonstrate that this will not be an issue for design/intended use.
- New hard surfaced areas over existing must be carried out with caution. If the trees can be successfully retained new permeable surfacing over existing hard surfacing should be beneficial to root growth.
- I am concerned, with the 2 oaks in particular (T23 and T24,) that if the RPA's are not fully respected we would be left with trees that would fail to thrive with associated minor branch dieback and detritus falling into car parking areas.
- None of the trees shown for retention are such special or exceptional trees that there retention is absolutely necessary (although the loss would be regrettable). If the proposed retained tree RPA's are compromised either amend the design

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

so that RPA's are not compromised or amend the design to remove the trees and mitigate with further good quality planting.

- There is an opportunity to plant trees although this will not fully duplicate the net loss of canopy cover.
- Good quality tree planting within car parking areas could be explored which will help offset some of the tree loss and provide shade, textural diversity/interest and bio-diversity. These could be fastigate trees with narrow canopies so as to have limited impact on highway users.
- Proposed planting must ensure that the trees have access to a good quality rooting environment.
- Tree Protection Plan and Arboricultural Method statement are required once and if a final scheme is agreed.

**Additional comments to revised AIA:**

Although the AIA is quite a good document it still does not demonstrate that the changes of surfaces and levels (including the installation of kerbs and non-dig surfacing can be accommodated). Leaving it to condition is not acceptable as it may not be achievable.

The only acceptable lowering of soil levels within an RPA is the removal of the turf layer. Non-dig, permeable, surfaces can be installed on top of this. The installation of kerbs within the RPA should be non-dig (can this be done?) unless previous constraints of the site mean that no roots are present (they need to demonstrate this). Hard surfaces within an RPA can be removed, carefully, and new surfaces installed. This may be beneficial where permeable surface are installed where previous impermeable surfaces were once located.

My concerns are:

- T10: Installation of surface and kerbs west and north of tree (within RPA). South of tree is existing hard surface; installation of permeable surface and soil would be beneficial to the tree.
- T9: Installation of surface and Kerb east of tree within RPA. South and north of tree is existing hard surface; installation of permeable surface and soil would be beneficial to the tree.
- The drawing indicates that there will be a lowering of soil level between T9 and T10. This is not acceptable.
- T23 and T24: Installation of surface within RPA's of tree and change of levels. Can this be achieved? Spec. of non-dig surface to marry up to soil level within RPA.
- Intensity of landscaping planting within RPA of T23. Rotavation of soil within the RPA of tree to accommodate the proposed planting is not acceptable.

The amount of proposed tree loss is regrettable that is why it is important that the trees they are proposing to retain can be retained successfully.

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

I still feel there is an opportunity to incorporate planting within the car park on the east boundary. This would go somewhere in replacing the amenity of the proposed tree removals. Can this be explored.

The amount of tree removal will result in a reduction in public visual amenity. The current proposed planting will not duplicate the proposed removals and there will be a net loss in tree cover. Whether this is reason to refuse I cannot say.

### **Environmental Services (Health – Pollution):**

#### **Land Contamination:**

I note that a Phase II desktop study has been submitted with the application. We will review the report in detail in due course, however in the mean-time I would recommend that the following conditions are attached to any consent, should it be granted:

The submitted report shall be agreed by the local planning authority. In those cases where the detailed investigation report confirms that contamination exists, a remediation method statement will also be required for approval. Finally, all of the respective elements of the agreed remediation proposals will need to be suitably validated and a validation report shall be submitted to and approved by Derby City Council, prior to the development being occupied.

#### **Noise**

I note that the proposal will introduce a noise source into the area. The site is in a predominantly central urban area with relatively high existing levels of noise (especially from the busy Derby Road/High Street/ Swarkestone Road junction) and so I do not object to the application in principle, however I do have some concerns over the potential for noise to impact upon the residential amenity of dwellings along Station Road. I would recommend that the following conditions are attached to any planning consent, should it be granted: Store deliveries (although not stipulated in the planning application) shall be restricted to the hours of 7.30am to 7pm, Monday to Saturday and 10am to 4pm on Sundays and Bank Holidays. A noise assessment shall be completed in accordance with BS4142:2014 in order to assess the potential for noise nuisance to occur from delivery operations and a separate assessment for external mechanical plant on site. Any mitigation proposed as a result of the assessments shall be incorporated into the development before it is occupied.

#### **Construction**

Given the scale of the Development and its proximity to sensitive receptors e.g. residential dwellings I would recommend that the applicant prepares and submits a Construction Management Plan for the control of noise and dust throughout the demolition/construction phase of the Development. The statement will need to provide detailed proposals for the control of dust and other air emissions from the site, having regard to relevant guidance, for example guidance produced by the Greater London Authority (GLA, 2006), or the Institute of Air Quality Management (IAQM, 2012). Noise management procedures should have regard to the guidelines described in BS5228, or other agreed guidance/standards.

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

I note that the proposal will involve some demolition and building works. Given the proximity of residential properties, I advise that contractors limit noisy works to between 07.30 and 18.00 hours Monday to Friday, 07.30 and 13.00 hours on Saturdays and no noisy work on Sundays and Bank Holidays. This is to prevent nuisance to neighbours. There should also be no bonfires on site at any time. I would strongly recommend the inclusion of a condition requiring the above, for submission and approval before construction activities commence. The Plan should be complied with fully throughout the construction/demolition phase of the development.

I refer to the *Phase I and Phase II Geoenvironmental Site Investigation* (Remada Ltd, December 2015) submitted in support of the above planning application. I can comment on the report as follows. Please note that the following comments do not seek to interpret or discuss the suitability, or otherwise, of any of the geotechnical aspects of the site investigation, other than in a land contamination context. All comments relate to human health risks. I would refer you to the Environment Agency for their comments on any conclusions made in the report surrounding risks that may exist to controlled waters, since the Local Authority cannot comment on these aspects.

**Phase I and II Report**

1. The report is sufficiently detailed and follows relevant guidance.
2. The Phase I desk study considers relevant information and appears to highlight all potential contamination risks.
3. Although limited, the soil sampling strategy is considered acceptable given the scale of the site, the proposed end-use and the land-use history.
4. The report acknowledges that insufficient gas monitoring was undertaken as part of the assessment and goes on to conservatively recommend that gas protection measures are installed within the proposed new building. I would accept this recommendation.
5. Soil sampling results were compared with generic assessment criteria for a commercial setting, which resulted in no exceedances of the criteria. The site is therefore deemed suitable for its proposed use as a retail store and car park. I would accept the report's conclusions based on the information provided, namely that "*no further assessment is recommended for the purpose of risk of soil contamination to human health*".
7. Whilst there does not appear to be any need for further site assessment or remediation, it may be prudent to require the submission of a validation report confirming that the recommended gas protection measures (in accordance with CIRIA CS2) have been incorporated into the development, before it is occupied.

You will already be aware of comments on this application relating to noise, dated the 19<sup>th</sup> June 2016 and produced by Dave Fountain.

Whilst these comments did take into account both the submitted noise impact assessment (NoiseAssess Ltd, Ref. 11651.01.v1, dated February 2016) and the noise review produced by the Chellaston Residents Association (letter from John

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

Bowden dated 25<sup>th</sup> April 2016), we have been asked to comment specifically on the latter of these two reports.

I therefore comment accordingly as follows.

**Chellaston Residents Association Noise Review**  
**Noise Measurements**

With respect to background noise monitoring, the CRA Review asserts that relevant standards have not been followed due to higher than specified wind speeds on the day of monitoring (7.22m/s versus 5m/s) and measurements made at a height above ground of 2m versus the standard's recommended 1.2m to 1.5m.

I would accept the observations in terms of a deviation from relevant guidance; however it would be incredibly hard to suggest that the deviations would have any material impact upon the measurements.

Firstly, the additional 2m/s wind speed is a marginal increase and irrespective of this, a wind shield was used to minimise the impact of wind effects on the microphone.

With respect to the higher microphone position above ground, this would in fact serve to decrease background noise measurements due to a slight reduction of reflection effects from the ground, the opposite of what is suggested by the CRA and therefore more conservative, not less so.

Irrespective of the above points, the background noise measurements stated in the report are well within the range of what I would expect in a setting such as this. The location currently experiences relatively high levels of noise from a number of local noise sources including two public houses, a school and traffic using the busy Swarkestone Road.

**Noise Assessment Criteria**

The CRA Review then goes on to question the agreed criteria. Whilst I acknowledge the point around a 5dB limit, it is not true to suggest that this Department would base its overall decision on the BS4142 assessment results alone. The decision as to whether a particular application is, or is not, deemed acceptable on noise amenity grounds is a matter of professional judgement in all cases. In particular, the local context is a key consideration, not merely dB levels.

In any case, the results of the BS4142 assessment are well below the 5dB criteria set out in the report and so this a moot point.

In terms of the use of a 1 hour value for determining delivery noise, whilst I acknowledge the comments in the CRA Review, it was believed that a 15 minute average would not capture all of the sounds associated with a whole delivery event which could therefore underestimate the true impact of delivery noise. In this case, a 1 hour value is considered to be more robust than a 15 minute value.

**Sleep Disturbance**

With respect to the CRA Review's comments on  $L_{(A)max}$  values and sleep disturbance, I do not disagree with the comments made here. Notably however, the primary night-time noise proposed at the site is from plant which produces a relatively continuous steady noise, without high  $L_{(A)max}$  peaks.

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

In terms of  $L_{(A)max}$  values associated with deliveries at night, I agree that it would have been helpful to explore this in more detail, however I would still consider it unlikely that delivery noise would be significant at nearby residential dwellings given the distance between the delivery area and the nearest dwellings, the proposal to incorporate an acoustic barrier around the delivery area and the known relatively high ambient noise levels at this location (see point 5 above).

#### Construction Noise

A degree of noise from construction is an unavoidable result of any development and therefore it is this Department's view that noise from construction should be mitigated as far as possible, irrespective of the size and scale of the development and associated works.

In order to achieve this, this Department has already recommended the attachment of a condition to the consent, should it be granted, requiring the submission of a construction management plan designed to manage noise and to be formally agreed by the Environmental Protection Team. This is entirely consistent with the Council's approach for developments across the City.

#### Noise Penalties

There is a great deal of debate that can be had around the use of subjective penalties under BS4142:2014 and so in principle, I do acknowledge the suggestion that using the objective methods proposed within BS4142 could have aided discussion.

I would note however, that the results of the BS4142 assessment highlight rating values well below measured background noise levels and so even with the use of higher penalties, this is unlikely to have affected the overall conclusions. I do not believe that it is likely that application of the maximum penalties for all categories would have resulted from completion of the objective method.

#### Traffic Noise

I acknowledge the absence of any traffic noise assessment. Given the already high traffic flows along Swarkestone Road, it is incredibly unlikely that a single supermarket could have any material impact upon road noise in the locality.

As a guide, doubling of traffic flows along a road would give rise to a 3dB increase which is regarded as only just noticeable. The additional traffic arising as a result of the development would clearly be considerably less than this. Requesting a full traffic assessment would be unreasonable in the circumstances.

#### Overall Conclusions

Whilst I would accept many of the comments made in the CRA Review regarding deviations from guidance/standards, I would reiterate that addressing those highlighted issues would be unlikely to have any material impact upon the final conclusions.

Notably, the results of the BS4142 assessment reveal rating levels well below the measured background noise. This is an unsurprising result given the nature of the location, which already suffers relatively high levels of noise from a number of local sources.

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

In addition, the development involves the proposed replacement of a public house. In my experience, this Department receives considerably more complaints about noise from pubs than it does regarding supermarkets.

When considering a planning application, the fundamental question around noise impacts is based upon consideration of the proposed development compared with the current land use. Given the local context, it would be hard to argue that the development would create a substantially greater impact upon local amenity from noise than the existing land use as a public house. The evidence appears to support this view.

**Additional Comments in response to Plant Noise Addendum:**

I refer to the submitted update to the Noise Impact Assessment in support of the above planning application, namely the letter of 30 June 2017 from Richard Housley of NoiseAssess Ltd, Ref: 11651.02.v1. The addendum relates to a minor amendment to the external plant compound size and position. The assumptions used to form the basis of the original noise assessment appear to have been robust and, based on the submitted information, are likely to be negligibly affected by the updated plant compound design, which assumes that the plant will be located 1m closer to the nearest dwelling compared with the previous plans. 3. The amendment leads to a calculated 1dB increase in noise from the Plant. The conclusions of the original BS4142 noise assessment are not affected by this change in levels.

The Environmental Protection Team would maintain its position from our earlier comments, namely that the mitigation measures detailed in the noise report and addendum will need to be implemented in full, in order to avoid notable noise amenity impacts. I would note that, following discussions with the developer, the final plant equipment specification has not yet been fully decided. I am however informed that any alternative equipment options would produce lower noise levels than those considered within the submitted noise assessment and therefore the assessment is still considered to be 'worst case'. Nonetheless, it would be sensible to protect against any adverse changes via an appropriate planning condition.

Should consent be granted, we would therefore strongly recommend a condition requiring that the plant specification and associated noise mitigation outlined in the Noise Impact Assessment (Ref: 11651.01.v1, dated February 2016, by NoiseAssess Ltd) and addendum (Ref: 11651.02.v1, dated 30 June 2017 by NoiseAssess Ltd) are implemented in full before the development is first brought into use. Any proposed amendments to the plant equipment specification or associated noise mitigation measures outlined in the reports will need to be agreed in full before the development can commence.

**Derbyshire County Council Archaeologist:**

The proposal site is outside the historic core of Chellaston and appears to have first been developed during the mid-18th century with the development of the Rose and Crown pub. This building has been much altered subsequently and the applicant's heritage appraisal suggests that much of the existing fabric represents 20th century rebuilding, with however some earlier fabric surviving at the northern end. Because of the extent of this alteration it is difficult to make the case for the building to be

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

considered a 'heritage asset'; NPPF chapter 12, with anything beyond the most minimal of local significance. The site as a whole was not substantially developed beyond the Rose and Crown pub until the 20th century, thus remaining outside the medieval and post-medieval village. Historic map evidence suggests an orchard use, possibly associated with the Rose and Crown. There is consequently little potential for significant below-ground archaeological remains on the site. In the light of the above observation I advise that the proposals will have minimal archaeological impact, and recommend that the policies at NPPF chapter 12 do not require the applicant to undertake any archaeological work

### **Environment Agency:**

In the absence of any updates to the consultee's advice following the various revisions to the application, the original comments of the EA, of 4 February 2016, are as follows.

The previous use is of low risk and there are no environmentally sensitive receptors in this area. We have no detailed comments to make.

### **Derbyshire Wildlife Trust (DWT):**

The comments of DWT in relation to the last ecological survey works carried out in early May 2017 are as follows:

The following comments are aimed at providing accurate and up to date information on the nature conservation issues associated with the proposed development.

#### Basis for response

We have checked the site against the Trust's data sets (see Endnote): We have considered the relevant documents submitted as part of the planning application with particular reference to the following:

- Phase 1 Ecological Survey & Appraisal (Sensible Ecological Survey Solutions (SESS), October 2015)
- Phase 2 Dusk and Dawn Survey (Sensible Ecological Survey Solutions (SESS), May 2017)

#### Comments on ecological assessment

The Trust is not aware of any nature conservation interest on or adjacent to the site. A great crested newt record c.150m west of the site and bat roost record c.300m east of the site, are the closest protected species records within 500m of the site.

A phase 1 survey was undertaken by SESS on 29 th September 2015, which identified the site to comprise hard standing, buildings, hedgerow, scrub, amenity grassland, tall ruderal vegetation (introduced and native) and scattered trees. The assessment has concluded the habitats on site are all of low nature conservation value.

The survey also undertook a 'desk' based assessment which included NBN. However, environmental consultants should be aware that that ecology reports submitted as part of a planning application should include a data search from

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

Derbyshire Wildlife Trust, and not from the NBN Gateway (with the exception of planning applications where it has been agreed with the planning authority that no data search is required because there will be no impacts on biodiversity). This approach has been agreed with the NBN and Association of Local Environmental Records Centres (ALERC) and been highlighted in an article in the Institute of Ecology & Environmental Management (IEEM) 'In Practice' magazine (IEEM In Practice December 2011 'Accessing Biodiversity Data for Desk Studies' pgs 23-26).

Two bat surveys have been undertaken by SESS and an additional survey has been undertaken by DWT. No bats have been identified using the building as a roost.

Potential impact of the development on nature conservation

The surrounding habitats offered potential for nesting birds.

In addition, the proposals would result in a net loss of habitats on site, which has not been discussed within the ecology report. Although the habitats are assessed as low value, these habitats are within an urban context where many areas of habitats are isolated or lost due development. Following the NPPF any development should have a net gain of biodiversity. The development should integrate biodiversity into the built environment. The inclusion of green walls and roofs would be a welcomed enhancement and the opportunity to replace some habitats that are proposed to be lost. Furthermore, the inclusion of artificial boxes would be a welcomed addition.

Conclusion

The National Planning Policy Framework (NPPF) aspires to "net gain" of biodiversity from development and expects "no net loss" at a minimum. Any net loss could therefore fail the NPPF's Sustainable Development principles and could constitute significant harm. We would therefore advise that the application as currently submitted is contrary to the objectives of both national planning policies in respect of biodiversity as follows:

Paragraph 118 of the National Planning Policy Framework states:

"When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles: • If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last result, compensated for, then planning permission should be refused."

We would therefore advise that Defra's Biodiversity Accounting Metrics should be used by the ecologist and developer to consider the value of all habitats on the site and to demonstrate and deliver no net loss of biodiversity.

Notwithstanding the above on habitats, if planning permission is granted, it is recommended the below is conditioned:

- Any reserved matters application should undertake the Biodiversity Metric Calculations to ensure the proposed development does not result in a net loss of biodiversity.
- No development shall commence until a detailed lighting strategy has been submitted to and approved in writing by the LPA. Such approved measures will be implanted in full.

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

- A precautionary method of works, reasonable avoidance measures and a watching brief (ECoW) are recommended to ensure GCN are not affected by the works. If GCN are found, works will cease immediately and a suitable qualified ecologist contact. A natural England licence may be required.
- We would advise that no site clearance work / construction shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the site for active birds' nests immediately before work is commenced and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.
- The retained trees present on site should be protected throughout the duration of works and follow guidance BS 5837:2012 Trees in relation to design, demolition and construction – Recommendations.
- No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.
- A Landscape and Ecological Mitigation and Management Plan for all retained habitats within the development site shall be submitted to, and be approved in writing by, the local planning authority as part of any reserved matters application. The plan shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured as by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the plan are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

**Police Liaison Officer:**

In the absence of any updates to the consultee's advice following the various revisions to the application, the original comments of the Police Liaison Officer, of 20 January 2016, are as follows.

I would advise though that approval is subject to one minor amendment to boundary treatment, and a couple of conditions. At present there is a section of 2m paladin, fencing with MOE gate, which secures access to the rear of the store from the east (Swarkestone Road). The positioning of this gate leaves a short section at the back of the store unsecured, which would be a potential site of nuisance, also of risk to lone workers using this access because of the restricted site lines. Advice is to relocate this section of fencing/gating at the south east corner of the

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

building. The main glazed elevations, which allow interconnecting views, are mostly to the eastern side of the store, with only a short section of the northern elevation curtain walled. Consequently the majority of customer parking has no supervision from inside of the store. To compensate for this we would advise that approval should be conditional upon a monitored CCTV system for the store exterior, all car parking areas and cycle racks, also upon an agreed external lighting scheme.

### **Land Drainage:**

Overall, the drainage scheme is positive in that there has been attenuation storage provided and a limited discharge of surface water from the site of 5l/s. At present the majority of the site is permeable paved so the provision of 190m<sup>3</sup> of surface water storage will likely provide betterment on the existing situation in terms of runoff rate/volume. I would prefer to see some drainage calculations to confirm this.

However, to be able to fully support the scheme, there are a few points that I would like to see addressed by the applicant/engineer:

1. The attenuation system appears to be designed to provide storage up to and including the 1 in 30 year storm. This is ok, but design guidance states that the system should be able to manage the 1 in 100 year rainfall event on site. This need not necessarily be within the system and some flooding would be permitted in this event, but the applicant would need to demonstrate that the water is kept on site and does not endanger people or property. A good example might be to keep the exceedance flows within an area of the car park below kerb level.
2. Although the system will likely provide betterment compared to the existing development in terms of surface water rates and volume, the system cannot be deemed a SuDS scheme as there would be no improvements to water quality, especially given that the site drains to a surface water sewer. The petrol interceptor cannot be regarded as an effective SuDS treatment stage. Ideally the site can be amended to make better use of SuDS principles. For example, the use of permeable paving (underdrained if necessary, for example if the subsurface has relatively low permeability) within the car parking spaces would be a relatively simple option. I have heard reports that other Lidl stores have used this method, although I cannot be certain of this. Can the applicant address this and make best endeavours to provide a SuDS scheme?

### **6. Relevant Policies:**

The Derby City Local Plan Part 1 - Core Strategy was adopted by the Council on Wednesday 25 January 2017. The Local Plan Part 1 now forms the statutory development plan for the City, alongside the remaining 'saved' policies of the City of Derby Local Plan Review (2006). It provides both the development strategy for the City up to 2028 and the policies which will be used in determining planning applications.

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

Derby City Local Plan Part 1 - Core Strategy (2017)

CP2	Responding to Climate Change
CP3	Placemaking Principles
CP4	Character and Context
CP12	Centres
CP16	Green Infrastructure
CP19	Biodiversity
CP20	Historic Environment
CP21	Community Facilities
CP23	Delivering a Sustainable Highway Network

Saved CDLPR Policies

GD5	Amenity
E13	Contaminated Land
E17	Landscaping Schemes
E19	Listed Buildings and Buildings of Local Importance
E24	Community Safety
T10	Access for Disabled People

The above is a list of the main policies that are relevant. The policies of the Derby City Local Plan Part 1 – Core Strategy can be viewed via the following web link:

[http://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/policiesandguidance/planning/Core%20Strategy\\_ADOPTED\\_DEC%202016\\_V3\\_WEB.pdf](http://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/policiesandguidance/planning/Core%20Strategy_ADOPTED_DEC%202016_V3_WEB.pdf)

Members should also refer to their copy of the CDLPR for the full version or access the web-link:

<http://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/policiesandguidance/planning/CDLPR%202017.pdf>

An interactive Policies Map illustrating how the policies in the Local Plan Part 1 and the City of Derby Local Plan Review affect different parts of the City is also available at – <http://maps.derby.gov.uk/localplan>

*Over-arching central government guidance in the NPPF is a material consideration and supersedes earlier guidance outlined in various planning policy guidance notes and planning policy statements.*

## **7. Officer Opinion:**

### **Key Issues:**

Members will recall that this application was included on the agenda for consideration at the meeting on 11 May this year. On the day of the meeting a letter challenging the report and its recommendation was submitted by Irwin Mitchell Solicitors on behalf of the Chellaston Residents Association. The letter suggested that...’the recommendation contained in the officer’s report is based on an analysis which is fundamentally flawed’ and it suggested that...’if the committee were to authorise the Director of Strategic Partnerships, Planning and Streetpride to grant permission in respect of this development based on the advice contained in his report, such a decision would be unlawful and susceptible to challenge by way of judicial review’.

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

In response to the letter and in agreement with the Chair the application was promptly withdrawn from that agenda to enable officers to digest the content of the letter and to re-appraise the issues, as necessary.

As a result of this intervention the report has been re-worked with the benefit of advice from legal Counsel.

A full copy of the letter from Irwin Mitchell is reproduced in Appendix 1 for member's reference. Throughout the report references to this letter will be to the 'Irwin Mitchell letter' and certain extracts are also included for context.

In this case the following issues are considered to be the main material considerations which are dealt with in detail in this section.

- Over-arching policy context
- Access, parking and highway issues
- Design, layout and residential amenity
- Heritage issues
- Trees and wildlife habitats

#### Over-arching policy context

The site of the proposal comprises approximately 0.71 ha of land fronting Swarkestone Road. The site is currently occupied by the Rose and Crown PH (and associated garden and buildings) and the St. Ralph Sherwin Centre (church) and the associated parking area.

The majority of the site is allocated as part of Chellaston District Centre in the Derby City Local Plan – Part 1: Core Strategy. The majority of the new store (including its entrance) and its car park is within the District Centre with the remainder being edge of centre. As a matter of planning judgement it is considered that the proposal ought to be considered as 'in-centre' for the purposes of relevant planning policy.

The proposal seeks planning permission for the construction of a new retail unit (A1) covering approximately 2,051sqm of floorspace (gross) and is proposed to be occupied by the deep discount convenience retailer, Lidl. The net sales area of the store would be approximately 1,331sqm. Community facilities such as the St. Ralph Sherwin Centre are protected by Policy CP21 of the DCLP. Policy CP21 relates to community facilities and requires proposals to demonstrate lack of need, alternative provision or assistance to restructured provision.

Importantly, para 5.21.1 of the supporting text also acknowledges that 'public houses' can be considered as community facilities.

The Rose and Crown PH has been designated as an 'Asset of Community Value' (ACV) by the Council. This gives the community an opportunity to bid for the asset before it is disposed of by the current owners. Whilst not directly relevant to consideration against the provisions of Policy CP21, the ACV status does highlight the importance of the asset to the community and the need to robustly assess the proposal against that policy.

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

Following initial appraisal, the applicant has submitted additional information to explain about the loss of the two community facilities. In terms of the Rose and Crown PH, the applicant has argued that there are a range of community facilities available within easy walking distance of the proposal site, including other public houses and facilities providing a similar function. They have also argued that the viability of the pub is decreasing, although no evidence of this has been provided. I agree with the applicant on this point and am satisfied that the 'function' provided by the pub can be adequately accommodated elsewhere in the locality. Whilst alternative locations may not be the preferred choice of patrons of the Rose and Crown PH, the over-riding function is the main consideration from a planning perspective. Therefore it is fair to conclude that the 'need' for the facility could be replaced by alternative provision in the local area, meeting the requirements of Policy CP21.

The Irwin Mitchell letter correctly makes reference to criteria (a) of Policy CP21 which deals with the loss of community facilities. The supporting text of Policy CP21 recognises that pubs can be regarded as a community facility – and therefore criteria (a) of CP21 applies.

Criteria (a) states that the Council will support the retention of existing facilities unless, 'there is no longer a need to retain the use, alternative provision is made or where we can assist strategic partners to renew or restructure their provision'.

In my opinion the 'need' for the facility could be replaced by alternative provision in the local area, thus meeting the requirements of Policy CP21. The Irwin Mitchell letter contends that this conclusion is flawed on the basis that the requirement of the policy is *only* to consider whether there is no longer a need.

I would argue that this is a misinterpretation of the policy, which allows for loss to be justified in three different ways. It does not require all three to be met, as demonstrated by the word 'or' being used at the end of the list.

The policy is in general a carry forward of the approach set out in Policy L12 of the adopted CDLPR, which is clear that there is an 'or' between the different criteria. Therefore, on the basis that the 'need' for a public house function can be met by other similar facilities in the area, the proposal is, in my opinion and judgment, consistent with Policy CP21.

The equalities implications of the loss of the Rose and Crown PH is a slightly separate issue to consistency with Policy CP21 as the policy is essentially concerned with the loss of the primary function of the building.

In terms of equalities implications the Irwin Mitchell letter states that the Rose and Crown PH is... 'the only venue [their emphasis] within the District Centre that properly caters for disabled people by having ground level wheelchair access, with wide doorways to facilitate entry and a large garden where families can relax and play with their children'. It is assumed that Irwin Mitchell refer only to eating / drinking venues in that context and, in any case, the other eating / drinking establishments in the area *should* be accessible, under the Equality Act 2010.

The Equality Act 2010 is civil law. It would mean an individual disabled person or someone associated with a disabled person would need to sue any business

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

concerned in the County Court for failure to make any reasonable accessibility adjustment(s). It would then be up to the Judge to decide if they were breaching the Act.

I am advised by the Council's Lead on Equality and Diversity that the Rose and Crown PH is fully accessible and hosts features such as a disabled people's toilet, level access through the main entrance, an accessible garden and disabled people's parking bays.

In Chellaston there are other similar facilities nearby in the form of the Corner Pin PH, the former Royal British Legion ('R&R') and the Lawns Hotel. The former British Legion currently has a planning application under consideration with the Council to make various improvements to the building. These include accessibility improvements. The Council's Lead on Equality and Diversity has also visited that site and currently it appears they offer one disabled people's parking bay, wider doors and access at the rear of the building for wheelchair users. The owners were asked about improving accessibility measures and I am advised that they are planning to install a disabled people's toilet and an accessible front entrance to meet the requirements of the Equality Act. The Lawns Hotel is not an accessible facility.

In terms of the St. Ralph Sherwin Centre, the applicant has submitted a letter from the agents representing the Nottingham Roman Catholic Diocese. They have confirmed that the land sale to Lidl will enable the creation of a new church in the Chellaston area. Whilst not able to provide details on the precise location, they note that terms have been agreed on the alternative site. On this basis, the provisions of Policy CP21 are again satisfied.

On the basis that the proposed store is considered to be in-centre, the NPPF and local planning policies do not require compliance with the sequential and impact tests. However, Policy CP12 of the DCLP does seek to ensure that retail proposals located within centres are compatible with the general scale, role, character and function of the centre. In-centre locations are generally considered to be appropriate locations for retail development (in-principle), due to the potential for linked trips and accessibility of such locations by non-car borne travel. District Centres should serve relatively large residential catchments and generally do contain supermarkets of this scale, or in the case of Mickleover and Sinfin, even larger. Therefore, I am satisfied that the proposal is in-keeping with the role and function of the District Centre location.

Like many of Derby's suburbs, Chellaston is a former village that has gradually been enveloped into the built extent of the City. Importantly, Chellaston is a growing suburb both in terms of population growth, with land allocated at Fellowlands Way and Chellaston Fields / Infinity Park Way (formerly Holmleigh Way) for new housing. Significant growth is also planned at Boulton Moor, both within the city and in South Derbyshire, which is well related to the Chellaston area via Snelsmoor Lane and High Street. The District Centre itself is centred around the historic centre of the village, split between two areas on Swarkestone Road and High Street. Whilst the centre of the former village has a number of statutory and locally listed buildings which make a positive contribution to the townscape, it is not a Conservation Area. Chellaston District Centre is one of the smallest District Centres within the hierarchy and has a

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

more limited retail offer compared to other centres. The appropriateness of the scale of the proposal therefore needs to be considered in this context.

In considering the issue of 'scale' it is necessary to deconstruct it into the component factors that can indicate whether the scale of a proposal is in-keeping with the context. These include the physical scale of the proposed building in terms of overall design and impacts on amenity and the highways implications related to the scale of floorspace proposed and the associated attractiveness as a retail destination. It is fair to say that this proposal would be significantly larger than any of the existing facilities currently within the centre, in terms of physical scale and its attractiveness as a retail destination. It will clearly become the 'anchor' store within the centre.

Operators such as Lidl generally operate in a very efficient manner, with the majority of floorspace being utilised for sales. However, in this case, approximately 720sqm will be used for non-sales activities. The impact of the large gross floor area can in part be mitigated by the imposition of an appropriate condition limiting the net sales area of the store to 1,331sqm. However, this will only mitigate impacts in terms of potential trip generation and associated traffic impacts. It would not mitigate the visual impacts of the significant built form required to accommodate the gross floorspace.

It is recognised that this area of the city is not particularly well served by existing supermarkets and that a significant amount of expenditure generated in this area, 'leaks' into other areas of the city. It is generally more sustainable to try and ensure that expenditure is retained within the area it is generated, to avoid unsustainable travel patterns and associated congestion. Concerns about the overall scale of the store needs to be weighed against the clear benefits in terms of expenditure retention in the locality and the associated sustainability benefits of the proposal. The proposed store will clearly boost the performance and overall vitality and viability of the centre as a whole, increasing footfall and the free parking will provide opportunities for people to visit other stores and facilities within the centre. It will provide a new focus and anchor to the centre providing a scale of retail provision not currently provided in the immediate locality. It is also an appropriate location to serve some of the new residential development proposed in this area of the city.

The principle of a new shop, meeting local needs and located in a District Centre is strongly supported by both national and local planning policies. It will create a number of new jobs (an estimated 25-40) and will help to serve an area of the city that is not particularly well served in terms of convenience shopping provision. The proposal has the potential to arrest some leakage of expenditure and provide a more sustainable option, in terms of travel for a number of residents.

The applicant has demonstrated that the proposal is capable of meeting the requirements of Policy CP21 relating to the protection of community facilities. Ultimately, there are other public houses in the locality that can provide the same function as the one being lost. Therefore, the function will be replaced elsewhere. I am also satisfied that the land receipts provided by Lidl would facilitate the relocation of the St. Ralph Sherwin Centre.

The other main policy issues relate to detailed aspects of the proposal and these are addressed in the following parts of this element of the report.

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

The Irwin Mitchell letter raises the issue of 'alternative sites'. In that context Irwin Mitchell submit that...'a Local Planning Authority does not normally need to take into account alternative sites for a development. However, where there are alleged to be planning benefits associated with a development but also clear objections to it, an Authority may have to consider whether there is a more appropriate site for it (see *Trusthouse Forte Hotels limited v. Secretary of State for the Environment (1986) P&CR 239*). It is submitted on the basis of the above that this is the case where the harm which the development will cause to the setting of the listed building means that alternative sites should have been considered'.

I note that Irwin Mitchell are stating that as a matter of planning judgment alternative sites should be considered as a material consideration in this application. The issue of harm and the impact of the proposed development on the setting of the adjacent listed building are also discussed in detail later in this report. I will also return to the issue as to whether the potential for 'alternative sites' ought to have been examined.

#### Access, parking and highway issues

This is a very important issue that has been looked at very carefully throughout the life of this application. My colleagues have assessed the impact of the proposal in line with industry standard methodologies and have also assessed the operation of other similar retail shops within Derby and Nottingham. I would refer Members back to the detailed comments of my colleagues included earlier in this report. The issue of traffic generation and the safe operation of the proposed development in highways terms is a very important issue locally, particularly given the relationship of the proposed access to the High Street junction and the Chellaston Academy.

Improvements to the siting of the proposed vehicle access have been secured during the life of the application and this is accompanied by other footway and carriageway improvements within the highway. These include the provision of a ghost island to serve site access / egress, the provision of an elongated right turn lane serving the High Street junction and the resultant improvements for through traffic that these features will provide at all times of the day. Footway improvements to specifically address the flow / volume of pedestrians across the site access to accommodate the movements of students and visitors to the Chellaston Academy and beyond have also been negotiated.

My colleagues have considered the impact of this proposal on the local highway network. Following a detailed consultation exercise the concluding comments of colleagues are repeated below:

*In general terms the above proposal is well located being within the Chellaston district centre. This affords the opportunity for linked trips with other shops within the centre. It is also likely that the car park will be used by shoppers visiting the centre. There are however a number of issues to be considered:*

- *proximity of the site to the High Street traffic signal junction;*
- *proximity to Chellaston School (Academy);*
- *uncertainty over the level of traffic generation.*

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

*The proximity of the access to the High Street traffic signals means that at certain times visitors will have to enter and leave the site through a queue of traffic blocking backing from the traffic signals. Albeit this manoeuvre currently happens at present.*

*The proximity to Chellaston School (Academy) means twice a day significant number of school children will walk past the site.*

*To seek to address the above issues Lidl have agreed to fund a localised widening scheme to form a ghost island adjacent to the proposed access and also to lengthen the right turn lane at the traffic signals for drivers wishing to turn right in to High Street. They are also proposing to widen the footway across the site frontage.*

*The above report shows that smaller discount foodstores have been surveyed and do attract significantly more traffic than is suggested by the applicant. It is not possible to know what the actual trip attraction will be at this store until the day it opens however if the store attracts the same level of trips that has been recorded at Coleman Street it is likely to result in some congestion in the vicinity of the store.*

Clearly, issues such as actual trip generation to the proposed store are matters of prediction and debate. However, following lengthy analysis, consideration of the sustainable 'in-centre' location of the proposal and associated negotiations to secure improvements to the highways component, there are no objections on highways grounds to the proposed development that cannot properly be mitigated, in the context of local development plan policy and central government guidance.

#### Design, layout and residential amenity

In considering the design of the proposal it is necessary to have regard to and give appropriate weight to the provisions of Policy CP3 (placemaking principles) and CP4 (character and context) in the adopted DCLP.

The proposed building, as amended by the latest suite of drawings, would accommodate a largely rectangular footprint with forward projecting elements on either end of the front, north facing elevation, to house the main store entrance and the delivery bay.

The proposal, as amended, would accommodate glazing on the side, east facing, elevation and this would be viewed through the open sided canopy which is proposed along the majority of that elevation.

The proposed building would stand at a height of approximately 6.7m from ground level, at its highest point, and this would fall to a height of approximately 5.6m at the rear of the building. The proposed mono-pitched roof would be finished in silver cladding and this would wrap around the building. The proposed site layout, as amended, would accommodate 115 parking spaces with 7 allocated spaces at the front of the proposed building for disabled people's parking. The proposed layout accommodates mainly peripheral landscaping within the site boundaries and an area of landscaping is included in the main body of the proposed car park to accommodate a pair of retained Oak trees. Boundary treatments for the site comprise of mix of fencing and acoustic barriers on the west and south facing boundaries with an open frontage proposed for the main Swarkestone Road boundary. A brick wall with coping is now proposed for the north facing boundary.

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

Certainly, in terms of scale and footprint, the proposed store would be substantial when compared to the scale and form of other buildings in the District Centre. Such a difference in scale and footprint is not in itself unacceptable; rather it is the effect on the character and appearance of the immediate area that requires justification. The proposed development could be considered compatible within the confines of the site because the site is situated between domestic scale buildings of varying designs, a large school, near a parade of shops and opposite a recreational space.

Moreover, while the main differences of the appearance of the building and facing materials – contemporary cladding and rendered appearance – the design of the building is functional and characteristic of modern food stores. Although the development would be fairly dominated by the on-site car parking, the provision of good quality surfacing, boundary treatment and planting would enhance the site and soften the appearance of the car parking area. Overall, it is considered that the building would integrate into the District Centre context and the wider street scene and it is considered to accord with Policies CP3 and CP4 of the adopted DCLP.

The proposed building would be located some distance from the nearest residential properties along Station Road (the nearest dwelling at No.41 Station Road is over 40m away). The proposed northern end of the proposed car park layout would back onto the rear curtilages of Nos.15 and 17 Station Road, as the public house car park currently does. Given that the north-west corner of the site is already in use as a car park, the proposed re-configured car park would not, in my opinion, be unduly harmful in amenity terms.

The area between the proposed side, west facing, elevation of the building would accommodate some retained vegetation together with an external plant compound that has been reconfigured in area as part of the latest revisions. The proposed compound would be surrounded by a 2.6m high acoustic barrier and a section of 2.4m high acoustic barrier is also included on part of the boundary adjacent to the proposed delivery bay. A section of 1.8m high acoustic barrier is included on part of the western site boundary and this would adjoin the proposed section of wall on the north boundary.

The neighbouring Chellaston Academy would be affected in terms of the physical presence of the proposed building adjacent to the school site. However, the hardstand games pitches beyond the western boundary and two storey school building beyond the southern boundary would not, in my opinion, be unacceptably harmed in amenity terms.

In view of this, it is considered that there would be no detrimental impact to residents or the school through loss of light, massing, or loss of privacy. Whilst the proposal would introduce a commercial noise source into the area, given the nature of the District Centre and the proximity to the A514, it is considered that the development would not be unduly detrimental in amenity terms. The proposal would reasonably comply with the requirements of saved policy GD5 of the adopted CDLPR in this respect.

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

Heritage issues

The Irwin Mitchell letter addresses the impact of the proposed development, in the context of heritage considerations and the decision making framework, in some detail.

The proposed development includes the demolition of the Rose and Crown PH. The Rose and Crown PH is not on either the statutory list or local list and does not lie within a conservation area. It is a brick-built pub, with some built elements dating from the late-18th to early-19th century, and possibly earlier. These have been largely obscured by 20th century extensions, although in an appropriate form retaining the basic character of the historic streetscene leading north along Swarkestone Road and forming a group with the Corner Pin Public House.

In accordance with the requirements of paragraph 128 of the National Planning Policy Framework (NPPF) the application is accompanied by a detailed Heritage Appraisal. This analyses the Rose and Crown PH and the survival of historic features, both internally and externally. The buildings have been substantially altered both internally and externally in the 20th century and it is agreed that the building is not of sufficient historic interest to merit inclusion on the local list. The application is also supported by a Planning and Heritage Statement which assesses the policy context of the proposal and, in the context of heritage policy, the applicant assesses the impact of the proposal in relation to the adjacent listed building and carries out a planning balance exercise as part of that exercise.

Members will be aware that the site is adjacent to the Grade II listed No.4 Swarkestone Road, a small brick built cottage with exposed cruck frame visible in the south gable. Although the frame is thought to date from the 1600's it is a remnant of a now demolished building and embedded within the wall of a latter cottage, probably of 18<sup>th</sup> Century construction. That cottage now forms part of the Corner Pin PH, with the timber frame facing the application site and immediately adjacent to Swarkestone Road. Development on the application site will therefore have some impact on the setting of the listed building.

In considering the application decision makers must engage Sections 66(1) and 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 which require the authority to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses and pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

Various cases before the courts have upheld the importance that decision makers should attach to this requirement under the Act, even when harm is found to be "less than substantial" (as defined in the NPPF). Harm to the significance of designated heritage assets is a matter to which considerable importance and weight should be given in any planning balance. Causing 'less than substantial harm' is not to be equated with a 'less than substantial' objection to the grant of planning permission.

The proposal must also be considered under the new adopted Local Plan – Part 1 (DCLP) policies and those saved Local Plan Review (CDLPR) policies which are still relevant. The Local Plan - Part 1 policy CP20 seeks the protection and enhancement of the city's historic environment, including listed buildings and Conservation Areas.

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

CP20 states that “Development proposals that would detrimentally impact upon the significance of a heritage asset will be resisted.” CP20(c) requires development proposals which impact on heritage assets to be of the highest design quality to preserve and enhance their special character and significance through appropriate siting, alignment, use of materials, mass and scale. Saved CDLPR policies E18 and E19 for the preservation and enhancement of Conservation Areas and buildings of historic importance continue to complement the new policy CP20.

Under saved CDLPR policy E19 proposals should not have a detrimental impact on the special architectural and historic interest of listed buildings or their setting.

In term of general design principles, Local Plan – Part 1 policies CP2, CP3 and CP4 are relevant and saved policy GD5 of the adopted CDLPR are also applicable. These are policies which seek a sustainable and high quality form of development, which respects the character and context of its location. There is a general requirement to ensure an appropriate design, form, scale and massing of development which relates positively to its surroundings. CP2 in particular seeks to ensure that development is sustainable in terms of its location, design and construction. Saved policy GD5 is intended to protect the overall amenity of occupiers of nearby properties from unacceptable harm.

When considering the impact of a proposed development on the significance of a designated heritage asset (such as a Listed Building, Conservation Area, World Heritage Site) paragraph 132 of the NPPF advises that:

- great weight should be given to the asset’s conservation;
- the more important the asset the greater weight should be given;
- the significance of an asset can be harmed through alteration, destruction or development within its setting;
- harm or loss requires clear and convincing justification

Guidance in the NPPF provides that proposed developments involving substantial harm to or loss of designated heritage assets in the case of grade II listed building should be exceptional, in the case of grade II\* and grade I listed buildings should be wholly exceptional and in the case of other designated heritage assets such should only be permitted if either the loss or harm is necessary to achieve substantial public benefit that outweigh the loss or harm caused by the development or if the specific tests set out in paragraph 133 are met.

Where the harm to the designated asset is considered to be less than substantial, as is considered to be the case with this proposal, paragraph 134 of the NPPF provides that the “harm should be weighed against the public benefits of the proposal, including securing its optimum viable use”.

Paragraph 135 of the NPPF also requires any impact on the significance of non-designated heritage assets to be taken into account in the planning balance.

As part of the application process colleagues in the Built Environment Team have been consulted upon the original submission and subsequent revisions. In terms of

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

the current scheme my colleague states...“the listed building currently has a sense of enclosure created by the historical north wall of the Rose and Crown and some boundary trees. Previous objections to the proposed 2m Paladin fencing have been addressed by proposing a 1.1m high brick wall with stone coping, which would continue the existing historic enclosure to the rear of the Corner Pins and create a better sense of separation between the two sites. Subject to materials, this would be an enhancement of the immediate setting and curtilage boundary of the listed building. The proposed supermarket would be a modern construction of form and materials typical of its age and function and in conjunction with the large expanse of car parking would fail to protect the wider setting and views of the setting of the listed building”. In conclusion, my colleague recommends...

“The Rose and Crown has 'evidential' value as a historic building, and such loss could be mitigated by building recording. However the demolition of the Rose and Crown and replacement with modern retail unit and car park, would be harmful to the setting of the listed building at No.4 Swarkestone Road in terms of its context as part of a remnant group of historic buildings.

This harm to the setting of a listed building is contrary to Local Plan Review policy E19c.

As a result of considering the views of Built Environment colleagues about the impact of the proposed development on the setting of the adjacent listed building, the views of the public expressed during the application process and in the context of the applicant's supporting heritage analyses, I consider that the proposed development would, on reflection, result in 'less than substantial harm' to the setting of the adjacent listed building and therefore the significance of the heritage asset.

In the context of paragraph 134 of the NPPF the public benefits of the proposal, that need to be weighed against the harm to the setting of the adjacent listed building, are as follows:

1. The provision of an accessible modern retail food store with on-site parking would increase consumer choice and competition in a highly sustainable location.
2. The proposal would create jobs and employment opportunities.
3. The proposal involves a range of associated off-site highways works, in terms of footway and carriageway improvements. These improvements would enhance this part of Swarkestone Road, near to the High Street junction, to the benefit of all users of this part of the public highway and the wider highway network.
4. The proposal would enable the Roman Catholic Church to relocate from the St. Ralph Sherwin Centre to another site in the area. The proposal would, therefore, facilitate a new place of local worship for parishioners and other users of the Church to enjoy.

In my opinion these constitute substantial socio-economic and cultural public benefits that should be attributed significant weight in the planning balance. These benefits, even when giving the harm to the significance of the Grade II listed building considerable importance and weight, would outweigh the harm of the proposed

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

development to the setting of the adjacent listed building. The listed building would also continue to function as a public house, as it has done for many years.

I also weigh in the 'heritage' balance the demolition of the Rose and Crown public house.

In heritage terms, my judgment is that the proposal is strictly contrary to the policy in the local development plan (principally CP20 and E19c), but is, overall, in accordance with national heritage policy in the NPPF

I am satisfied that, with regard to heritage considerations and the issue of impact / harm, the application has been properly assessed in line with the local planning authority's statutory duty and the framework of local and national planning policy.

In the light of the conclusions in this 'heritage' section of my report, I do not, as a matter of planning judgment, think it is reasonable or necessary to consider 'alternative sites' as a material consideration in this application as suggested in the Irwin Mitchell letter.

#### Trees and wildlife habitats

In terms of wildlife and protected species issues, DWT has confirmed that it is satisfied that the Phase 2 report of May 2017, which includes the dusk and pre-dawn surveys carried out on 2 and 9 May 2017 respectively, addresses the test below:

Paragraph 99 of Circular 06/2005 states..."it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted, otherwise all material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances".

In response to concerns about the impact of the proposed development on biodiversity, the applicant has provided the following conclusions as part of the latest suite of revised details.

*...The Applicant and DWT agree that the application site currently has a low nature conservation value and does not support legally protected or biodiversity target species. Further, the site is not designated as forming, or adjoining, a protected site for nature conservation. The contribution that the site currently makes towards biodiversity objectives is low.*

*The proposed development will take opportunities to enhance the biodiversity value in accordance with the measures recommended by DWT, to include retained and new soft landscaping and tree planting, the specification of plant species that support biodiversity and the provision of artificial boxes. The proposed measures will provide suitable habitat to support roosting and foraging bats and nesting birds, whilst also contributing towards the visual amenity value of the site. The details of such matters can be agreed by condition and the Applicant will work with DWT and the Council to agree a suitable approach.*

*Taking account of the urban environment, town centre location and existing value of the site for nature conservation, the proposed measures will compensate for any impacts resulting from the proposed development, thereby resulting in a neutral effect*

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

*on biodiversity at the very least. However, following DWT's guidance, appropriate opportunities to deliver a net gain in biodiversity are proposed. The proposal, therefore, accords with the requirements of the NPPF and Core Strategy Policy CP19 to provide net gains to biodiversity where possible.*

In this context I am satisfied that the applicant has now provided the necessary survey work to accompany the application and there are no over-riding factors that need to be addressed beyond reasonable safeguarding conditions.

There are a number of the trees and groups of trees within the red line of the application site that are protected by a Tree Preservation Order. Ultimately, Policy CP16 seeks to ensure that any individual or groups of trees that contribute to the amenity of an area are retained and appropriate efforts have been made to retain existing trees where possible and that where loss is proposed, appropriate re-provision is implemented.

In order to contain the extent of building and car parking area, some protected trees are shown for removal. Yet, the extent of tree removal is less under the revised plan drawings. While the tree officer raises concern about whether the retained trees can be incorporated into the proposed development, given the existing ground conditions, hard surfaces etc, there is no obvious reason why the trees shown for retention cannot be retained in principle. Tree Protection measures would also be in place to protect canopies and root protection areas. However, if it transpires that not all of the trees can be retained, the applicant could provide appropriate replacement planting in accordance with a scheme to be agreed via condition with the Council.

I note the amended plans now show that the layout of the proposed car parking area has been revised to retain T9 and T10 (Oaks). However, it has not been possible to retain the Willow tree (T11) which is visually prominent, attractive and contributes to the visual amenity of the immediate surroundings. Even though it is located toward the centre of the existing car park, this tree is nevertheless visible from the public realm. Clearly a reasonable judgement is required, as to where to apportion greater weight to either the retention of the protected Willow tree or the wider benefits arising from the creation of a suitably designed layout of a retail store and extent of parking provision. Whilst this element is contrary to Policy CP16 it is considered that the Willow tree ought to be viewed as a *relative* constraint rather than as an *absolute* constraint to the redevelopment of this site and its removal, while noticeable and regrettable, can be justified in this case, in order to facilitate a good number of parking spaces and a logical / satisfactory car park layout.

Elsewhere in the site, along the southern boundary a linear group of 6 Hornbeam trees exist which are protected under a TPO. They are shown for removal to facilitate the retail building in the location proposed. Currently, the site is generally open and so the trees are prominent from Swarkestone Road, as viewed either front on or from a north to south direction. Immediately behind this group of trees are a number of mature trees within the grounds of Chellaston Academy School. Because of the number, maturity and density of trees, they would maintain the mature green verdant setting along this part of Swarkestone Road. If the building were to be positioned in front of the Hornbeams the trees would be obscured by the building and adjacent trees on the school grounds – this does not seem a sensible approach. Their

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

retention is not viable with the development layout as amended and subject to replacement planting the loss of these specific trees could be justified in this instance.

Moreover, a large swathe of trees and vegetation along the southern and western boundary are shown for removal, which is unprotected mixed species (Group G8). It is of limited public amenity value being located toward the rear of the site. The overall loss and retention of the trees is acceptable, given the proposed layout of the site and footprint and position of proposed building.

As part of the on-going assessment of the proposed development and the impact on the retained tree stock my colleague has recently considered the content of an Arboricultural Impact Assessment (AIA). Assessment of the AIA has raised certain questions about some of the technical details for the retention of trees and, in particular, the issues of ground levels around trees and surfacing details. My colleague has also questioned the potential for further tree planting on site and this is still being pursued to add more value to the layout. Members will be updated on this at the meeting.

Overall, my judgment is that with the inclusion of appropriate planning conditions, the proposed development is broadly in accordance with policies CP16 and CP19 of the DCLP.

Other matters:

Section 106

The application attracts a financial contribution through a Section 106 Agreement. The applicant has agreed the draft Heads of Terms, which include: A highways contribution towards the improvements and maintenance of traffic signals at the High Street/ Station Road/ Swarkestone Road junction and towards the provision of, or improvements to, public transport, cycling and pedestrian facilities on the A514; a public art contribution towards the provision of a public art scheme in the vicinity of the application site to attract pedestrians and cyclists towards Chellaston District Centre. Local employment (Local Labour Agreement) opportunities shall be secured through a suitably worded condition.

Flood risk

The site is located within flood risk zone 1, which is deemed as having a low probability of river flooding (a less than 1 in 1,000 annual probability). The Land Drainage Officer's comments have been noted, however, it is considered that the provision of surface water suitable drainage measures, including sustainable drainage features, such as permeable surfacing can be controlled through a suitably worded condition. This will ensure the development complies with saved policy CP2.

Overall conclusion

This planning application should be determined in accordance with the development plan unless material considerations indicate otherwise. I have therefore considered whether the application accords with the development plan taken as a whole.

As stated above, I am satisfied that the application accords with the policies in the development plan with the exception of CP20 and E19c on heritage assets. There will be some harm to the significance of a listed building caused by development in its

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

setting. The policies in the development plan are 'pulling in different directions' and I have to reach an overall judgment. In doing so I bear in mind that any harm to the significance of a designated heritage asset is to be given considerable importance and weight. But I also bear in mind that in this case, that harm to heritage assets is outweighed by other public benefits which are in turn supported by development plan policy. Overall, my judgement is that the application is to be regarded as being in accordance with the development plan as a whole.

I have also considered whether 'other material considerations' ought to result in a decision other than in accordance with the development plan. I have noted that the NPPF is one such material consideration. In the context of the heritage issue, the proposal is in accordance with the NPPF because the less than substantial harm to the designated heritage asset is outweighed by public benefits and I conclude that the harm to the heritage asset has been clearly and convincingly justified. I have also weighed in the balance the loss of the Rose and Crown public house.

Paragraph 14 of the NPPF contains a presumption in favour of sustainable development. Proposals which accord with the development plan should be approved without delay. In my view this is not an application in which relevant policies in the development plan are out-of-date.

This application has been very carefully assessed and the material planning considerations have been rehearsed and considered in line with adopted local plan policy, saved local plan policy and the guidance in the NPPF. I have taken into account the objections and supporting statements received and drawn matters to the attention of members as I judge necessary. Overall, I recommend that permission be granted subject to conditions and a s106 planning obligation.

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

- A. To authorise** the Director of Strategy Partnerships, Planning and Streetpride to negotiate the terms of a Section 106 Agreement to achieve the objectives set out below and to authorise the Director of Governance to enter into such an agreement.
- B. To authorise** the Director of Strategy Partnerships, Planning and Streetpride to **grant permission** upon conclusion of the above Section 106 Agreement.

### **Summary of reasons:**

As set out in the officer's report, it is considered that the proposal is overall in accordance with the development plan as a whole notwithstanding a breach of policy CP20. There are no material considerations that indicate a decision other than in accordance with the development plan. Approving the application would result in a satisfactory form of development which would respond appropriately to its context, preserve the character of the street scene and, subject to conditions, would preserve the amenity of neighbouring residents. In terms of retail policy it is considered that there are no grounds to resist the application on the basis of impact. The development is also considered to be acceptable in terms of flood risk, and impact on trees. Adverse heritage impacts are clearly and convincingly justified and are outweighed by public benefits. The proposal would be suitably served by public transport and, as amended during the life of the application, would provide

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

appropriate means of access / egress to and from the site. Parking levels are considered acceptable and the development would not result in severe highways impact / safety issues.

The conditions below are presented in an abbreviated format and, subject to a positive resolution at the meeting, the final draft wording of these conditions will be carried out in consultation with the Chair and Vice Chair before any decision issued.

**Conditions:**

1. Condition relating to approved plans
2. Condition relating to a three year time limit for implementation
3. Condition controlling precise details of external materials
4. Condition requiring submission of a landscaping scheme
5. Standard timescale of the implementation of planting and on-going maintenance
6. Condition requiring the submission of hard surfacing materials
7. Condition requiring the submission of boundary treatment details
8. Condition requiring the submission of a surface water drainage scheme
9. Condition controlling the location of and external plant/machinery
10. Condition requiring a detailed scheme for external lighting
11. Condition controlling store opening hours
12. Condition controlling the hours for deliveries
13. Condition controlling security measures (CCTV)
14. Condition restricting vegetation clearing during bird breeding season
15. Phase II assessment – remediation strategy and final validation report.
16. Condition requiring the parking/servicing areas to be implemented
17. Condition requiring the implementation of cycle parking/cycle parking available for customers
18. Condition requiring an operational travel plan based on the framework travel plan submitted in support of the application
19. Condition limiting the extent of net sales floor area to 1,331sqm of the net sales area
20. Condition restricting subdivision of the unit
21. Construction management condition
22. Condition requiring precise details and implementation of acoustic fencing
23. Condition requiring details of a Local Labour Agreement

**Reasons:**

1. To conform to Section 51 of the Planning and Compulsory Purchase Act 2004
2. Time Limit reason

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**

3. To provide a satisfactory external appearance and in the interests of visual Amenity.
4. In the interests of visual amenity.
5. In the interests of visual amenity
6. To ensure satisfactory drainage.
7. To provide a satisfactory external appearance and in the interests of visual Amenity.
8. To ensure satisfactory drainage.
9. To protect the amenity of nearby residents.
10. To protect the amenity of nearby residents and in the interests of highway Safety.
11. To protect the amenity of nearby residents
12. To protect the amenity of nearby residents
13. On security/community safety grounds
14. In the interests of wildlife preservation
15. To bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural environment
16. In the interests of highway safety
17. To promote sustainable transport
18. In the interests of highway safety
19. To promote sustainable transport
20. To minimise the impact of the proposed development on allocated shopping centres within the shopping hierarchy
21. To preserve the amenity of neighbouring properties
22. To preserve the amenity of neighbouring properties
23. To promote local employment opportunities

**Informative Notes:**

It is noted that the proposal will involve building works. Given the proximity of Residential properties, it is recommended that contractors limit noisy works to between 07.30 and 18.00 hours Monday to Friday, 07.30 and 13.00 hours on Saturdays and no noisy work on Sundays and Bank Holidays. This is to prevent nuisance to neighbours. The City Council's Environmental Health Team also wish to see a traffic management plan and a dust management plan for the construction process, so as to prevent an issue of vehicle noise and dust nuisance to existing domestic and commercial properties. There should also be no bonfires on site at any time.

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning  
Application**

**Application timescale:**

The 13 week target timescale for determination of the application expired on the 8 April 2016. However a formal extension of time has been agreed with the applicant. The application is brought before the committee because of the number of objections received.

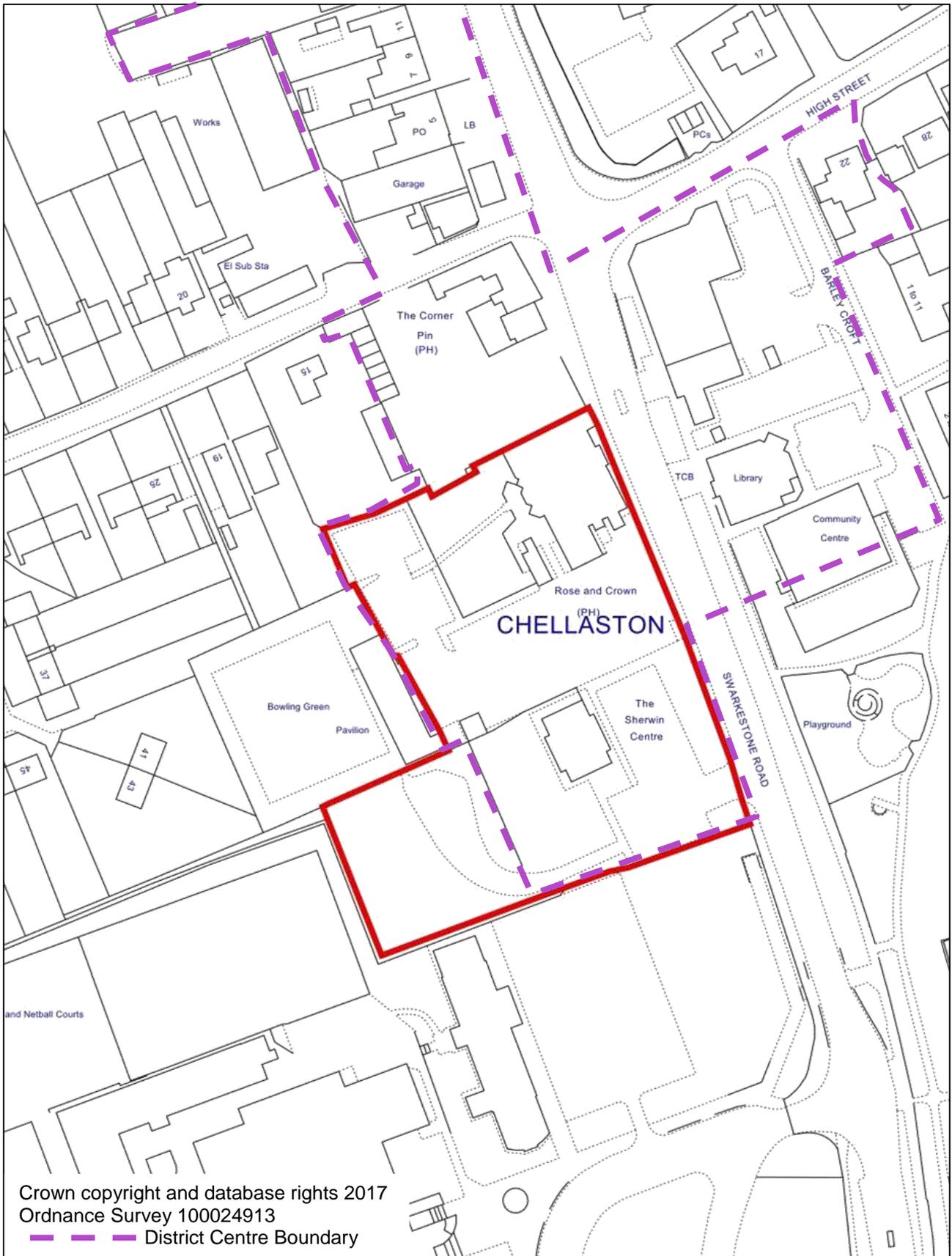
**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning Application**



**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 1**

**Application No: DER/12/15/01570**

**Type: Full Planning  
Application**

## Appendix 1

**Classification: OFFICIAL**

**Our Ref: AWE/V2P/05258493-00000001**

**FOR THE ATTENTION OF IAN WOODHEAD,  
DEVELOPMENT CONTROL GROUP MANAGER**

Derby City Council  
Council House  
Corporation Street  
DERBY  
Derbyshire  
DE1 2FS

**Alastair Wallace**  
alastair.wallace@irwinmitchell.com  
**Paralegal: Liza Tilley**  
Direct Dial: 0370 1500 100  
liza.tilley@irwinmitchell.com

11 May 2017

**EXTREMELY URGENT**

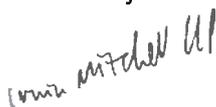
**BY POST AND EMAIL: [ian.woodhead@derby.gov.uk](mailto:ian.woodhead@derby.gov.uk)**

Dear Sirs

**PLANNING APPLICATION NUMBER DER/12/15/01570 – DEMOLITION OF EXISTING BUILDINGS  
AND STRUCTURES AND ERECTION OF RETAIL STORE (USE CLASS A1), CAR PARKING AND  
SERVICING AREAS, ACCESS AND ASSOCIATED WORKS, SWARKESTONE ROAD, CHELLASTON**

Please find enclosed a letter that we have today sent to the Director of Strategic Partnerships,  
Planning and Streetpride at Derby City Council.

Yours faithfully



**IRWIN MITCHELL LLP**

Our Ref: AWE/V2P/05258493-00000001

**FOR THE ATTENTION OF DAVID GARTSIDE,  
THE DIRECTOR OF STRATEGIC PARTNERSHIPS,  
PLANNING AND STREETPRIDE**

Derby City Council  
Council House  
Corporation Street  
DERBY  
Derbyshire  
DE1 2FS

**Alastair Wallace**  
alastair.wallace@irwinmitchell.com  
**Paralegal: Liza Tilley**  
Direct Dial: 0370 1500 100  
liza.tilley@irwinmitchell.com

11 May 2017

**EXTREMELY URGENT**

**BY POST AND EMAIL: david.gartside@derby.gov.uk**

Dear Sirs

**PLANNING APPLICATION NUMBER DER/12/15/01570 – DEMOLITION OF EXISTING BUILDINGS AND STRUCTURES AND ERECTION OF RETAIL STORE (USE CLASS A1), CAR PARKING AND SERVICING AREAS, ACCESS AND ASSOCIATED WORKS, SWARKESTONE ROAD, CHELLASTON**

We are instructed by the Chellaston Residents' Association, The Old Wharf, Chestnut Avenue, Chellaston, Derby DE73 6RW to advise on the public law planning issues arising from the above application.

We understand that the above application is due to be considered at a meeting of the Council's Planning Committee which is due to take place on Thursday 11 May 2017 at 6pm.

We have seen a copy of the Director of Strategic Partnerships, Planning and Streetpride's report to the committee ("the officers report") and note that the committee are recommended to authorise the Director to negotiate the terms of a section 106 agreement and, upon completion of the agreement, to grant permission for the development.

We have only recently been instructed in this matter however it would appear from our initial consideration of the issues that the recommendation contained in the officer's report is based on an analysis which is fundamentally flawed. Further, and additionally, we consider that if the committee were to proceed to follow the recommendations in the report they would be acting in a procedurally improper way. In consequence we consider that if the committee were to authorise the Director of Strategic Partnerships, Planning and Streetpride to grant permission in respect of this development based on the advice contained in his report, such a decision would be unlawful and susceptible to challenge by way of judicial review. Our submissions in this regard are set out below.

In view of the proximity of the planning meeting we would be grateful if the contents of this letter could be included as part of a supplementary report to the Committee (whether orally or in writing.) We request that its contents be fairly and accurately summarised and that copies be available to members.

For a full list of offices visit [www.irwinmitchell.com](http://www.irwinmitchell.com)

telephone 0370 1500 100

Impenal House  
31 Temple Street  
Birmingham B2 5DB

fax 0121 643 6021 DX 13030 Birmingham [www.irwinmitchell.com](http://www.irwinmitchell.com)



These submissions concern four issues:

- 1 Heritage
- 2 Ecology
- 3 Community facilities
- 4 Alternative sites.

## Heritage

### Statutory and policy framework

Heritage issues are dealt with in the officer's report at pages 29 to 31. The officer introduces the issue by stating that the development involves the demolition of the Rose and Crown public house which is not on either the statutory or local list of heritage assets and does not lie within the conservation area. The officer explains, however, that the site is adjacent to the Grade II listed No.4 Swarkestone Road, a small brick cottage with exposed cruck frame visible through the south gable. The cottage now forms part of the Corner Pin public house. Crucially, the officer notes:

*"Development on the proposal site [is] immediately adjacent to Swarkestone Road. Development on the application site will therefore have some impact on the setting of the listed building".*

Although not quoted by the officer the overarching statutory provision in relation to decision making concerning listed buildings is set out in section 66 of the Planning (Listed Buildings in Conservation Areas) Act 1990 ("the Listed Building Act"). This imposes a general duty as respect to listed buildings in the exercise of planning functions. Subsection (1) provides:

*"In considering whether to grant planning permission for development which affects a listed building or its setting the local planning authority, or as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses".*

Returning to the report, the officer refers to paragraphs 131 to 134 of the National Planning Policy Framework (NPPF) which also deals with the treatment of heritage assets in planning decision making. In addition to these paragraphs, we consider paragraph 128 to be relevant, it provides:

*"128. In determining applications, local planning authority should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets importance and no more than is sufficient under standard potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. [Emphasis added].*

The officer then goes on to state that when considering the impact of a proposed development on the significance of a designated heritage asset regard should be paid to paragraph 132 of the NPPF which provides as follows:

*"132. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm*

*to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II listed buildings, grade I and II registered parks and gardens, and World Heritage Sites, should be wholly exceptional”.*

These provisions are also reflected in the Derby City Council local plan as set out in the Local Plan Review, Policy E19 which states:

*“Proposals for development, and applications for listed building consent, will not be approved where they would result in the demolition of statutory listed buildings. Proposals will also not be approved where they would have a detrimental effect on the special architectural or historic interest of a statutory listed building, its character or setting...”*

The effect of the above is, to give rise to a strong presumption – both statutory and through the application of planning policies and guidance - against granting planning permission for any development which would fail to preserve the setting of a listed building. In *R (The Forge Field Society) v Sevenoaks District Council* [2014] EWHC 1895 (Admin) (“*Forge Field*”), Lindblom J explained the statutory presumption in the following way:

*“49. This does not mean that an authority’s assessment of likely harm to the setting of a listed building or to a conservation area is other than a matter for its own planning judgement ... But it is to recognise, as the Court of Appeal emphasised in Barnwell [Barnwell Manor Wind Energy v East Northamptonshire District Council [2014] EWCA Civ 137 (“Barnwell”)] that a finding of harm to the setting of a listed building or to a conservation area gives rise to a strong presumption against planning permission being granted. The presumption is a statutory one. It is not irrebuttable. It can be outweighed by material considerations powerful enough to do so. But an authority can only properly strike the balance between harm to a heritage asset on the one hand and planning benefits on the other if it is conscious of the statutory presumption in favour of preservation and if it demonstrably applies that presumption to the proposal it is considering.” [Emphasis added.]*

The statutory presumption arising from section 66 of the Listed Building Act takes precedence over local planning policies and national planning guidance as contained in the NPPF (which provides (at paragraph 12) that “*proposed development that conflicts [with an up to date local plan] should be refused unless other material considerations indicate otherwise*”.) However, in the present case both the local planning and the NPPF are consistent with the Listed Building Acts in indicating that a development which is harmful to the setting of a listed building should be refused absent the presence of “powerful” material considerations which indicate otherwise. The importance of the Listed Building Act is that it imposes a duty on decision makers to give “*considerable importance and weight*” (see *Barnwell*, paragraph 29) to the desirability of preserving the setting of listed buildings when carrying out a planning balancing exercise.

### Harm to the setting of the listed building

#### *The developer’s evidence*

As set out above in paragraph 128 of the NPPF in determining applications the local planning authority should require an applicant to describe the significance of any heritage assets affected including any contribution made by their setting. Although not referred to in the officer’s report the developers of this application submitted a Heritage Statement. This is distinct from their Heritage Appraisal which considers (only) the impact of the proposals to develop the site on the unlisted Rose and Crown pub. By contrast, the purpose of the Heritage Statement is, in accordance with the NPPF to consider the impact on the listed building, namely No. 4 Swarkestone Road. As to this the conclusion of the developer’s report is as follows:

*“In principle, the impact of the proposal on the character or setting of the listed building is most likely to be ‘less than substantial’. [Paragraph 5.6, Planning and Heritage Statement on behalf of Lidl UK GmbH, December 2015].*

*It is, therefore, concluded that the potential for the proposed development to harm the character and setting of the listed building is minimal". [Paragraph 5.10].*

The Statement goes on to contend that NPPF paragraph 134 advises that 'less than substantial harm' should be balanced against the public benefits derived from the proposed development. However, Lindblom J in *Forge Field* (summarising the decision in *Barnwell*) explains the true position as follows:

*"Even if the harm would be "less than substantial" the balancing exercise must not ignore "the overarching strategy duty imposed by section 66 (1) [of the Listed Building Act], which properly understood...requires considerable weight to be given ... to the desirability of preserving the setting of all listed buildings, including grade II listed buildings".*

#### *The Council's evidence*

The developer's evidence is also consistent with that of the Council's own Conservation Officer. The importance of the Conservation Officer's opinion and weight to be given to it, is highlighted in paragraph 128 of the NPPF which requires that "heritage assets [be] assessed using appropriate expertise where necessary." In our submission the Conservation Officer is, in this instance, appropriate expertise.

The Conservation Officer's opinion is contained in three separate consultation responses which are contained on the planning file (23 March 2016, 18 August 2016 and 8 February 2017), all of these responses recommend that this application is refused (a point not noted in the officers report).

The opinion considers the impact of the development on the setting of No. 4 Swarkestone Road including the impact of the development on its setting. As to this the Conservation Officer states that:

*"The Rose and Crown and the Corner Pin are currently the sole survivors of the historic street scene, being otherwise surrounded by 20<sup>th</sup> century development of widely varying character. Demolition of the Rose and Crown would remove the surviving historic neighbours of No.4 [the listed building] which contribute to its setting".*

The Officer concludes :

*"The demolition of the Rose and Crown and replacement with modern retail unit, car park and fencing would be harmful to the setting of the listed building at No.4 Swarkestone Road.*

*Harm to the setting of the listed building contrary to local plan review policy E19, NPPF paragraphs 132 and 134 and section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.*

***Conservation Recommendation: Refusal" [Emphasis in original]***

#### *Conclusion*

In summary, the view of both the developer and the Council's conservation expert is that this development would harm the setting of the grade II listed building, namely No. 4 Swarkestone Road. For the purposes of the application of the Listed Buildings Act and its strong statutory presumption, against development, the developer's conclusion that the harm is "less than substantial" is nothing to the point.

#### *The planning officer's advice*

Notwithstanding the above evidence, the officer's report does not engage with the statutory framework as set out above. Instead, although the officer states that he agrees with his conservation officer that the proposed demolition of the Rose and Crown public house would have an impact on the setting of the listed building he states:

*"I consider that this impact would not equate to harm which would engage the policy tests in the NPPF, given that the Rose and Crown PH is not statutory or locally listed, nor within a conservation area nor is it situated within the historic core of Chellaston".*

Thus in his 'Overall conclusion' the officer states:

*"This application has been very carefully assessed and the material planning considerations have been rehearsed and considered in line with adopted local plan policy, saved local plan policy and the overarching guidance in the NPPF. Although some issues, such as ecological factors, are still being assessed at the time of writing the report the application has been with the City Council for a considerable period of time and is at the very advanced stage. On balance, it is considered that, subject to the satisfactory conclusion of all outstanding issues and conditions, the proposed development is acceptable in this location." [Page 33]*

In summary, in respect of heritage matters the advice to members is that notwithstanding the officers finding that the development will have an impact on the setting of the listed building this is not a material consideration because no harm will be caused. Accordingly, as a result of this conclusion the officer does not rely for his recommendation on the (alleged) public benefits of the development; these factors are not considered. In short no balancing exercise is carried out.

### Errors of analysis

It is submitted that the officer's analysis and recommendation to members of the planning committee is fundamentally flawed for the following reasons:

- 1 Having regard to the developers evidence and the evidence of his own expert Conservation Officer (and in the absence of any evidence to the contrary) it was simply not open to the planning officer to conclude that the impact of this development would not result in harm to the setting of the listed building. Insofar as the officer has arrived at this conclusion it is legally perverse. For the officer to conclude that planning permission should be granted it was necessary for him to start from the position set out in section 66 (1) of the Listed Building Act and to find that the strong statutory presumption arising from the Act was outweighed by material considerations powerful enough to do so. Since the officer did not engage in a balancing exercise, and did not rely or refer to the alleged public benefits of the development, the statutory presumption must prevail.
- 2 Further and in any event, the officer misunderstood the test of harm believing it was dependant on the heritage status of the Rose and Crown public house. In disagreeing with his conservation officer and with the opinion of the developer the planning officer states "I consider that this impact would not equate to harm which would engage the policy tests in the NPPF, given that the Rose and Crown PH is not statutory or locally listed, nor within a conservation area nor is it situated within a historic core of Chellaston" [Emphasis added].

It is submitted that this reasoning is erroneous since the heritage status of the Rose and Crown public house is not determinative. Insofar as the officer advises that there is no harm to the listed building because the Rose and Crown is not also listed, this constitutes an error of law.

In summary, in order for members to make a lawful decision in respect of this planning application we submit that no reliance can be placed on the analysis in officers report in respect of heritage issues. Should members accept the officer's report as drafted and in reliance on it recommend a grant planning permission, such a decision would, in our view, be unlawful by reason of both perversity and error of law. Such a decision would be susceptible to judicial review.

### **Ecology**

The relevant matters are dealt with in paragraph 32 of the officer's report where members are advised as follows:

*"In terms of wildlife and protected issues, members are reminded that the applicant has responded to comments from DWT [Derbyshire Wildlife Trust] and further survey work is being completed, at the time of writing this report, with regard to the required bat assessments. The applicant has also been encouraged to continue direct discussions with DWT to ensure that all ecological matters are addressed prior to the determination of the application. This is necessary to accord with the test laid down for protected species. It is anticipated that all issues will be properly addressed and the necessary conclusion of mitigation measures will be supplied to members either before or at the meeting."* [Emphasis added]

The comments of Derbyshire Wildlife Trust to which the officer refers are contained within the body of the report (see pages 19 to 22). These comments include the following:

*"Following the recommended survey work, a mitigation strategy should be prepared that demonstrates how the loss of any bat roosts or other impacts on bats will be mitigated, how potential lighting impact will be minimised and what habitat retention/creation proposals will be implemented. It is critical that the survey work is undertaken prior to submission of the application so that any mitigation requirements for bats are fully taken into account as part of the planning process."*

In response to these comments, the officer advises (at page 22):

*"It is important for members to note that, in light of these concerns expressed by DWT and the request to carry out further survey work, the applicant has indicated that their ecologist had been instructed to undertake additional bat surveys on 2 and 9 May (scheduled as such given the nature of the survey work) and they intend to report the findings to the Council on 10 May. The applicant is also seeking to engage with DWT directly to seek their agreement to GCN [Great Crested Newt] safeguards. Therefore, it is anticipated the officer should be able to positively orally confirm the overall ecology position to members at the meeting."*

It is submitted that this arrangement is procedurally unsatisfactory and unfair.

In their submissions, our clients deal expressly with ecology and with the impact of the development on bat roosting. Our clients note that the developer's conservation consultant described the proposed development site as being of low value as far as habitat conservation is concerned. Our client's earlier submissions state that *"The CRA [Chellaston Residents' Association] strongly disputes this, based on local BAP records, the testimony of an expert qualified local opinion and Derby City Council's action in January 2015 in issuing tree protection orders for 29 trees on the site."* Our clients further note that Derbyshire Bat Group has informed the CRA that the whole site has the potential to support bats.

In circumstances where these issues are in dispute, we submit that it is unacceptable for the Council to seek to rely on reports which have not been made properly available to consultees and objectors prior to the Council's proposed determination of this application.

Having regard to the above, should the Authority proceed to a decision at its Planning Committee meeting on 11 May we submit that any such decision would be unlawful by reason of procedural unfairness.

## **Community Facilities**

At page 25 the officer considers the relevance of the demolition of the Rose and Crown Public House in respect of its role as a community facility. The officer notes that the Pub has been designated as an Asset of Community Value (ACV) and that this status highlights the importance of the asset to the community

and the need to robustly assess the proposal against [Local Plan Policy] CP21.

The relevant section of policy CP21 states as follows:

*"The Council recognises that facilities that meet Derby's community, social, health, welfare, education, spiritual, cultural, leisure and physical activity needs and aspirations are key to how the City functions and their ability to create thriving communities.*

*The Council will work with strategic partners and developers to provide citywide, high quality, accessible and inclusive facilities and services for the community by:*

- (a) *supporting the retention of existing facilities unless it can be demonstrated that there is no longer a need to retain the use, alternative provision is made or where we can assist strategic partners to review or restructure their provision."*

The officer reports that in terms of the Pub, the applicant has argued that there are a range of community facilities within easy walking distance of the proposed site, including other public houses and facilities providing a further function. The officer then concludes:

*"Therefore, it is fair to conclude that the 'need' for the facility could be replaced by alternative provision in the local area, meeting the requirements of CP21."*

As part of our clients' earlier submissions, this issue is addressed in the following terms:

*"[The Rose and Crown] is also the only venue within the District Centre that properly caters for disabled people by having ground level wheelchair access, with wide doorways to facilitate entry and a large garden where families can relax and play with their children."*

In these circumstances, it is submitted that the officer's consideration of policy CP21 is inadequate and in error. As to the latter point, the requirement under the policy is to consider whether there "is no longer a need" whereas the officer has concluded merely that the need for the facility could be replaced.

As to the former point, it is submitted that notwithstanding the error in the officer's analysis, his conclusion (which in any event we submit was wrong) was not one which was open to him as he failed to consider the equalities implications impact of the proposed development on equalities issues.

### **Alternative Sites**

It is accepted that a Local Planning Authority does not normally need to take into account alternative sites for a development. However, where there are alleged to be planning benefits associated with a development but also clear objections to it, an Authority may have to consider whether there is a more appropriate site for it (see *Trusthouse Forte Hotels Limited v. Secretary of State for the Environment (1986) P&CR 239*).

It is submitted on the basis of the above that this is a case where the harm which the development will cause to the setting of the listed building means that alternative sites should have been considered. Accordingly, a decision of the Planning Committee to grant planning permission without considering alternative sites would, in our submission, be a failure to take into account a material consideration and constitute an error of law.

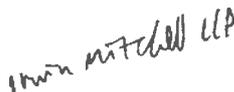
### **Conclusion**

For the reasons set out above, we submit that any decision by the Planning Committee to grant planning permission or to authorise the relevant director to issue such a permission based on the officer's report

would be unlawful and susceptible to challenge by way of judicial review. Should such a decision be made, we are instructed to advise our clients on their legal remedies. Should our clients commence proceedings we reserve the right to refer to this letter.

Notwithstanding the outcome of the planning meeting we would be grateful if you would reply to this letter by 25 May 2017.

Yours faithfully



**IRWIN MITCHELL LLP**

**Copies also sent to:**

**Olu Idowu  
Head of Legal Services**

**Ian Woodhead  
Development Control Group Manager**

**Arran Knight  
Senior Planning Officer**

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

**1. Application Details**

**Address:** Site of the former Derbyshire Royal Infirmary, London Road, Derby.

**Ward:** Arboretum

**Proposal:**

The construction of up to 500 dwellings (Class C3 and Class C2) and for 1,000 sqm (max) Class A1 (shops); 500 sqm (max) Class A3 (restaurants & cafes); and 1,100 sqm (max) Class B1(a)(offices)/A2 (financial & professional services); and for Class D1/D2 (non-residential institutions/assembly and leisure), Class A4 (drinking establishments) together with access, public open space, landscaping and associated engineering works and the demolition of a former hospital building

**Further Details:**

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan/01/17/00030>

**Brief description**

The former Derbyshire Royal Infirmary which is located between London Road, Bradshaw Way and Osmaston Road was closed in 2010 when the hospital trust relocated to the Royal Derby Hospital in Mickleover. The London Road Community hospital was retained just to the south east of the site, which includes the Urgent Care Centre on Osmaston Road. The vacant hospital buildings have recently been wholly demolished and the site levelled, with the exception of two pairs of “pepper pot” towers, which were part of the late 19<sup>th</sup> Century hospital buildings and are on the Council’s Local List, as buildings of local historic importance to the city. Wilderslowe House, a Grade II listed building on Osmaston Road and 3 Victorian villas at 123 – 129a Osmaston Road have also been retained. These buildings are both within the Hartington Street Conservation Area.

The former hospital site is approximately 7.5 hectares in area and is generally rectangular area of land which slopes at a considerable gradient from Osmaston Road down to London Road. Most of the London Road frontage is also elevated above the road behind a retaining stone boundary wall and railings, which are Grade II listed and date from the 19<sup>th</sup> Century. Other retained statutory listed structures include the Queen Victoria Statue between the two pairs of towers on the site and Florence Nightingale Statue and surround, which sits in the boundary wall on London Road. Both statues are Grade II listed.

Many of the trees on the site are covered by a Tree Preservation Order. There are various groups of mature trees, which are mainly located around the perimeter of the site, along the London Road and Bradshaw Way frontages and around Wilderslowe House. There is also a group of retained trees to the south east corner, close to the Urgent Care Centre.

The site lies immediately to the south of the city centre and the primary retail area, opposite the Intu shopping centre. The Inner Ring Road (Bradshaw Way) runs along the northern boundary. The major arterial routes of London Road and Osmaston Road border the east and west of the site. To the west of Osmaston Road are

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

primarily residential areas, characterised by Victorian terraces in the Hartington Street Conservation Area. The historic Arboretum park lies to the south and is a Grade II listed parkland. The area around London Road is more mixed use with residential, community and food and drink premises. The Grade II listed Liversage Almshouses and other locally listed buildings also lie along London Road. The Castle Ward area is to the north, which comprises the new residential neighbourhood and other industrial and commercial uses.

The outline application which is for the development of up to 500 dwellings, comprising a mix of houses, apartments and extra-care accommodation and a mix of commercial, leisure, retail and food and drink uses. Means of access is to be determined at this stage with all other matters reserved for a future detailed scheme. The residential element also includes the potential conversion and reuse of Wilderslowe House and the Osmaston Road dwellings, although the applicant is seeking flexibility to bring non-residential uses into Wilderslowe House, subject to market demand. The proposal incorporates a maximum floorspace provision for some of the various non-residential uses which are sought on the development. This is as follows:

- A1 (retail) – 1000 sq.m
- A3 (restaurant/café) – 500 sq.m
- B1a (offices)/ A2 (professional services) – 1100 sq.m

Other proposed uses are A4 (drinking establishments), D1 (non-residential institutions) and D2 (leisure). These uses are all intended to be complementary to the residential community to be developed on the site and to be delivered primarily within Wilderslowe House and the retained “pepper pot” tower, as well as ground floor uses to residential buildings.

There are three vehicular accesses proposed to the development site, which are for determination under this application and these are:

- A priority junction to be formed onto Osmaston Road adjacent to the existing dwellings at 123- 129a Osmaston Road to serve the western part of the development.
- A priority junction at the existing access to the former hospital onto London Road towards the eastern part of the site
- Existing accesses onto Wilderslowe House with an access and egress only arrangement.

Various pedestrian and cycle linkages are also proposed across the site to provide additional connections between Osmaston Road, London Road and the city centre. One of these routes is to be provided through a green corridor to provide a link between Castle Ward and the Arboretum, via Litchurch Street (a private road within the community hospital). These connections are all indicative at this stage and the precise route of these links would be dealt with under a reserved matters scheme.

The proposals are supported by a framework masterplan document, giving a vision and parameters for the development. The intention is to develop a residential

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

neighbourhood on the site, which is connected to the surrounding areas including the city centre via a network of open spaces and pedestrian / cycle routes. Retained heritage assets on the site, including Wilderslowe House and 123 – 129a Osmaston Road are to be brought back into use, retaining flexibility in regard to the potential uses of the buildings. The Osmaston Road frontage is intended for residential development sensitive to the setting of the heritage assets. The locally listed “pepper pot” building in the centre of the site facing London Road is proposed for retention as a focal point of the development and brought into use as a community asset, for small scale commercial and community uses. The other “pepper pot” located towards to south east edge of the site proposed to be demolished. A linear park and pedestrian/ cycle route would be formed along the London Road frontage as landscaped public realm, incorporating the existing mature trees and the Queen Victoria Statue (which may be repositioned in the open space).

The building heights across much of the development are proposed to be up to 2.5 to 3 storeys, with the highest on key corners and on principal road frontages. Buildings of up to 5 and 6 storeys are proposed on the Bradshaw Way and London Road corner fronting the city centre, recognising that this is a gateway location.

Landscaping is a reserved matter, although the applicant has submitted a tree strategy which proposes the retention of most of the protected trees on the site, with selective removal of some trees to improve links and views through the linear park. The tree groups around the perimeter of the site are intended to be retained and would be included within the proposed areas of open space and public realm within the development.

The application is accompanied by various technical and design documents with support the proposal. The Design and Access Statement is the masterplan document which gives the vision and parameters for the scheme. The submission also includes a Heritage Statement & Impact Assessment, Arboricultural Strategy, Flood Risk Assessment, Air Quality and Noise Assessments, Ecological Appraisal including bat emergence survey, Planning Statement, Preliminary Contamination Assessment, Transport Assessment and Travel Plan.

## **2. Relevant Planning History:**

<b>Application No:</b>	5/15/00950	<b>Type:</b>	Prior Approval
<b>Decision:</b>	Granted	<b>Date:</b>	09/06/2015
<b>Description:</b>	Demolition of hospital buildings		
<b>Application No:</b>	07/15/00902	<b>Type:</b>	Reserved Matters
<b>Decision:</b>	Granted conditionally	<b>Date:</b>	27/11/2015
<b>Description:</b>	Re-development of former Derbyshire Royal Infirmary site to form mixed use development comprising retail (use class A1), cafe/restaurant (use class A3), public house (use class A4), offices (use class B1), residential (use class C3) and formation of associated car parking. Approval of reserved matters of layout, appearance, and landscaping on Zone 5 of previously approved planning permission (erection of 35 dwellings) (DER/11/10/01429/PRI)		

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

<b>Application No:</b>	12/13/01439	<b>Type:</b>	Non-material amendment
<b>Decision:</b>	Granted conditionally	<b>Date:</b>	28/01/2014
<b>Description:</b>	Re-development of former Derbyshire Royal Infirmary site to form mixed use development comprising retail (use class A1), cafe/restaurant (use class A3), public house (use class A4), offices (use class B1), residential (use class C3) and formation of associated car parking - Non material amendment amendment to previously approved planning application No. DER/11/10/01439/PRI to amend conditions 11, 15, 25 and 29		
<b>Application No:</b>	05/13/00581	<b>Type:</b>	Variation/Waive of condition(s)
<b>Decision:</b>	Withdrawn Application	<b>Date:</b>	27/08/2013
<b>Description:</b>	Re-development of former Derbyshire Royal Infirmary site to form mixed use development comprising retail (use class A1), cafe/restaurant (use class A3), public house (use class A4), offices (use class B1), residential (use class C3) and formation of associated car parking - Variation of condition 1 of previously approved planning permission Code No. DER/11/10/1429 to substitute masterplan		
<b>Application No:</b>	11/10/01429	<b>Type:</b>	Outline Planning Permission
<b>Status:</b>	Appeal against non-determination - Granted conditionally following public inquiry	<b>Date:</b>	30/09/2011
<b>Description:</b>	Re-development of former Derbyshire Royal Infirmary site to form mixed use development comprising retail (use class A1), cafe/restaurant (use class A3), public house (use class A4), offices (use class B1), residential (use class C3) and formation of associated car parking		

**3. Publicity:**

Neighbour Notification Letter – 90 letters

Site Notice

Statutory Press Advert

*This publicity is in accordance with statutory requirements and the requirements of the Council's adopted Statement of Community Involvement.*

Prior to submission of the application, the applicant undertook a one day public and stakeholder consultation event at a hotel on London Road. Leaflets were distributed to local residents and businesses prior to the event in vicinity of the site.

**Classification: OFFICIAL**

**4. Representations:**

Eight letters of support have been received to date and the main issues raised are as follows:

- Support the redevelopment of the brownfield site
- Proposal would maintain and improve setting of the listed buildings and Conservation Area
- Site has high levels of crime and anti-social behaviour
- Support creation of the new footpath through hospital site
- Both sets of “pepper pot” towers should be retained in the development.
- Good balance between retaining heritage assets and contemporary design
- Loss of “pepper pot” tower is outweighed by regeneration benefits which result from the development.

**5. Consultations:**

**Conservation Area Advisory Committee:**

Noted proposal and details of the application (includes demolition of 2nd pepper pot tower) and that the application was for access only with all other matters to be dealt with under Reserved matters. Object strongly to demolition of one of the locally listed pair of pepper pot towers. Resolved to object and recommend refusal due to loss of local list heritage asset that is an important element of the site in its former use and lack of information regarding the access points and the impact on the listed wall.

In their view the pepper pot towers could easily be converted to dwelling or could be an ideal location for a heritage centre. Queried location of commemorative stones currently in store for re-use. Although access re-uses existing opening in listed wall the road could be realigned to avoid demolition of building. No justification or detail on demolition of other parts of wall. Suggested any removed sections of stone wall could be used for repairs and making good elsewhere along wall. Welcome proposed retention and repair/re-use of heritage assets including Wilderslowe House and the buildings on Osmaston Road.

**Highways Development Control:**

Introduction: - the above site has the benefit of planning consent for a major redevelopment scheme including a large Morrison’s superstore which was given on appeal by the Secretary of State on the 25th July 2012.

Pre application advice regarding the current proposal was provided in July 2016. This was followed by a meeting with the applicant’s transport consultants on the 6th March 2017. The following item remains unresolved and needs to be carefully considered:

“Note 1 – at this location there are traffic signal controlled crossings across both London Road and Bradshaw Way providing safe access in to the City. The footway where pedestrians wait to cross the Bradshaw Way crossing is very tight and the opportunity should be explored to enlarge this waiting space by opening up this corner of the site as suggested by the vision document.

General – it should be noted that the application area along the Osmaston Road frontage is not contiguous with the highway boundary and consequently there is a strip of land in the control of Derby City Council between the development and the highway boundary.

1) National Planning Policy Framework (NPPF)

Set out below is the criteria against which the highway impact of the proposed development should be tested. It is important that this is the criteria used as it is the NPPF criteria that would be used should the application be determined by the Secretary of State.

Paragraph 32 of the NPPF says:

“All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”

Considering the above criteria I make the following comments:

Transport Assessment- It has been estimated that the above proposal is likely to generate approximately 200 less trips in the am peak and 600 less trips in the pm peak than the consented scheme mentioned above. On this basis it is not considered any off-site highway works are required.

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;

The NPPF presumes in favour of sustainable development and consequently is seeking to influence developers to put in place measures to provide opportunity and encouragement for future residents/users of the development to choose to travel by non-car modes, wherever this is realistic and feasible i.e. measures to encourage walking, cycling and travel on public transport.

The above site is considered to be one of the most sustainable locations in the City, being so close to the City centre, bus station and railway station.

Walking/ Cycling – the site is well located in respect of walking/cycling trips with a number of connections to the existing highway network and to existing controlled crossings.

**The Green Link** - Policy AC 6 g(3) says:

“In all parts of the Eastern Fringes the Council will expect a ‘green link’ through the area providing a pedestrian and cycle link from Arboretum Park to Bass’ Recreation Ground”

The above policy does not specify exact location of the ‘Green Link’, however Drg No DE247-01 Rev A entitled Parameter Plan Movement Network shows the proposed ‘Green Link’ as a green pecked line using Litchurch Street to access Osmaston Road. Litchurch Lane is a private road which does not form part of the application area for the development. Consequently the ‘Green Link’ cannot be secured by planning condition as it does not form part of the planning application. It is suggested that because Litchurch Street is not the public highway the long term future of the proposed route could be doubtful, because Litchfield Street could be redeveloped. I suggest that what is currently proposed on the application does not fulfil the above local plan policy. It is suggested advice be sought from planning policy.

**Public Transport** – both London Road and Osmaston Road are well served public transport routes.

- safe and suitable access to the site can be achieved for all people; and

It is proposed to access the site via two unconnected priority junctions, consequently rat running through the site between London Road and Osmaston Road will not be possible.

As mentioned above the DRI site is well located in respect of the City and it is likely that there will be an increased level of pedestrians crossing Bradshaw Way via the controlled crossings. The crossing across Bradshaw Way at the London Road roundabout has limited waiting space due to the pedestrian barrier and the boundary wall to the site. It is suggested that if the wall adjacent the crossing could be set back a wider footway could be formed to accommodate the increase in pedestrian activity (see condition below).

- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”

**Recommendation** – No highway objection subject to the following conditions and notes.

**Suggested Conditions and Notes**

- 1) Prior to any development commencing within the application area details of the following shall be submitted to and approved in writing by the LPA:
  - a. the internal road layouts, which shall be designed in accordance with the principles set out in ‘Manual for Streets’. The constructional details shall conform to the 6Cs Highway Design Guide, including drainage;
  - b. servicing and parking provision;
  - c. the ‘Green link’;

- d. widening of the footway adjacent the controlled pedestrian crossing across Bradshaw Way at the London road roundabout;
- e. wheel washing facility constructed in accordance with details to be submitted to and approved in writing by the LPA shall be fully operational to prevent mud and debris being carried onto the public highway;
- f. the Construction Management Plan including details of a construction access and routing for construction traffic has been submitted to and approved in writing by the LPA;
- g. connections for pedestrian and cycle routes linking the internal routes to the highway network.

Reason: In the interests of highway safety.

- 2) Prior to any dwelling becoming occupied;
  - a. The proposed accesses on Osmaston Road and London Road shall be provided in accordance with details to be submitted to and approved in writing by the LPA as shown for indicative purposes on with Drg No 1596-03 & 04 bearing the name Phil Jones Associates
  - b. a travel plan in accordance with details to be submitted to and approved in writing by the LPA, shall be operational.
  - c. The proposed 'Green Link' shall be provided and open for use, unless otherwise agreed .

Reason – To encourage sustainable development.

- 3) There shall be no vehicular connection between the London access and the access off Osmaston Road.

**Notes to Applicant**

- 1) The above conditions require works to be undertaken in the public highway, which is land subject to the provisions of the Highways Act 1980 (as amended) and over which you have no control. In order for these works to proceed, you are required to discuss the proposed works with the highway authority to arrange for the appropriate agreement under the Highways Act.
- 2) For details of the 6C's design guide and general construction advice please contact Robert Waite Tel 01332 642264.
- 3) Derby City Council operates the Advanced Payments Code as set out in sections 219 to 225 Highways Act 1980 (as amended). You should be aware that it is an offence to build dwellings unless or until the street works costs have been deposited with the Highway Authority.

**Highways – Land Drainage:**

This proposed development will bring a decrease in impermeable area and as such overall the development may see a decrease in surface water flood risk. In addition, the proposal is for a restricted outfall to the 1 in 30 year greenfield runoff rate for all events, with associated surface water attenuation storage.

However, the non-statutory technical standards for SuDS stipulates that brownfield development should, where feasibly possible, reduce post-development runoff to the pre-development greenfield rate for the 1 in 1 year. The FRA does not demonstrate that the 1 in 1 year greenfield surface water runoff rate is not feasible for this site and as such this requires further clarification. If this is not feasible, the maximum practical surface water runoff rate betterment should be achieved.

During pre-application discussion, this team stated that the site, according to sustainable drainage best practice, should form an integral part of the urban design in the form of swales, bio-retention areas, detention ponds etc. These would treat surface water as well as provide amenity and biodiversity benefits.

The proposals are instead for geo-cellular storage on the site which provides no wider benefits of blue-green infrastructure and has no surface water filtration qualities. It may be argued that the site does not provide the space for open water features, however the FRA states that (2.10.4) the proposed development meets and exceeds the specified housing for this site in the Local Plan. My concern is that additional housing and other land use has been achieved at the expense of blue-green infrastructure without any detailed consideration of the loss of potential benefits.

My view is that we can achieve a better surface water drainage design than this for the site which is more in keeping with best practice and the Local Plan in terms of blue green infrastructure. Elements such as permeable paving, filter drains and bio-retention can provide additional benefits without a significant additional land take.

Could the applicant provide a further review of the drainage proposals so that we can be confident that everything has been done to maximise the benefits of a sustainable drainage system in relation to the comments above.

**Further comments following further drainage information (February 2017):**

Following the response from Wardell Armstrong, dated 20th February 2017, I have noted that the site has some significant constraints in terms of space for SuDS, given that this is a city centre development on an existing brownfield site. I also note that the applicant will be aiming for a close to greenfield discharge rate as practically possible as part of a wider detailed drainage design submitted at a later date.

As a result, I am of the opinion that we can approve the development on land drainage and flood risk grounds with conditions attached as follows:

- 1) No development shall take place until a surface water drainage strategy has been submitted and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority. The strategy shall include:-
  - A sustainable drainage solution,

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

- Proposals to comply with the recommendations of the Non-statutory technical standards for sustainable drainage systems (March 2015) and The SuDS Manual (CIRIA C753),
- Provision to ensure surface water run-off from the developed site is as close as reasonably practicable to the equivalent greenfield surface water runoff rate for the site, and
- The development makes a contribution to blue-green infrastructure and City Centre biodiversity as part of the drainage scheme where opportunities exist.

**Historic England:**

On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant. It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals.

**Built Environment (Conservation Officer):**

**Original comments - February 2017:**

The overall mixed use redevelopment of this site is welcomed however I do have some concerns about this application as regards its impact on the surviving heritage assets within the site as well as the detail relating to these that have been submitted.

Pre-application advice was sort but, looking at this application, not all advice given to the applicant has been taken on board – especially that of retaining and incorporating the second pepper pot tower into the scheme.

The application site was granted outline consent on appeal in 2012 for a mixed-use scheme and that scheme included the retention of both pairs of pepper pot towers. The principle for redevelopment and retention was therefore accepted. This is a new scheme for a different mixed use scheme which wishes to go further than the allowed scheme and demolish one of these structures.

This is an outline application with all matters reserved except those regarding access. I will be commenting on the impact, or the possible impact, of the proposed accesses in due course. I also think it appropriate to put down markers at this point regarding the principle and for anything within the scheme overall, from a heritage perspective, so these can be taken into account within the future reserved matters applications.

An outline application is an accepted process for a large site but I suggest it is a difficult one when dealing with heritage assets, such as listed buildings, conservation areas etc, as there is a need for more detail in some areas when there are heritage assets involved especially where listed building consent will also be needed. This is highlighted later in detail within this response.

This site affects a number of designated and undesignated heritage assets. These include;

- the grade II listed Wilderslowe House and its curtilage (including the walls, lodge etc),

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

- the grade II listed wall and railings along London Road,
- the grade II listed Statue of Queen Victoria,
- Hartington Street Conservation Area (which includes Wilderslowe House and 123 to 129a Osmaston Road) and
- One of two of the locally listed pairs of pepper pot towers from the Royal Infirmary (as seen in the Heritage Statement and map 1901).
- Other heritage assets including walls that are not locally or statutorily listed.

Wilderslowe House is grade II listed so is therefore of national importance. The proposal at Wilderslowe house is to 'refurbish and convert to a sympathetic new use'. Any repair and sensitive adaptive reuse is welcome in principle, however of course, depending on the proposed works we will need to assess them through the submission of a future listed building consent once the works are known. I would add that I agree with the Heritage Statement that it is critical for its long term survival that a new use is found.

I note that the applicants wish to reinstate an appropriate curtilage area and boundary treatment for this listed building, which is also welcome in principle.

However, I suggest more information is submitted as regards the proposed curtilage area around the listed building, boundary treatment, the landscaping and that there is further detail submitted so that the exact extent of this can be discussed and agreed. It is hoped that if an appropriate curtilage and details can be agreed it would reveal the significance of the listed building and enhance the conservation area. However, whether it will do this is currently unknown.

I suggest highlighting to the applicant that permission including listed building consent will be needed for any alteration works to the listed building and any new boundary treatments/curtilage structures.

I note the reuse of the Wilderslowe House vehicular access points, which seem according to the application information remain unchanged, however the proposal also shows a pedestrian access point and this will impact on the continuous boundary wall, which is part of the listing. I would therefore suggest further information is required at pre-determination stage, along with the necessary listed building consent application, for the alteration and formation of the new access point through this listed wall. There are unanswered questions such as - What is the new access going to look like? How wide is the pedestrian access? What is proposal for finishing the returns of the wall, the copings and what proposals are there for any material removed?

At the moment there seems to be no set plans or timescale for Wilderslowe House, the lodge, the 'pepper pot' towers or the repair and reuse of the buildings within the conservation area. I would strongly suggest that should you be minded at a later stage, following any amendments to the scheme, to grant permission that any permission has a condition making sure that these buildings are repaired at the earliest opportunity rather than left and are required to be in use before the occupation of any residential units upon the site.

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

The listed wall along London Road, which is a retaining wall for some length, runs along a substantial length of London Road. The proposals plan (e.g. figure 28) and concept pepperpot square seems to show substantial parts of the wall being removed and even the author of the heritage statement (p44) seems to be unsure and mentions 'the opening up of a section or sections in front of the retained northern pepper pot'. The heritage impact plan notes in the key 'retain wall with partial removal to front of retained pepper pot'. The access concept plan shows 5 pedestrian and one vehicular access through the listed wall. I would strongly suggest clarification is sought on the proposals extent and number of wall accesses being created and extent of removal including a clear marked up photo, a scale plan and an elevation detailing this. It would also be important to have further details to confirm how the wall, once part of it removed, is proposed to be finished (as regards facing, returns, piers, copings, mortar mix and finish) and what is proposed in detail as regards any walling material that is removed at pre-determination stage. I would suggest that other parts of the wall are assessed and repaired where needed. As we have already confirmed to the applicants listed building consent is required and details should be submitted for these works so that the assessment as to the acceptability of the works can be assessed.

I note that the repair to the wall and repainting of the railings are proposed, which is welcome. I would advise that the details of any proposals and schedule of work are submitted along with a method statement so that an assessment as to whether listed building consent is needed for these works.

I have no objection to the principle of moving the listed statue of Queen Victoria within the existing site to a better more prominent location as long as this is done carefully. The statue has been moved before from The Spot to its current location. However the applicant should note that further discussion on the exact location should be sought and listed building consent submitted detailing a better location and a method statement on how it would be moved.

Part of the Hartington Conservation Area is within the site and this includes Wilderslowe House and curtilage structures and 123 to 129a Osmaston Road. The application mentions the aspiration for continued residential use, which is acceptable from a conservation viewpoint.

This outline proposal includes mention of the demolition of rear extensions to the rear of the buildings 123 to 129 Osmaston Road. These buildings are within the conservation area and the extensions can be viewed from within the Hartington Conservation Area and from the listed Wilderslowe House. I suggest that a more detailed heritage assessment is undertaken on the dates of the existing extensions so that their contribution to the conservation area can be fully assessed and the extent of demolition is clarified, at pre-determination stage. I note the benefits to the conservation area of reinstating garden space but to assess this proposal I suggest we need a plan and elevation showing exactly which parts of the rear extensions are proposed to be removed and what works are proposed to 'make good' and repair the rear of the building once the rear extension is removed.

There is a pedestrian access point proposed to the rear of the fine stone fronted 119 Osmaston Road, which is within the Conservation area. There looks to be an access

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

proposed on the access map to go through some traditional metal railings to the rear of this building. Although outside the conservation area this is part of the setting of the conservation area. I presume that they will be creating an opening within the railings and leaving the traditional railing in place. I suggest that should you be minded to grant permission for this application, once the necessary amendments have been made, that this clarification is sought by condition.

At the moment there seems to be no set plans or timescale for the repair and reuse of the buildings within the conservation area, 123 – 129a Osmaston Road, which are proposed to be retained and reused. I would suggest that should you be minded at a later stage, following any amendments to the scheme, to grant permission that any permission has a condition making sure that these buildings are repaired at the outset rather than being left and, I suggest, are required to be repaired and in use before the occupation of any newly constructed residential units upon the site.

Both pairs of pepper pot towers are locally listed structures and were selected jointly as they are of both of architectural and historic interest, and are the only nineteenth century remaining elements of the hospital that remain on the site. They are both part of a coherent design and therefore relate to each other spatially, historically and are equally important.

They are a coherent pair, part of the character and local distinctiveness of this area as well as being way finding structures - when one moves along London Road. The proposal is to demolish the southern pepper pot tower and to retain, convert the northern pepper pot. There will therefore be direct harm to this heritage asset. I am not currently convinced, despite the arguments put forward, that there is a clear and convincing argument why the second pair of pepper pots should not remain as part of this scheme and a very slight amendment to the scheme would enable this retention. I would suggest that the scheme is amended to retain, repair and reuse adaptively both pairs of buildings.

Paragraph 135 of the NPPF states that ‘the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing up applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.’ Therefore the scale of the harm is great to this locally listed building. I disagree with the heritage statement and in my conservation view the demolition of this locally listed building is not acceptable (where it is clear that it can be incorporated into the scheme).

The still live Policy E19 of the Local Plan Review (Saved Policies) states that ‘the City Council will also seek to ensure the conservation of locally important buildings and structures, including those on its Local List, by encouraging their retention, maintenance, appropriate use and restoration. The Council will therefore not

normally approve development proposals that would have a detrimental effect on locally important buildings or structures as a result of: a. demolition.....in the case of buildings of local importance, applicants will be expected to demonstrate that all

**Classification: OFFICIAL**

reasonable alternatives to demolition have been considered and found to be unrealistic'. In my view I am not convinced that this has taken place.

Policy CP20 of The Derby City Local Plan – Part 1 (January 2017) states that 'The Council recognises the historic environment as one of Derby's greatest resources and will protect it through the preservation, enhancement, restoration and repair of heritage assets'. It also says that development proposals that would have a detrimental impact on the significance of a heritage asset will be resisted.

In my view paragraph (a) is relevant as the City Council would require a statement of significance and an impact assessment to ensure not just the importance of the asset is understood but also the extent of any impact. In my view the impact of the proposals are currently not fully understood and these include the proposed new accesses within listed walls and impact on the conservation area as a result of the removal of the rear extensions of the 123-129a Osmaston Road.

Many of parts of this policy are also relevant including paragraphs (c) which requires proposals for new development that have the potential to impact upon the significance of heritage assets (including through development affecting the setting) to be of the highest design quality to preserve and enhance their special character and significance through appropriate siting, alignment, use of materials, mass and scale.

There are a number of other access points proposed along other unlisted elements of wall and railing including that along Bradshaw Way. These stone walls are heritage assets. I would like to ask for some clarification on the size of openings on a scale plan, elevation and in section - as at these points the wall is a retaining stone wall and this would enable assessment of the visual impact of the proposals in these locations. I would strongly suggest clarification is sought on the extent of wall removal including a clear marked up photo, a scale plan and an elevation detailing this. It would also be important to have further details to confirm how the wall, once part of it removed, is proposed to be finished (as regards facing, returns, piers, copings, mortar mix and finish etc) and what is proposed in detail as regards any walling material that is removed at pre-determination stage.

There is also the formation of an access to the south east of the site. The boundary treatment at this point is not clear. I would suggest that the details of this proposal is submitted so that it can be understood how the boundary adjacent to the access point links to other boundary treatments and those of the listed wall along London

Road. I suggest that there is a re-established stone wall in this location where it is lost and it is constructed of new or re-used stone - to re define and rebuild the wall to the south east corner of the site.

#### Recommendation

I welcome the redevelopment of the site; however, unfortunately this scheme does have a negative impact on heritage assets and directly harms a locally listed building. It also potentially looks to have a harmful impact on the significance of listed buildings – but further information on the new access points through listed stone boundary walls adjacent to Wilderslowe House and upon London Road are not fully explained or detailed.

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

I therefore currently have concerns on conservation grounds and I suggest that more information is submitted and the scheme is amended (in line with the suggestions made in the main body of my consultation) to address these concerns.

Once the full extent of the works and harm to the heritage assets are known the decision maker will then, as highlighted in the NPPF, have to make a balanced judgement on the loss of the locally listed building and as regards other designated heritage assets weigh up the harm to heritage assets against the public benefits of the scheme.

**Further comments to agent's response – April 2017:**

**Comments on individual heritage assets**

- My main comment of concern on this application is the loss of one of the locally listed two pepper pot towers of the former hospital building. Like other consultees - I am not convinced that both pairs couldn't be retained as part of this application. I have raised this important point repeatedly at pre-application stage and through the life of this application. No changes to this application have been made as regard to this.
- There was a public inquiry on this site which although was for a different scheme and a mixture of uses, which was not fully implemented, the Planning Inspector approved the removal of one locally listed building and the part removal of others. However he endorsed the retention of both of these pepper pot towers. There has been no material change, despite the change of use mix, in circumstances that I can see would alter this conclusion. In terms of policy this has been reinforced with the saved 2006 Local Plan policies and the Derby core strategy being published.

Within National and City Council Planning Policy there is a presumption in favour of retaining heritage assets.

- NPPF 126 states that heritage assets are an irreplaceable resource, and para 131 states that Local Planning Authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. This applies to both designated and non-designated (local) heritage assets. Saved policies in the Local Plan Review (2006) state the City Council will seek to ensure the conservation of locally important buildings, including those on the local list, by encouraging retention, maintenance, appropriate use and restoration. The council will therefore not normally approve development proposals that would have a detrimental effect on locally listed buildings as a result of demolition.

The City of Derby Core strategy highlights locally listed buildings as heritage assets and part of the city's local identity and sense of place. Policy CP20 states that the Council recognises the historic environment as one of Derby's greatest resources and will protect it through the preservation, enhancement, restoration and repair of heritage assets. It states that development proposal that would detrimentally impact upon the significance of an asset will be resisted. Within 5.20.2 it states that the council is committed to ensuring that the city's heritage is appropriately preserved

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

and wherever possible enhanced. Proposals that would undermine this objective will not be permitted by the Council.

- No evidence has been provided for consideration of any alternative scheme including the retention of the 2nd pepper pot tower or convincing evidence that demonstrates that retention and re-use is not possible. The removal of part of the listed wall (mainly along London Road) has been discussed at pre-application stage very generally and the information submitted is illustrative rather than giving specific dimensions and details of removal. I would prefer to have more information at this stage so that there can be certainty for the applicant and it would pin the amount of loss down in listed building terms. Through this outline process there is no certainty for the applicant that listed building consent will be able to be given for the extent they may or may not be seeking to remove. Furthermore, the extent and location of removal of listed wall appears to be partially tied up with the proposed demolition of the 2nd pepper pot tower and redevelopment in this area, to which there is a clear conservation objection.

The NPPF para 128 states that in determining applications local planning authorities should require an applicant to not only describe the significance of the of any heritage assets affected but also the level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. In this case the level of information submitted does not enable us to understand the potential impact on the heritage asset.

Policy CP20 of the Core Strategy part 1 states that 'the Council will: ...require proposals for new development that have the potential to impact upon the significance of heritage assets (including through development affecting the setting) to be of the highest design quality and to preserve and enhance their special character and significance through appropriate siting, alignment, use of materials, mass and scale and take account of best practice guidance'. This infers a certain amount of detail to ensure that it is of the highest quality. The detail has not been yet submitted so this cannot therefore be currently assessed. This would have to be assessed through the RMA/Condition route should you be minded to grant permission.

- Policy CP20 states that the Council will 'require that where proposals have the potential to impact upon heritage assets, a statement of significance and an impact assessment are submitted to ensure that the importance of the asset and the extent of the impact is fully understood'. In my view and in this case there isn't the necessary amount of information to assess impact of the proposals.
- In terms of the removal of extensions to the Osmaston Road properties they can be viewed from within the Hartington Street Conservation Area and from the Listed Wilderslowe house. There is insufficient information to assess the impact of the removal of the extensions to these buildings and what the finished result will be. It would have been useful to fully understand the impact at pre-determination stage but suggest if this is not possible, that this is controlled by the RMA.

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

- I have nothing to comment upon regarding the treatment of retained locally listed pepper pot tower. This is an approach the success of which will be down to the detailed design and suggest this is done via the RMA/conditions.

Does the outline application contain sufficient information on heritage impacts?

It is unusual in Derby to deal with heritage assets in association with an outline planning application with all matters other than access reserved. Policy CP20 states that the Council will 'require that where proposals have the potential to impact upon heritage assets, a statement of significance and an impact assessment are submitted to ensure that the importance of the asset and the extent of the impact is fully understood'. In my view and in this case there isn't the necessary amount of information to assess impact of these proposals.

As I have already pointed out Core strategy CP20 (above underlined) highlights that the development needs to be of the highest design quality and to preserve and enhance their special character and significance through appropriate siting, alignment, use of materials, mass and scale and take account of best practice guidance. An outline application with this limited detail, in my view, does not allow us to assess this.

In addition to Local Policy CP20, and NPPF para 128, Historic England's Good practice Advice in Planning 2 'Managing significance in decision taking in the Historic Environment' (March 2015) also reiterates that the information in support of applications for planning permission... should be no more than is necessary to reach an informed decision. In this case there hasn't been the level of information submitted to enable an informed decision.

If no further information is going to be submitted at this stage, and if you are minded to grant permission, I suggest that all the details and detailed design are resolved at RMA stage/condition. However it should not be inferred that the extent of removal of the listed wall and other works are agreed.

How will future outcomes be secured?

I note the applicants suggested conditions.

In relation to suggested conditions A, B, C, D, E and F – I suggest that a detailed phasing plan, timescale for implementing the phasing plan, heritage asset phasing plan, timescales for the submission of listed building applications and our LPA agreement for these - are built into the Reserved Matters, conditions and any 106 legal agreement. I would like to comment on condition F as regards suggested '95% of the total number of dwellings on the site permitted by RMA be occupied until the heritage assets have been substantially completed'. The wording 'substantially completed' is a concern. I am very concerned that, should you be minded to grant permission, that the heritage assets will be left until last and be left to decline in condition while the new build is constructed. I strongly suggest that the percentage of dwellings occupied is much lower to give certainty that the heritage assets will be repaired and are put into use in relation to this application. Another suggestion is that there could be a more detailed phasing plan alternating between new build and restoration of heritage assets – this could be agreed, with the heritage assets 'completed' to the satisfaction of the LPA rather than 'substantially completed' and

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

prior to a final phase of new development. This is to ensure that the futures of heritage assets are legally secured early on as part of this development.

Overall recommendation

Although the proposed scheme includes the retention, repair and the putting into use of a number of heritage assets on Osmaston Road - and this is of course welcomed - one cannot get away from the fact that the scheme is harmful to a number of the other heritage assets on the site and does not contain sufficient detail to fully understand the impact on others.

I would urge the applicant to have a serious rethink and omit the removal of the second pepper pot tower which is a locally listed heritage asset and part of the character and local distinctiveness of this part of Derby.

As heritage assets are an important and irreplaceable resource and there is a presumption to retain heritage assets, as seen in the National and Derby CP20 Core strategy Policies, these will be given the necessary weighting within the decision making process.

The direct impact of demolition of the heritage asset will have to be weighed up with a balanced judgement (NPPF Para 135) to the scale of loss and harm to the significance of the heritage asset as a locally listed building.

NPPF paragraph 134 needs to be used in relation to the less than substantial harm to the significance of the designated heritage assets; the conservation area (removal of extensions) and nationally important listed buildings (listed wall, Wilderslowe House etc). The harm to these assets I suggest need to be weighed up against the public benefits of the proposal in line with para 134.

**Victorian Society:**

Having considered the submitted documentation we object to the application due to the proposed loss of a building of high local importance and the harm that would cause to an understanding of the site and the quality of the local built environment.

The north and south pepper pot towers are all that now remains of Hall and Young's Derbyshire Royal Infirmary of 1891. The foundation stone was laid by Queen Victoria, who is memorialised by a fine statue nearby. Despite the loss of the vast majority of the once impressive hospital complex, including certain buildings of notable interest, the pavilion buildings remain characteristic and distinguished structures in their own right, contributing positively to the character and quality of the local area, serving as local landmarks on London Road and permitting some appreciation of the original scale, layout and form of the 1890s hospital. The significance of the pavilions is acknowledged by the Council by their inclusion on the City of Derby Local List, which states that "it is the Council's intention that every reasonable effort will be made to conserve those buildings and structures of local importance to benefit the city as a whole".

It is a core planning principle that heritage assets are conserved "in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations". Paragraph 131 of the NPPF, states

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

that Local Planning Authorities should take account of the “desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation”. It highlights also the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality. Paragraph 132 stresses that “great weight” should be given to the preservation of heritage assets. Paragraph 58 compels Derby City Council to ensure that developments “respond to local character and history, and reflect the identity of local surroundings and materials”. In addition, paragraph 135 of the NPPF states that “the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application”. The demolition of one of the domed pavilions is therefore a material consideration in determining this application, one that the Council is obliged to take into account.

National policy presumes in favour of sustainable development, which requires equal regard be paid to economic, social and environmental issues. The protection and sensitive management of the historic environment is a key part of the environmental aspect and, by proposing the loss of this locally listed building, it is one this scheme neglects. This application does not, therefore, constitute sustainable development.

The demolition of the locally listed buildings cannot be argued to be necessary in order to achieve a viable, desirable and deliverable development. In the context of the size and scale of the site and the envisaged development, it is, frankly, perverse (and, with reference to the Council’s Local List, simply not ‘reasonable’) to propose the demolition of one of the pavilion buildings. There is considerable scope for an alternative approach, which preserves both historic buildings – their significance and the positive contribution they make to the quality of the surrounding built environment – without obstructing the redevelopment of the site.

The unjustified loss of the locally listed building would irreparably and unjustifiably harm the character of the local area, depriving it of a heritage asset of high local importance that it is local and national policy to protect. We recommend that this application is refused consent.

**Built Environment (Urban Design):**

The proposal is, in general, a well-considered permeable mixed-use development which integrates some of the key existing features into a coherent layout. The above application includes a fairly thorough Design and Access statement which details the analysis of the site and wider context.

On a largely cleared site, there is a great opportunity to knit new development into the existing, which will both give a great sense of permanence often missing for many years in areas of new build. I support both Pepper-pot towers being retained for creative re-use. The D & A gives mixed messages on why the second tower is not retained for re-use, as visual analysis shows both of the two Pepper-pot towers as landmarks. The key views shown on page 29 of the D & A statement then are shown only towards the Pepper-pot tower closest to the Holy Trinity Church, despite the other tower also being prominent. Page 15 shows extracts from the Council’s City Centre Regeneration Framework, which also offers both towers as landmarks. The

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

statement later explains that retention of the second tower impacts on the best outcomes for the housing mix & number and the connections across the site: however, a slightly greater density of residential could be used elsewhere on the site (i.e. more 3 storey and possibly even 4 storey, in keeping with maximising S-E orientated views across the site) and connectivity can be maintained through retention of the (proposed for demolition) tower as a "gateway" to the green route.

The visuals showing a glazed extension to the rear of the retained tower, together with 3 storey housing facing onto a public space to the rear, is welcomed.

The site exhibits interesting topography with level changes of 13 metres from higher ground at N-W to S-E. The sections outlining level changes such as on page 51 of the D & A are welcome but sections a-a to d-d and f-f showing stepped terraces in the centre of the sections (to the rear of gardens). It is important to understand what sort of space this will become and that it won't be dominated by retaining walls. Will the level changes here impact upon amenity of houses facing each other, drainage and will they enhance the views towards the S-E which the site analysis references, for best legibility and orientation? Will the level changes mean any trees proposed for retention can really be retained with their root-zones entirely unaffected?

The general block structure offers permeability in a clear grid of streets, and the opportunity for clearly defined semi-private realm within the blocks. The strong axis N-E to S-W is welcomed and the green link. Consideration should be given to how the central area of the street with pedestrian/cycle links only will function in terms of ensuring a clear language of what is private and public space (BfL). The houses adjacent to the non-trafficked section will require active edges, habitable rooms with windows and doors facing onto the pathway for it to feel safe.

There is active edge proposed around the perimeter of the site and enhanced pedestrian, cycling and vehicular routes. The buildings facing a line of "parkland" parallel to London Road is welcomed, but again before and after levels testing will be fundamental to whether the existing mature trees can be realistically retained, which in turn will be fundamental to the "mature" character of this linear walking route, and will be needed to buffer the new housing (several stories higher) from the Almhouses/church area on the opposite side of London Road.

The suggestion of a language of materials should explain how they relate to the distinctiveness of the site and the use of a suite of house types which "turn the corner Well", as recommended in Building for Life 12, should not offer render as a default, but other tones/material changes.

The building heights information is acceptable: the larger massing at the Bradshaw Drive/London Road corner and also alongside Bradshaw Drive is appropriate as it gives the scale of the ring road and offers some visual links to the street via upper floor windows.

This steps down two residential stories (to 4 stories) towards the area fronting London Road which respects the Holy Trinity church and Liversage Almshouses, whilst retaining some symmetry each side of the pepper pot tower. It may be possible that the residential heights can be 3.5 with some 4 storeys on corners/nodes/along

**Classification: OFFICIAL**

main streets, rather than 2.5 with some 3 storey. It is recommended that the massing/height judgements be refined through testing options using the city centre 3D model and in conjunction with exploring the real implication of the level changes across the site I welcome the green route parallel to London road, but recommend that further detail is given to how the existing wall will be curtailed at intervals to form entrances. Will this affect realistic retention of trees, with the level changes (as per sections on page 51) The exact canopy edges of all retained trees need to be defined on plan at this early stage to ensure that foundations of any new development are not close to this line.

Page 55 of the D & A cites a variety of parking but focusses on "on plot" and a parking strategy should be considered in reserved matters to ensure it informs the street character hierarchy: some "on street parking" should be included on the major streets, along with street trees, this will help reduce traffic speeds.

Opportunities when testing structure against the 3D model should consider solar opportunities, plus other aspects of our Green Development Guide. As many trees have been lost, biodiversity can be enhanced by SUDS features within the streets and possible green roofs on commercial buildings.

I support the most formal cycling/pedestrian route as a green link through Castleward to Bass Rec, and towards the Arboretum presumably and this could become part of the National Cycle Network. The other streets need to be considered as ideally recommended for all uses and not segregated with cyclists away from cars.

A green/pond area is shown adjacent to the Walk-in centre (Urgent care centre), which will need dwellings with active edges designing for natural surveillance and a green space like this would also benefit from 24/7 vehicular activity along the entire route.

Only to add that given the success of the public art scheme in Castleward and other housing developments in the city, considerable thought and commitment should be given to public art and creative engagement and community in the design and development process. Public art is a process that should be integral to the design of the area and key to the evolution of a successful high quality, sustainable place, design collaboration would be of value to this development.

The D & A appendices include an assessment against BfL criteria. I agree that with the mixed score of green and amber (towards green at reserved matters stage), except for Working with the Site, which I believe to be red until the levels are understood further.

**Conclusion**

It is strongly recommended that this cannot be approved until:

- a) the massing/height judgements and
- b) the potential character of streets within the areas of proposed greatest level change in the centre of the site are tested and explored (in part using the city centre 3D model) to explore the real implication of, and opportunities for, the level changes across the site. A judgement cannot be made to support this

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

layout in terms of placemaking through BFL without this and as such this cannot be deferred to "reserved matters".

**School Place Planning:**

Please note that very consideration will need to be given to accommodating primary and secondary pupils from the development as there is very limited surplus capacity available at local primary schools and secondary pupil numbers are increasing.

**Natural Environment (Tree Officer):**

Tree Preservation Order (TPO) 542 covers trees throughout the former DRI site, with part of the site also being within the Hartington Street Conservation Area where any trees not already covered by a TPO would automatically be protected.

The contents of the submitted Arboricultural Constraints Report, Arboricultural Impact Assessment, Tree Protection and Removal Plan and Tree Protection Plan and Masterplan Overlay are noted.

One of our Arboricultural officers met with the applicant at the site last year to discuss and agree their tree protection and removal strategy, as detailed in the Arboricultural Impact Assessment, section 6.3. Having spoken to the Arboricultural officer they have confirmed that the trees shown to be retained and removed in the submitted application are generally in line with the discussions held last year.

Following on from the comments made by our Arboricultural officer at the meeting last year, if we are minded to approve this application, I would recommend that we condition the submission of an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) as detailed in the Arboricultural Impact Assessment, paragraphs 1.4.3 and 3.2.1.

**Landscape & Parks:**

I note that in the illustrative layout the Green link for pedestrians and cyclists through the site from London Road to Osmaston Road has been 'watered down' in that the route now varies from the preferred route suggested at the pre-app stage when the route connected directly to Osmaston Road. It seems that the route now comes out on Litchurch Street, an alteration that loses the more direct connection with Osmaston Road and the Arboretum. This doesn't deliver the footpath connection between the Castleward development and River Derwent corridors and the Arboretum suggested in the Draft Derby Masterplan in such a direct and imaginative way. The previous proposal showed a wider and more direct 'Boulevard' with avenue trees defining the route rather than the more informal route in this outline application. This new design rather dilutes the strong green axis through the site which is provided by the 'peppercorn' route but due to the level difference is less user-friendly to pedestrians and cyclists.

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

I welcome the creation of the wide linear parkland along London Road and the retention of the majority of the existing trees along this boundary and Bradshaw Way. This will certainly enhance and improve the special character of the London Road boundary with the provision of off-road cycling and pedestrian access through the park land. Consideration at the detailed design stage needs to be given to the choice of planting and materials to ensure that these are robust and cost-effective to maintain.

The development of the central 'pepperpot' as the focal point and high quality public space will tie the central formal axis to the linear parkland and the city centre. The connection E-W with the Castleward area and the Arboretum along the Green Link is less well defined and rather down-graded now with the removal of the second 'pepper pot'. I note that the cycle/pedestrian link crosses the vehicle route in a couple of places which will need to be carefully managed to avoid conflict.

#### **Environmental Services (Health – Pollution):**

##### **Land Contamination**

1. The site is identified as potentially contaminated due its historical use as a hospital. The proposed development of the site for residential dwellings is also considered a 'sensitive' land use in terms of human health.
2. I note the submission of a Preliminary Contamination Assessment (Report Ref: MAS-NQE 501-1, M A Smith Environmental Consultancy, 31 October 2016). I can comment on the assessment as follows.
3. Please note that the following comments do not seek to interpret or discuss the suitability, or otherwise, of any of the geotechnical aspects of the site investigation, other than in a land contamination context.
4. All comments relate to human health risks. I would refer you to the Environment Agency for their comments on any conclusions made in the report surrounding risks that may exist to controlled waters, since the Local Authority cannot comment on these aspects.

##### **Conclusions on Contaminated Land Risks**

10. The report highlights that the near surface ground has been extensively disturbed during the recent demolition and site clearance works, pointing out that the historical investigations cannot be relied upon to provide a true picture of current site conditions. The Environmental Protection Team's position concurs fully with these comments.
11. The report makes a series of recommendations for additional ground gas and soil contamination investigatory works on a 'section by section basis' in line with the development process.
12. The Environmental Protection agrees with the recommendations in the report. Consequently, we would recommend the following conditions are attached to any consent, should it be granted:
  - With reference to the recommendations outlined in the M A Smith Environmental Consultancy Preliminary Contamination Assessment Report (Report Ref: MAS-NQE 501-1, dated 31 October 2016), intrusive

**Classification: OFFICIAL**

site investigations shall be carried out for each Phase of development to determine the levels of ground gases and soil contaminants on site. A risk assessment for each Phase will then be required to determine the potential risk to end users and other sensitive receptors. A detailed report of the investigation for each Phase will be required for submission to the Council for written approval, before the commencement of each Phase of development.

- In those cases where the detailed investigation report confirms that significant contamination exists, a Remediation Method Statement for that Phase of development will be required for submission and written approval, before the development of that Phase commences.
- Finally, all of the respective elements of the agreed remediation proposals for each Phase will need to be suitably validated and a Validation Report shall be submitted to and approved in writing by the Local Planning Authority, prior to each Phase of development being occupied.

Noise

13. The development proposes to introduce sensitive receptors i.e. residential dwellings, into a noisy city centre location. Consequently, future occupants are at risk of being exposed to high levels of noise.
14. I can comment on the report and its findings as follows.

Noise Assessment Report

15. The noise assessment includes sound measurements taken from four monitoring locations on Tuesday 20th and Wednesday 21st September 2016.
16. The plan in the Appendices referred to in the report (reference WM11152-005) does not appear to highlight the monitoring locations. Following discussions with Wardell Armstrong, I am however now in receipt of the correct plan depicting the monitoring locations.
17. The assessment highlights road traffic noise as the dominant source of noise along the north western, south western and north eastern boundaries of the site.
18. The report suggests that commercial/industrial noise from the adjacent London Road Community Hospital to the south eastern boundary is not deemed to be potentially significant and therefore no specific assessment of related sources of noise is included. Section 3.2 includes a discussion on this point.
19. Similarly, other nearby sources of commercial noise were not deemed worthy of specific consideration as they were 'not audible' at the time of the assessment. The relatively confined measurement period (covering only a Tuesday and Wednesday) suggests that some audible noise within the locality may have been missed.
20. Nonetheless, I am not aware of any evidence that might suggest that further assessment of noise from local commercial sources may be necessary.

21. Daytime (7am to 11pm) and night-time (11pm to 7am) L(A)eqs have been calculated using the shortened CRTN method (based on a 3 hour survey), however in all cases the measured levels have been used.
22. The daytime and night-time values are summarised and described in Table 2 (page 14, section 4.1.6).
23. Night-time L(A)max values are also summarised, within Table 3 (page 15, section 4.2.2). The values presented here do not seem to accord with the maximum values presented in the data in Appendix A at the back of the report.
24. Following discussion with the author of the report on this point, I understand that some of the L(A)max values were removed from the data because they were deemed to be unrepresentative of 'typical' local conditions. In particular noise from 'loud car horns' and 'significantly loud cars' were removed. I received a further email explaining this position dated 3rd May 2017 from Nicholas Auckland (Wardell Armstrong).
25. Based on the justification given by Mr Auckland (which includes a suggestion that car horns shouldn't be audible after 11pm because this is illegal), I do not agree with the removal of this data. I would consider 'car horns' and 'loud cars' to be consistent with noises one would expect to hear in a city centre location such as this and therefore entirely representative of typical conditions.
26. Furthermore, given that the monitoring only covers a Tuesday to Wednesday, I would suggest that these types of occurrences would increase in regularity during the night-time periods at weekends, in association with the busy city centre 'night-time economy'.
27. Any insulation scheme in proposed new dwellings will need to take all L(A)max values into account.

**External Living Areas**

28. The report concludes that external living areas (e.g. gardens) located at any of the three monitoring locations at the site boundary could exceed recognised standards for outdoor living spaces (maximum of +8dB in accordance with BS8233) and therefore require mitigation.
29. The report suggests that the criteria for outdoor living spaces are unlikely to be exceeded at properties located further into the development and therefore only those at the site boundary would require mitigation.

**Internal Living Areas**

30. In terms of internal noise levels, Table 5 describes the attenuation required to ensure a suitable living standard internally during the daytime. I would accept these criteria.
31. With respect to internal levels at night, these are reported in Table 6. As discussed in points 23 to 27 above, I do not accept these criteria due to the removal of some of the L(A)max data.
32. It is important to note however, that, in accordance with WHO Criteria for L(A)max values at night, the monitoring still suggests that the criteria might not

be exceeded (at least on a Tuesday/Wednesday) based on the proposed attenuation levels, given that the number of occurrences of significant L(A)max values are infrequent and probably below the “10-15 times per night” threshold. Whether this would still be the case at weekends is difficult to judge confidently using the data in the report as this did not cover weekends.

**Increases in Road Traffic Noise**

33. Section 4.5 discusses potential increases in noise levels due to additional traffic on the local road network as a result of the development itself.
34. The discussion scopes out impacts from additional road traffic in accordance with DMRB screening criteria, on the basis that no predicted increases in traffic on any adjoining roads would exceed the 25% threshold. I am happy with this justification and accept the comment in section 4.5.8 that road traffic noise increases do not need to be considered further.

**Commercial Noise**

35. The report highlights potential concerns over commercial noise associated with the mixed-use areas proposed as part of the development. It does however stress that a detailed assessment of such noise is not currently possible at this ‘outline’ stage.
36. Whilst the report does provide some outline mitigation suggestions (section 5.6) it recommends further assessment of noise from commercial sources as information becomes available at the more detailed design stage. This sounds like a sensible approach.

**Mitigation Measures**

37. The report provides a range of mitigation options in section 5 to ensure that future dwellings are protected against the prevailing noise levels at the site.
38. Given the absence of details at this outline stage, it would be sensible to design a detailed scheme once information such as layout has been decided, however it is important that the detailed design of the site takes into account the options presented in section 5 of the report.

**Conclusions and Recommendations on Noise**

39. The report is thorough and generally provides a robust assessment of potential noise that could affect future residents of the development, based on the relatively limited information currently available at this outline stage.
40. The report demonstrates that the location is affected by relatively high levels of noise, primarily associated with the adjacent Bradshaw Way, London Road and Osmaston Roads.
41. The report concludes that suitable living conditions can be achieved in future dwellings following the incorporation of mitigation measures. The Environmental Protection Team accepts this broad principle and has no objections to the application on noise amenity grounds, provided that suitable mitigation is included.

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

42. The mitigation outlined in section 5 of the report is a useful guide, however further detailed proposals will be needed as the final site design becomes clearer.
43. To ensure adequate amenity for future occupants, the Environmental Protection Team would strongly recommend the following conditions are attached to the planning consent should it be granted:
  - Before the commencement of each Phase of the development, a detailed noise mitigation scheme shall be submitted for written approval by the Local Planning Authority (LPA). The scheme should consider the data provided in the Noise Assessment Report (Wardell Armstrong, Ref: WM11152, Dated: December 2016) with particular consideration of L(A)max levels in accordance with the Environmental Protection Team's consultation response of 5th May 2017 . All agreed mitigation measures shall be incorporated into the development before that phase of the development can be occupied.
  - An assessment of noise impacts arising from any of the commercial uses proposed as part of the development shall be submitted to the Local Planning Authority (LPA) before that phase of the development commences. The assessment shall follow the methodology of BS4142:2014 or other methodology to be agreed in advance with the LPA and shall provide detailed mitigation proposals where the assessment indicates that this is necessary. All mitigation measures shall be agreed in writing with the LPA and shall be incorporated into the development in full before the development is occupied.

#### Air Quality

44. The development would introduce sensitive receptors i.e. residential dwellings, into an area of known poor air quality and which has been designated an Air Quality Management Area (AQMA). Future occupants are therefore at risk of being exposed to high levels of nitrogen dioxide (NO<sub>2</sub>) and possibly fine particulate matter (PM<sub>2.5</sub>).
45. I can comment on the report and its findings as follows.
46. The report includes an assessment of both construction-related dust and also effects on/from the development itself once complete.
47. The construction dust assessment follows IAQM guidance which is an appropriate tool.
48. Detailed air quality modelling has been completed using the ADMS-Roads air dispersion model, based upon traffic data from a 2010 Transport Assessment for the development, using a base year of 2015 and a proposed opening/future year of 2021.
49. Meteorological data was sourced from the Nottingham Meteorological Recording Station for 2015. I assume that reference to wind data from 'Stansted Airport' in section 3.7.3 is a typo.
50. The model has been verified using local diffusion tube data for 2015.

**Classification: OFFICIAL**

Construction Dust Assessment

51. The assessment is robust and uses appropriate guidance. It concludes a predicted 'high risk' of dust soiling from earthworks and construction works, with a medium risk from 'trackout'.
52. The human health risks from construction dust are considered to be low.
53. The report suggests that a "best practice dust mitigation plan will be written and implemented for the site" (section 9.1.5, page 44). Some measures are mentioned in the report, however a more detailed plan is proposed. The Environmental Protection Team supports this proposal.

Operational Impacts Assessment

54. Section 6 of the report provides results for the operational air quality impacts in 2021 using 2021 background data and emission factors. Following 'sensitivity analysis' Section 7 then describes the same opening year scenario, but using 2015 background data and emission factors within the 2021 predictions.
55. Given current uncertainties about future predictions of air quality levels, the Environmental Protection Team sees the latter of these two methodologies to be the most robust and appropriate approach, albeit we would accept that some improvements may occur in practice, especially in light of the Clean Air Zone (CAZ) and other proposed air quality improvement measures in Derby.
56. The results in Table 22 are therefore considered to be the best basis for making future air quality impact judgements upon.
57. The greatest predicted impact from development-generated traffic in terms of nitrogen dioxide (NO<sub>2</sub>) increases is a rise of 2.45% at receptor location ESR6 (at the junction of London Road and Liversage Road). This location is already predicted to experience exceedances of the National Air Quality Objective and EU Limit Value for annual average NO<sub>2</sub>.
58. Using the impact descriptors under the IAQM/EPUK Guidance (described in Table 13 of the report), 6 out of the 11 chosen existing receptor locations would be classified as experiencing a 'Moderate Adverse' impact from the development due to increases in traffic on the local road network, namely ESR1, ESR4, ESR5, ESR6, ESR7 and ESR 9.
59. 'Slight Adverse' impacts are also predicted for receptors ESR3, ESR8 and ESR11, with only 'negligible' impacts described for the remaining 2 modelled receptors.
60. Increases in PM<sub>10</sub> and PM<sub>2.5</sub> are considered 'negligible' at all existing receptor locations.
61. In terms of the three modelled receptors representing future residential receptors introduced by the development itself (PR1, PR2 and PR3), receptor PR1 is predicted to experience levels of NO<sub>2</sub> in excess of the National Objectives/EU Limits. No other exceedances are predicted at any other future receptors or air pollutants.

Discussion and Conclusions on Air Quality Impacts

62. Based on the modelling, the development is predicted to have significant impacts upon local air quality (based around annual average NO<sub>2</sub> levels). This is due to notable increases in traffic on the already busy local road network.
63. According to these same estimates, future occupants of residential units located around receptor PR1 could be exposed to levels of NO<sub>2</sub> in excess of recommended levels.
64. As the report highlights in its own discussion (section 10.2.3), it is important to note that these predictions are based upon 'conservative' modelling which assumes that no improvements in vehicle emissions will occur in future years compared with the 2015 base year. In practice, there is likely to be some degree of improvement.
65. The vehicle emissions are nevertheless based upon a 'soon to be updated' set of emission factors, which notably are expected to produce modelled predictions higher than the current factors, especially for diesel cars and LGVs.
66. As the report acknowledges, there is currently a significant degree of uncertainty around the ability to produce accurate predictions of air pollution levels in future years. In such a climate, it appears sensible to use conservative estimates. To support this approach, the concept of applying the 'Precautionary Principle' is already embedded in national planning policy.
67. Considering the development in such terms suggests that the proposals are contrary to both national and local planning policy due to potential significant impacts upon local air quality with an added concern arising from the introduction of new sensitive receptors (i.e. the occupants of residential dwellings) into an area of known poor air quality.
68. This is further exacerbated by the current Government national policy to mandate Derby to implement a Clean Air Zone within close proximity (and probably covering) this location.
69. The Environmental Protection Team does however note that 'significant impacts' are perceived when considering the proposals compared with 'no development' going ahead at this site. The air quality assessment does not provide a comparison of the proposed development against the historical use of the site as the former Derbyshire Royal Infirmary.
70. It is important to note therefore, that the historical use of the site as the former DRI Hospital created a significant amount of local traffic which would have resulted in higher levels of NO<sub>2</sub> than perhaps would otherwise be present in conjunction with the vacant site currently. Comparing the current proposals with the historical hospital situation therefore, would inevitably result in a perceived lower impact arising from the development itself.
71. Looking at it in this way, it may be hard to justify a refusal of the application based solely on air quality grounds.
72. Nonetheless, based on the information provided in the assessment and considering air pollution levels in isolation compared against the current vacant

use of the site, the Environmental Protection Team still has significant concerns about allowing such a development in this location.

73. Section 9 of the report acknowledges concerns around air quality impacts and offers some recommendations for mitigation. Whilst we support these recommendations in principle, they are insufficiently detailed to be considered as an air quality mitigation strategy for the site.
74. As indicated, the Environmental Protection Team has significant concerns over the proposals on air quality grounds, however should the development still be granted planning consent, we would recommend that a condition is attached to the consent requiring the following:
  - The submission of an Air Quality Mitigation Plan to be agreed by the LPA before the development commences. The Plan shall provide details of mitigation measures designed to minimise, as far as practically possible, increases in local emissions from traffic associated with the development and should be designed to increase the uptake of low emission vehicles. The Plan will also need to detail a mitigation scheme designed to protect the occupants of all proposed dwellings likely to be exposed to significant levels of air pollution. All mitigation measures agreed in the Plan shall be implemented in full before the development is occupied.
75. The Environmental Protection Team would also recommend a condition ensuring a buffer zone of at least 10 metres from the façade of any residential dwelling to the kerb of either London Road, Osmaston Road or Bradshaw Way.

#### Construction

76. Given the scale of the development and its proximity to sensitive receptors e.g. residential dwellings, the Environmental Protection Team would recommend that the applicant prepares and submits a Construction Management Plan for the control of noise and dust throughout the demolition/construction phase of the Development.
77. The statement will need to provide detailed proposals for the control of dust and other air emissions from all demolition and construction activities, having regard to relevant guidance, for example guidance produced by the Greater London Authority (GLA, 2006) and the Institute of Air Quality Management (IAQM, 2012).
78. Noise management procedures should have regard to the guidelines described in BS5228, or other agreed guidance/standards.
79. We would strongly recommend the inclusion of a condition requiring the above, for submission and approval before construction activities commence. The Plan should be complied with fully throughout all phases of the development.
80. I would also recommend that the advice mentioned in points 77 and 78 above is included as an advisory note.

#### **Resources and Housing (Strategy):**

No comments received.

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

**Derbyshire County Council Archaeologist:**

The previous proposals for the site included archaeological desk-based assessment, and I reached the conclusion that the site retains little potential for significant below-ground archaeological remains. The site is well outside the areas of medieval and Roman activity in Derby, and much of the area is severely impacted by the 19th and 20th century hospital development. Although there was perhaps potential for isolated footings associated with the early 19th century General Infirmary (the forerunner of the Royal Infirmary) I felt that these would offer no additional information beyond what is known from the extensive documentary resource. Following demolition and clearance of the majority of the Derbyshire Royal Infirmary buildings this assessment of archaeological potential remains the same.

The Derbyshire Royal Infirmary buildings, of 19th and 20th century date, were subject to a programme of historic building recording before their demolition, to English Heritage Levels 1, 2 or 3 depending on their assessed level of importance. This work was completed in 2014 to a satisfactory standard and included Level 3 survey of the retained 'pepperpot towers associated with Buildings 49 and 66. The reports have been deposited with Derbyshire Historic Environment Record and the primary site archive with the Derbyshire Record Office.

The current proposal will have impacts to Listed Buildings within and close to the site, within the Hartington Street Conservation Area, and on the locally listed 'pepperpot' end towers of the former hospital ward blocks, of which one is proposed for retention and the other for demolition. With regard to these designated heritage assets the Local Planning Authority should be guided by their Conservation Officer and by Historic England. Should the loss of the second 'pepperpot' be considered justified under the policies at NPPF chapter 12, then there is no need for further building recording under NPPF para 141, as a comprehensive record has already been assembled.

**Environment Agency:**

We have reviewed the application which falls into Flood Zone 1, and we have no further comments to make.

**Derbyshire Wildlife Trust:**

A preliminary ecological appraisal (PEA) comprising an Extended Phase 1 Habitat Survey was conducted by Wardell Armstrong on 10th February 2016. The desk study included a review of pre-demolition survey reports which identified the presence of a maternity bat roost on one of the buildings that has since been demolished. The loss of the roost would have required the demolition work to be carried out under a Natural England Licence to avoid committing an offence. The report refers to the issue of a licence in 2015. However, we are in receipt of confirmation from Natural England that no licence was ever applied for or issued in respect of the site. It is assumed that the bat boxes installed on mature trees at the periphery of the site was part of mitigation although it is unclear as to the basis of the mitigation given that no licence appears to have been applied for or issued.

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

The PEA identified eight buildings and six trees (with bat boxes) as having potential to support roosting bats. Limitations in respect of access and health and safety concerns to enable internal inspections of the buildings, with the exception of Wilderslowe House, are acknowledged in the report.

Further surveys in the form of dusk emergence and dawn re-entry surveys were rightly recommended and a comprehensive range of dusk emergence and dawn re-entry surveys were subsequently undertaken during May, June, July, August and September 2016. We would advise that all the survey work and report writing has been carried out to a high professional standard in accordance with current best practice guidelines and the British Standard BS42020 Biodiversity. The results of the surveys provide sufficient information to enable the Local Planning Authority to reach an informed planning decision having taken the presence of bats fully into account in line with the requirements of the Habitats Regulations. No further survey work is considered necessary.

During the surveys, a small number of Common Pipistrelle bats were recorded emerging from The Lodge building and 123, 125, 127 and 129a Osmaston Road (Buildings 3, 4, 5 and 6 respectively) although the exact points of egress remain unconfirmed. We therefore concur with the conclusion that, based on the survey results, the Lodge and 123, 125, 127 and 129a Osmaston Road are bat roosts and that a Natural England European Protected Species Mitigation Licence will be required to allow modification of the roosts.

On the basis of the submitted information, although the exact points of bat egress were not identified, it is likely that the proposed development will affect bats through disturbance of a European Protected Species and the destruction of a resting place. The destruction of a resting place is an absolute offence and, as such, will require a Natural England licence, as rightly stated in the report.

Section 6.1.6 of the Bat Survey Report proposes the implementation of a mitigation strategy which broadly includes the installation of a number of bat boxes on nearby mature trees to provide alternative roosting locations for the duration of the works, the supervision of any roof stripping/removal by a named and suitably licensed bat ecologist and the provision of permanent roost opportunities through the incorporation of bat tiles within the refurbished buildings,

We would advise that sufficient survey work has been submitted to enable the local planning authority to make an informed decision in line with the requirements of the Habitats Regulations and that the proposed mitigation set out in section 6.1.6 of the report is broadly in accordance with the requirements of the Bat Mitigation Guidelines and should maintain the population identified in the survey report.

We recommend that a condition to secure the following should be attached to any consent:

“Prior to any works which may affect bats and their habitat, a detailed bat mitigation and monitoring strategy, including the need to obtain a Natural England licence, should be submitted to and approved in writing by the local planning authority. All works should then proceed in accordance with the approved strategy and the

**Classification: OFFICIAL**

conditions of the issued Natural England licence, a copy of which should be submitted to the local planning authority once obtained.”

Given that the proposal will involve disturbance of a European Protected Species and destruction of a roost we advise that in considering the planning merits of the application it will be necessary for the Authority to demonstrate how the three tests set out at Regulation 53 of the Conservation of Habitats and Species Regulations 2010 have been considered, and state the evidence for conclusions drawn on each test as to whether the test can be met. The three tests set out within Regulation 53 are as follows:

- (i) The action will be undertaken for the purpose of preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment (Regulation 53(2)(e))
- (ii) That there is no satisfactory alternative (Regulation 53(9)(a) and
- (iii) That the action will not be detrimental to the maintenance of the population of the species concerned at favourable conservation status in their natural range (Regulation 53(9))(b)

The first two tests are regarded as “non-ecology” tests with test (iii) relating to ecology.

On the basis of the proposed mitigation it is likely that the favourable conservation status of the local bat population will be maintained and, as such, test (iii) will be met.

The retention of trees with bat boxes attached is strongly recommended. However, should the proposal require their removal, the bat boxes should be checked by a licensed bat ecologist prior to the works and if bats are present the boxes should be moved to a nearby alternative tree.

The buildings and trees on the site were also considered to have potential to support nesting birds. We would therefore recommend that a condition to secure the following is attached to any consent:

No removal of trees or shrubs or works to or demolition of buildings or structures that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds’ nests immediately before the work is commenced and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.”

We fully support the recommendation in section 5 of the Preliminary Ecological Appraisal for the incorporation of a mix of bat and bird boxes into the proposed development as biodiversity enhancement. The submission of a detailed scheme of biodiversity enhancement as part of the reserved matters submission should be secured by a condition attached to any outline consent. The enhancement scheme should include the incorporation of a range of bat and bird boxes within the design of the new buildings to benefit declining urban bird species including swift, starling and house sparrow.

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

In our comments on the previous application which was followed by the demolition of the majority of the hospital buildings under prior approval it was recommended that compensatory bat roost features should include at least 15 built-in gable end bat roost features and 5 ridge tile features

Condition 20 of the Appeal Decision for 11/10/01429 went on to require that “the demolition of buildings and any development shall be carried out in accordance with the bat survey (June 2011) and compensatory roosting features shall be implemented prior to the occupation of any building in accordance with details of the number, design and siting which shall be submitted to and agreed in writing by the local planning authority before development commences in each zone.”

The mitigation required for the prior approval of demolition of the hospital buildings required the erection of 10 Double Chamber Bat Boxes and 5 Schwegler 1FF Bat Boxes throughout the site.

The above level of bat roost mitigation is still required in addition to the enhancement provision and the mitigation for impacts identified by the Wardell Armstrong surveys in 2016. A detailed plan therefore need to submitted as part of the reserved matters submission showing the specifications and locations of the total bat roost mitigation across the site for completeness as a condition of any outline consent.

From the results of the surveys we are satisfied that bats and nesting birds are the main ecological receptors associated with the proposed development site together with the line of mature trees on the London Road and Bradshaw Way boundaries and there are no other substantive semi-natural habitats present that need further consideration.

We are broadly supportive of the submitted indicative linear park landscaping drawings including the proposed new tree planting, areas of wildflower grassland and retained trees, although the latter should include all trees with bat boxes installed as mitigation for loss of bat roosts as a result of the previous site clearance works. If this is not possible, the bat boxes will need to be relocated on the nearest retained trees. In addition we would recommend that the surface water drainage design should provide benefits for biodiversity in the form of swales/detention pond.

**Police Liaison Officer:**

Whilst it's understood that all detail is still indicative, the move away from the previous masterplan layout, which was subject to negative comments from both myself and my predecessor, toward a more linear block structure is very welcome.

There now looks to be the potential for better overlooked movement routes, more open and better supervised highways and a more secure enclosure of private space.

Having said this, the masterplan layout accompanying this application does present some features which without sensitive detailing may lead to amenity problems.

There is a fair amount of residential courtyard parking on the south and eastern part of the site, much of which looks to be accessed under-croft. There is significant evidence across both our own City/County and neighbouring ones that courtyard parking which is set to the rear of housing blocks, and subsequently not well

**Classification: OFFICIAL**

overlooked by associated homes, is unpopular and leads to unregulated front of plot parking. This has a knock-on effect at best to leave parking courts empty, at worst misused for anti-social behaviour and fly tipping, with the unregulated on street parking causing problems for larger delivery or emergency vehicles. Consequently if such courtyards are to be retained in reserved matters submissions, they would need to be secured for resident use only to promote wider use in reassuring residents that they are safe. This secure enclosure should extend to any pedestrian access points terminating within the courtyards. In my experience, the strategic placement of a small block of overlooking properties on one courtyard boundary does not provide an adequate reassurance of safety for the remaining houses surrounding a court.

A widely adopted feature within the masterplan is that of long terraced housing blocks, with garden access routes situated to the side and rear of an extended number of properties. Leaving such routes open to non-resident access presents an additional risk of non-resident misuse, misuse meaning nuisance and criminal entry from within the enclosed access corridors. Assuming that these terraced blocks are desired as a feature of the development, and that there is not scope to break some into smaller housing blocks, then all of the shared access points will need to be secured for resident access only, from a prominent point which is in wider view of the street. This should take the form of visually permeable and extremely robust (ideally ironwork) gating, key lockable from both the exterior and interior sides, together with adequate fencing to secure the remainder of the corridors.

**6. Relevant Policies:**

The Derby City Local Plan Part 1 - Core Strategy was adopted by the Council on Wednesday 25 January 2017. The Local Plan Part 1 now forms the statutory development plan for the City, alongside the remaining 'saved' policies of the City of Derby Local Plan Review (2006). It provides both the development strategy for the City up to 2028 and the policies which will be used in determining planning applications.

**Derby City Local Plan Part 1 - Core Strategy (2017)**

- CP1(a) Presumption in favour of Sustainable Development
- CP2 Responding to Climate Change
- CP3 Placemaking Principles
- CP4 Character and Context
- CP6 Housing Delivery
- CP7 Affordable and Specialist Housing
- CP9 Delivering a Sustainable Economy
- CP11 Office Development
- CP13 Retail and Leisure outside of defined centres
- CP14 Tourism, Culture and Leisure
- CP15 Food, Drink and the Evening Economy
- CP16 Green Infrastructure
- CP17 Public Green Space
- CP20 Historic Environment
- CP21 Community Facilities
- CP23 Delivering a Sustainable Transport Network

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

AC1	City Centre Strategy
AC2	Delivering a City Centre Renaissance
AC4	City Centre Transport and Accessibility
AC5	City Centre Environment
AC6	Castle Ward and former DRI
MH1	Making it Happen

**Saved CDLPR Policies**

GD5	Amenity
CC17	City Centre Servicing
H13	Residential Development – General criteria
H14	Re-use of underused buildings
E12	Pollution
E13	Contaminated land
E17	Landscaping Schemes
E18	Conservation Areas
E19	Listed Buildings and Buildings of Local Importance
E20	Uses within buildings of Architectural or Historical Importance
E24	Community Safety
E25	Building Security Measures
L4	New or Extended Public Open Space

The above is a list of the main policies that are relevant. The policies of the Derby City Local Plan Part 1 – Core Strategy can be viewed via the following web link:

[http://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/policiesandguidance/planning/Core%20Strategy\\_ADOPTED\\_DEC%202016\\_V3\\_WEB.pdf](http://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/policiesandguidance/planning/Core%20Strategy_ADOPTED_DEC%202016_V3_WEB.pdf)

Members should also refer to their copy of the CDLPR for the full version or access the web-link:

<http://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/policiesandguidance/planning/CDLPR%202017.pdf>

An interactive Policies Map illustrating how the policies in the Local Plan Part 1 and the City of Derby Local Plan Review affect different parts of the City is also available at – <http://maps.derby.gov.uk/localplan>

*Over-arching central government guidance in the NPPF is a material consideration and supersedes earlier guidance outlined in various planning policy guidance notes and planning policy statements.*

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

**7. Officer Opinion:**

**Key Issues:**

In this case the following issues are considered to be the main material considerations which are dealt with in detail in this section.

- Policy Context
- Heritage Assets and Design
- Transport impacts and Access
- Open Space and Trees
- Other Environmental Impacts
- Planning Balance: harm v benefits
- Section 106

**Policy Context**

This application is for the redevelopment of the former Derbyshire Royal Infirmary site for a residential-led scheme, with a complementary mix of commercial, retail and community uses. The intention is to form an urban neighbourhood with the introduction of new connections to the surrounding townscape including the residential areas in Castleward and around the Arboretum.

The proposal seeks outline permission for the construction of up to 500 dwellings, but the application identifies these as a mix of C2 and C3 uses. C2 uses are defined as 'residential institutions' and although they can be residential uses, they are not technically 'dwellings' in the strictest sense. They can include extra-care apartments as well as care accommodation. In addition to the new residential uses, the proposal seeks permission for a range of complementary uses, including up to 1000sqm for new A1 retail, up to 500sqm for restaurants and cafes (A3 uses) and up to 1100sqm to be used for new B1a) office space/ financial and professional uses (A2). The proposal also includes a non-specified amount of non-residential institutions (D1 use), assembly & leisure (D2 use) and drinking establishments (A4 use). The proposal also seeks permission for new means of access and the provision of public open space, landscaping and associated engineering works and the demolition of one of the remaining former hospital buildings on the site ("pepper pot" towers).

There is an extant outline permission (DER/11/10/01429) on this site for the construction of 400 dwellings, 3085sqm of office space and a 5667sqm (gross) foodstore, having been granted at appeal and kept 'live' by the approval of reserved matters for erection of 35 dwellings on part of the site, fronting onto Osmaston Road, (DER/07/15/00902).

Prior approval was also given in 2015 for the demolition of the all former hospital buildings on the site, except for the two pairs of "pepper pot" towers (DER/05/15/00950). These works have recently been completed.

**Derby City Local Plan – Part 1: Site Specific Policies**

The site of the proposal is specifically identified by Policy AC6 in the Local Plan Part 1 as part of a strategic residential led mixed use regeneration site allocation covering

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

both the former DRI site and the Castleward area of the city. Together, the two sites form the 'Eastern Fringes' character area as defined by Policy AC2. The site is also located within the Central Business District (CBD) as defined by CP11 and AC2. Policy AC2 is clear that implementation of mixed-use regeneration proposals on the former DRI site is a priority for the Council.

Policy AC6 provides further detail on the regeneration of the former DRI site and wider Eastern Fringes area and states that "the Eastern Fringes of the City Centre will be transformed into a vibrant residential and commercial neighbourhood where people will enjoy a high quality of life within a distinctive, accessible and sustainable urban environment. New residential neighbourhoods will be created in Castleward and the former DRI site, which will be complemented and supported by a mix of commercial, leisure and community uses that will also serve to support the wider economy of the City Centre". In particular AC6, requires that the DRI site will deliver a minimum of 400 high quality mixed tenure homes, protection and enhancement of heritage assets in and adjacent to the site and make a positive contribution to the townscape of London Road. The policy also identifies that in all parts of the Eastern Fringes area, the Council expects:

1. a high standard of design which reflects the requirements of Policy CP3 and CP4
2. a mix of housing typologies and supporting facilities to ensure that the new neighbourhood attracts a diverse population and caters for the changing needs of residents
3. a 'green link' through the area providing a pedestrian and cycle link from Arboretum Park to Bass's Recreation Ground
4. measures to improve accessibility to, and from, the City Centre, bus station and railway station by walking and cycling. The Council will work with partners to ensure that regeneration of the Eastern Fringes is delivered in a comprehensive manner and will use compulsory purchase powers if necessary to ensure delivery.

The provisions set out in Policy AC6 are largely derived from the City Centre Eastern Fringes Area Action Plan (CCEFAAP), which is a development plan document progressed by the Council between 2005 and 2009. Whilst not formally adopted by the Council, work on the CCEFAAP reached the 'preferred options' stage and was subsequently used to inform the selection of a preferred developer for the Castleward area, which is now successfully under construction. The CCEFAAP provides useful guidance relating to the development of the former DRI site and includes principles such as the need for a comprehensive design approach, small-scale convenience retail provision, the creation of an attractive green space network, building heights between 3 and 5 storeys, the creation of an attractive and cohesive frontage onto London Road and the need to retain listed buildings and structures, and where possible retention and re-use of locally listed buildings and structures. As noted above, the majority of these principles have now been taken forward by Policy AC6.

The detailed requirements of Policy AC6 sit within the wider context of Policy AC1 which sets out a range of objectives and interventions to secure a city centre

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

renaissance. These include encouraging investment which strengthens and integrates the City Centre's retail, employment, leisure, cultural and residential functions, supporting the delivery of key regeneration sites – including the former DRI, strengthening quality in every aspect of placemaking and enhancing heritage assets. The principle of residential led regeneration of the former DRI site will help to meet a number of these objectives.

#### Housing Delivery

The site is located within the Council's defined 'Housing Zone' and residential uses here would complement the Council's City Living Initiative. The aim of the Housing Zone designation and the City Living Initiative is to help boost residential development and related activity in the city centre and meet the Council's regeneration objectives.

The Local Plan- Part 1 sets a housing target of 11,000 new dwellings to be provided within Derby between 2011 and 2028. In order to ensure the delivery of the 11,000 dwelling target, the Local Plan Part 1 allocates 6,975 new dwellings on strategic sites. This includes a contribution of a minimum of 400 new homes from the former DRI site, as identified in Policy AC6, contributing to a wider intention to deliver a minimum of 2,200 new homes in the City Centre as a whole, as defined by AC1.

The delivery of new homes on this site is therefore an important component of the Council's plan to meet the housing target, but also contributes to the Council being able to demonstrate a 5 year housing supply.

Policy AC6 sets 400 as a minimum number of dwellings to be delivered on the DRI site, therefore the principle of providing up to 500 new homes is welcomed, subject to a more detailed assessment of the housing mix and layout through the reserved matters. It should be noted that the proposal is for both C3 and C2 type residential uses. C2 uses are not residential 'dwellings' and therefore it will be important to ensure that at the detailed reserved matters stage, the minimum number of dwellings required by the policy are secured.

The Council's 5 year housing supply position was discussed in great length as part of the examination of the Local Plan Part 1. In finding the plan 'sound' the Inspector was satisfied that the 11,000 target is achievable and that a 5 year supply is demonstrable. In such cases and where a proposal accords with the development plan, the NPPF requires development proposals to be approved without delay. Whilst the principle of residential-led regeneration is consistent with the development plan, it is important to assess whether the more detailed elements of the proposal are also consistent with the development plan.

Policy CP7 commits the Council to meeting the needs for affordable and specialist housing through a range of mechanisms, including requiring the provision of a maximum of 30% affordable homes on residential developments of 15 or more.

regarding the level of affordable housing provision and other infrastructure requirements needed to mitigate the impact of the development.

Policy CP7 also supports the provision of housing which is capable of meeting the needs of aging population and people with disabilities. The delivery of Extra Care housing is specifically supported where there is an identified need and it is supported

**Classification: OFFICIAL**

by appropriate on-site infrastructure, having a robust long term management plan and creating a critical mass of units. If delivered as part of the scheme, Extra Care dwellings could meet these objectives.

Saved Policy H13 of the City of Derby Local Plan Review sets out the design and amenity requirements for new residential development. The policy criteria within the policy are more appropriate for consideration at the detailed stage although the masterplan documents gives parameters for the development, in relation to scale and layout of uses which should considered against the intentions of the policy.

#### Commercial and Community Uses

Whilst the proposal is primarily for residential development, the application also includes provision for a range of complementary commercial and community uses. This is generally consistent with the vision for the area as set out in Policy AC6.

The site is located within the Central Business District (CBD), as defined in Policy CP11 and AC2. The CBD is the sequentially preferable location for all 'main town centre uses' (as defined by the NPPF) apart from retail. Therefore the DRI site is an appropriate location for food and drink uses (A3 and A4), offices (B1a), financial and professional (A2) and assembly and leisure (D2).

Policy CP21 sets out criteria for assessing the merits of proposals for new community facilities (D1). Such uses should be located where there is a choice of travel options (ideally within existing centres) and exploit opportunities for co-location. Facilities should also be designed to be in-keeping with the general scale, character and levels of activity in the area and be delivered in a timely manner to meet the needs of the new development. Whilst not located within a defined centre, the proposed location of the community uses, at the heart of the development and focussed on the retained "pepper-pot" towers, would seem like an appropriate and logical location to meet the needs of the community within the development and the wider regeneration area. Subject to more detailed issues of layout, design and scale being considered through future reserved matters applications, the principle of the proposed community uses in terms of siting and reuse of locally listed building is considered acceptable and compliant with Policy CP21.

In terms of the proposed A1 retail floor space, it should be noted that the previous outline application, which includes provision for a large food store (5667sqm), remains extant. The applicant therefore has a strong 'fall-back' position, as the current proposal includes a significant reduction in the amount of A1 floor space.

The site of the proposal is not within the 'Core Area' of the city centre, which is the sequentially preferable location for new retail development. However, the northern part of the site can be considered to be 'edge-of-centre', as was accepted in consideration of the 2010 outline application. The new proposal seeks to locate up to 1,000 sqm (gross) of A1 floor space within the heart of the new neighbourhood, centred on the retained pepper-pot building and/or adjacent new build ground floor units. It is debatable whether the new location for the retail development could be considered to be edge-of-centre as it is around 300 metres from the Core Area boundary.

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

Policy CP13 and the NPPF require proposals for new retail uses which are not located within a defined centre to demonstrate compliance with the sequential and impact tests. In this specific case, the proposed retail floor space is to serve the convenience needs of the proposed new community and is of a scale and in such a location that would enable this role to be fulfilled. Therefore I am satisfied that the provisions of the sequential test are satisfied and that the level of floor space would be unlikely to create significant adverse impacts upon defined centres in the retail hierarchy – particularly when taking account of the approved fall-back position.

### **Heritage Assets and Design**

#### **Policy and Legislative background**

In determination of this outline application, which impacts on various designated (namely; Wilderslowe House; Queen Victoria Statue; the railings/walls along the London Road boundary; the Hartington Street Conservation Area, with the vacant Victorian villas at 123-129a Osmaston Road, Florence Nightingale Statue) and non-designated heritage assets (namely; the two locally listed “pepper pot” towers), decision makers must engage Sections 66(1) and 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 which require the authority to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses and pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

Various cases before the courts have upheld the importance that decision makers should attach to this requirement under the Act, even when harm is found to be less than substantial. “less than substantial” (as defined in the NPPF).

Harm to the significance of designated heritage assets is a matter to which considerable importance and weight should be given in any planning balance. Causing ‘less than substantial harm’ is not to be equated with a ‘less than substantial’ objection to the grant of planning permission.

The proposal must also be considered under the new adopted Local Plan – Part 1 (DCLP) policies and those saved Local Plan Review (CDLPR) policies which are still relevant. The Local Plan - Part 1 policy CP20 seeks the protection and enhancement of the city’s historic environment, including listed buildings and Conservation Areas. CP20 states that “Development proposals that would detrimentally impact upon the significance of a heritage asset will be resisted.” CP20(c) requires development proposals which impact on heritage assets to be of the highest design quality to preserve and enhance their special character and significance through appropriate siting, alignment, use of materials, mass and scale.

CP20 also supports the sensitive re-use of under-utilised assets (including locally listed buildings), consistent with their conservation, whilst also recognising that managed change may sometimes be necessary if heritage assets are to be maintained in the long term.

Saved policies E18 and E19 for the preservation and enhancement of Conservation Areas and historic buildings which are statutory listed and on the Council’s Local List, continue to complement the new policy CP20.

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

Under E19 and E20, proposals including the re-use of listed or locally listed buildings, which have a detrimental impact on the special architectural and historic interest of listed buildings or their setting, should be resisted.

In term of general design principles, Local Plan – Part 1 policies CP2, CP3 and CP4 are relevant and saved policy GD5 of the adopted CDLPR are also applicable. These are policies which seek a sustainable and high quality form of development, which respects the character and context of its location. There is a general requirement to ensure an appropriate design, form, scale and massing of development which relates positively to its surroundings. CP2 in particular seeks to ensure that development is sustainable in terms of its location, design and construction. Saved policy GD5 is intended to protect the overall amenity of occupiers of nearby properties from unacceptable harm.

In addition to the impacts on the historic environment, the master plan proposals must also be considered against the wider design principles in Part 1 Policies CP2, CP3 and CP4 and saved policies H13 and GD5 of the adopted CDLPR, which are also applicable. These are policies which seek a sustainable and high quality form of development, which respects the character and context of its location. There is a general requirement to ensure an appropriate design, form, scale and massing of development which relates positively to its surroundings. CP2 in particular seeks to ensure that development is sustainable in terms of its location, design and construction. CP3 specifically sets out place making principles, which require developments to be well integrated into their setting and respond positively to heritage assets. Policy CP4 then sets out the key considerations that will be taken into account when assessing the response of a proposal to local character and context.

Further to the consideration of the treatment of heritage assets, the proposal should also be capable of meeting the wider requirements of Policy AC5, which specifically relates to the City Centre environment. AC5 specifically recognises the London Road / Inner ring road as a 'primary gateway', whilst the Osmaston Road / Inner ring road junction is defined as a 'secondary gateway'. These locations are generally considered to be appropriate locations for higher density development and there is a need to reinforce these locations to aid legibility. The indicated parameters for the proposed development demonstrate that it should be capable of responding appropriately to the context of these gateway locations.

The NPPF at Paragraph 131 provides that LPA's should take account of the desirability of sustaining and enhancing the significance of heritage assets, the positive contribution that conservation of heritage assets can make to sustainable communities and the desirability of new development making a positive contribution to local character and distinctiveness

In terms of considering the impact of a proposed development on the significance of a designated heritage asset (such as a Listed Building, Conservation Area, World Heritage Site) paragraph 132 of the NPPF advises that:

- great weight should be given to the asset's conservation;
- the more important the asset the greater weight should be given;

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

- the significance of an asset can be harmed through alteration, destruction or development within its setting;
- harm or loss requires clear and convincing justification

Guidance in the NPPF provides that proposed developments involving substantial harm to or loss of designated heritage assets in the case of grade II listed building should be exceptional, in the case of grade II\* and grade I listed buildings should be wholly exceptional and in the case of other designated heritage assets such should only be permitted if either the loss or harm is necessary to achieve substantial public benefit that outweigh the loss or harm caused by the development or if the specific tests set out in paragraph 133 are met.

Where the harm to the designated asset is considered to be less than substantial, paragraph 134 of the NPPF provides that the “harm should be weighed against the public benefits of the proposal, including securing its optimum viable use”.

In relation to non-designated heritage assets, which include buildings on the Council’s Local List, which includes the “pepper pot” buildings, paragraph 135, requires where there are direct or indirect effects on the significance of the asset, then when weighed in the balance, a balanced judgement will be required having regard for the scale of the harm or loss of the asset and its significance.

Paragraph 137 of the NPPF is relevant as it states authorities should “look out for opportunities for new development and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably”.

#### Impacts on Heritage Assets

The former DRI site includes and affects the setting of various heritage assets, including the statutory listed Wilderslowe House, Queen Victoria Statue and the railings/ walls along the London Road boundary and part of the Hartington Street Conservation Area, with the vacant Victorian villas at 123-129a Osmaston Road. The site also includes two pairs of “pepper pot” buildings, which are on the Council’s Local List and the retained part of former hospital buildings which have now been demolished. The Grade II listed Florence Nightingale statue is adjacent to the site, set within the listed boundary wall and railings fronting London Road. Its setting would be affected by any development on the former hospital site.

A Heritage Statement & Impact Assessment has been submitted in support of the application, which has assessed the significance of the heritage assets within the site and in the immediate area, including those on the Local List and assesses the impact of the development on those heritage assets.

The masterplan proposals show an intention to retain and enhance all of the designated and non-designated heritage features on and around the site, with the exception of one of the “pepper pot” towers, which is proposed to be demolished. It is proposed to bring Wilderslowe House and 123-129a Osmaston Road, back into a viable re-use, with the latter being converted back to residential use, with removal of later rear extensions. Wilderslowe House is to be brought back into a viable reuse,

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

although a specific use is not identified at this stage, but is proposed to be either a residential or office use.

The three former villas at 123-129a Osmaston Road are currently in a derelict state and have been vacant for some time. The proposed renovation and re-use as dwellings with their curtilages is welcomed in principle. There is a proposal to remove the rear extensions on these buildings, although it is not clear if this refers to all or some of the extensions or if this is necessary to secure residential reuse of the buildings. The Conservation Officer has raised concerns about the potential removal of the extensions without a detailed heritage assessment being carried out of the individual buildings. It is acknowledged that this may be difficult at the present time due to the condition of the buildings. Until a proper survey of the buildings and their extensions can be carried out, then it is pre-mature to determine whether it is appropriate for some or all of the extensions to be removed. It is reasonable in my view to exclude the proposal to demolish the extensions via a planning condition at this stage, to allow more detailed assessment of them at reserved matters.

A Statement of Significance has been submitted for Wilderslowe House, which assesses its historic significance and potential for sensitive uses. The statement also identifies the benefit of reinstating a curtilage and boundary treatment for the building, to enhance its setting. A curtilage area has been indicated around the listed building which includes more land to the rear of the building than is currently within its boundary. The Council's Conservation Officer has welcomed in principle the reuse and formation of an appropriate curtilage. However, she has requested more details of the proposed curtilage, boundary treatment and landscaping to be agreed at this stage. The applicant has not been forthcoming with additional information, stating that the proposed curtilage is referenced in the heritage assessment and considers its original setting and how it has been affected by the hospital development. Their view is that minor adjustments to the curtilage can be dealt with at detailed stage through planning and listed building applications. The Conservation Officer agrees that listed building consent will be needed for any alteration works to the building and for new curtilage and boundary features. I am satisfied that at this outline stage the area of the proposed curtilage, along with the rest of the design and layout of the development is indicative only. The precise layout, boundary treatment and other external works within the curtilage can be appropriately dealt with at reserved matters and through the necessary listed building applications which will inform the appropriate curtilage and respect the setting of Wilderslowe House.

The proposals for Wilderslowe House also show a pedestrian access link to be formed alongside the main entrance to the site onto Osmaston Road. The Conservation Officer has identified that this would impact on part of the curtilage wall, although no details have been provided for this access with the application. The applicant has responded that the link is illustrative only and that a pedestrian access could be achieved in a variety of ways which may not impact on the listed wall. The formation of an access through the wall would require separate listed building consent and it is not clear at this stage whether it is necessary, so it would be reasonable to exclude this element of the scheme at this stage by means of a planning condition.

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

The Queen Victoria statue is proposed to be relocated within the site a short distance along the London Road frontage, to a more prominent position in front of the retained “pepper pot” building. The statue would sit within a proposed area of public realm, which is to be formed to the London Road frontage and is part of the proposed linear park. The Conservation Officer has raised no objection to the statue being moved to this more prominent position, subject to the required listed building consents being given.

The stone boundary wall and railings fronting London Road are statutory listed and forms a strong edge to the site. The proposal is to remove a section of the wall and railings to the front of the retained “pepper pot” building to form a new pedestrian entrance into the development from London Road. Removed materials are proposed to be re-used within the development.

A section of more modern retaining wall to the corner of the Bradshaw Way and London Road frontage facing towards Intu shopping centre would also be removed to form a pedestrian linkage with the city centre, to enhance accessibility to city centre facilities and transport hub. The provision of a safe access for pedestrians at the Bradshaw Way pedestrian crossing over the roundabout junction has also been highlighted by the Highways Officer and the opening up of a gap in the wall at this point would address this highway safety issue. The Bradshaw Way section of wall is not covered by the statutory listing and in my view this does not constitute a heritage asset, although it does form part of the setting of the listed wall and railings fronting London Road.

Concerns have been raised by the Council’s Conservation Officer, Urban Designer and Conservation Area Advisory committee about the sections of wall and railings to be removed, (although some of these sections are not part of the listed structure) and requested further details of number of accesses, extent of wall removal, proposed finishes and the making good of the retained wall. The applicant has not provided such details, although the applicant has responded that the submission of details for the works to the listed wall is considered premature at this stage, since it is directly related to the formation of the linear park and refurbishment of the retained “pepper pot” building. The applicant identifies only one section of the listed wall to be altered to form the pedestrian access and this is to the front of the retained locally listed building. They point to the benefits of forming a new wide and welcoming approach at this point, which is to create a clear focus for the retained building, provide a legible connection into the linear park and public realm and relate visually to the locally listed church opposite. The masterplan proposals illustrate the intended removal of wall to form a pedestrian access and public realm area, with the relocated Queen Victoria statue as a feature. These proposals are indicative at this stage, although they do give a clear steer as to the location and width of the opening to be made in the wall. The removal of part of the wall and railings to form the access will require separate listed building consent and also be dealt with under a reserved matters approval for the development of the public realm and linear park. The Conservation Officer has not raised concerns about the principle of forming an access into this section of the wall and it is appropriate in my view to provide improved pedestrian routes into the site from London Road. The proposed location of the access through the listed wall is a logical position, which would create a focus for one of the “pepper pot” buildings

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

and Holy Trinity Church. Since the formation of the connection through the wall is linked to the proposed public realm works to the London Road frontage, it is reasonable in my view to confirm the details of the width of opening, finishes and reuse of the materials as part of the reserved matters scheme, subject to the appropriate listed building consents being given.

Despite the loss of this section of the wall, the proposal does not seek the removal of any other sections of the listed wall along London Road. There is also an intention to reopen an existing pedestrian access in the listed wall which fronts onto London Road between the Florence Nightingale statue and the retained "pepper pot" building. Further pedestrian accesses onto London Road are indicated alongside the existing vehicle access into the site and to the south east corner of the site adjacent to Litchurch Street. Both of these accesses are existing and do not require any works to the listed boundary. The retained wall and railings would be maintained as a strong boundary for the development site and a prominent feature in the street scene.

The part removal of the wall and railings fronting London Road would amount to a loss of historic fabric and constitutes less than substantial harm to the significance of the listed structure. As required under para.134 of the NPPF the loss of listed fabric must be balanced against the public benefits of the development as a whole.

The outline application seeks permission in principle, to retain and refurbish Wilderslowe House and the three villas on Osmaston Road and to bring them back into a viable use. The locations of the proposed removal of wall and railings on London Road are indicated in the Design and Access Statement, although approval is not being sought at this stage for the precise sections to be removed, the width or finishes of the intended openings. The design principles in the Design and Access Statement gives an indication of how the retention, reuse and repair of these heritage features may sit within the context of the wider development, illustrated through the masterplan proposals and the parameters plans which are provided at this stage. Due to the absence of a detailed scheme for the proposed alterations to the designated heritage assets and the need for further applications for planning and listed building consent, it is considered reasonable at this stage to attach conditions to a permission, to control these works under future applications.

Successful development and regeneration of this site is reliant upon the positive integration of the various heritage assets located within and surrounding the application site. The need to respond positively to these important features is reflected in Policy AC6 which specifically requires 'the effective protection and enhancement of heritage assets within and adjacent to the site' in addition to a 'positive contribution to the townscape of London Road'.

The retention of the Grade II listed buildings and features on the site including the proposed renovation and re-use of Wilderslowe House and the three properties at 123- 129a Osmaston road within the Hartington Street Conservation Area are to be welcomed in principle and are generally consistent with the intentions of Policy CP20 which seeks to ensure that heritage assets are positively integrated into regeneration proposals through constructive conservation. This is also consistent with the

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

intentions of the saved Policies E18, E19 and E20 which seek to preserve and enhance heritage assets as part of the new development.

#### Impacts on the “Pepper Pot” Buildings

The two “pepper pot” tower buildings on the site are the remaining parts of 19<sup>th</sup> Century hospital, which are the retained ends of the former pavilion blocks, of which there were originally four, connected by a corridor block. The rest of the hospital buildings have been demolished and the site cleared. The towers, along with the former pavilion blocks are included on the Council’s Local List and are classed as non-designated heritage assets. The proposal is to retain one of the “pepper pot” buildings, which is in a central position on the site and bring it back into use for commercial and/or community uses. The end use is not specified at this stage and the applicant is seeking a flexible approach to the reuse and refurbishment of the building.

The second “pepper pot” building on the site is proposed for demolition. The loss of one of this pair of identical and distinctive buildings would be regrettable and is contrary to the intentions of the 2010 masterplan scheme which was granted outline permission on appeal in 2012. The loss of this non-designated heritage asset is contrary to Policy CP20, which seeks to resist development which has detrimental impacts on the significance of a heritage asset. It is also in conflict with saved Policy E19, which would not normally approved developments which would have a detrimental effect on locally important buildings and structures, by encouraging their retention, appropriate use and restoration.

The applicant’s Heritage Statement & Impact Assessment gives an analysis and reasoning behind the proposed retention of only one of the buildings. This concludes that “pepper pot” buildings have equal significance in heritage terms and have lost their historical context due to the demolition of the adjoining blocks, such that they now appear isolated. Their significance is considered to be solely in their aesthetic and communal value and as a remnant of the former hospital and as such they have relatively low significance. The retention of two buildings is not necessary in the applicant’s view, to preserve communal heritage value and provide physical evidence of the former hospital. The retention of one of the buildings, it is argued will significantly enhance its communal and landmark value, by including it as a focal point in the development and reusing it as a community hub. The applicant also argues that the retention of one of the buildings is appropriate for the urban design vision of the development as a whole, which is to use it as a focal point and visual anchor for the development and the public realm which is to be formed within it. The retained building is in a central location within the London Road frontage site and also has a visual relationship with the locally listed Holy Trinity Church, directly opposite on London Road.

Some consultees and particularly the heritage consultees, including the Council’s Conservation Officer, the Victorian Society and the Conservation Area Advisory Committee have raised objections to the proposed loss of one of the “pepper pot” buildings. Their comments are replicated under Consultations at part 5 of this report, The consultees have identified the harm to the significance of the buildings as an identical pair and to their historic association with the former hospital. It is also noted

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

that the applicant has not provided a convincing argument as to why there is no potential for retaining and reuse of both “pepper pot” buildings within a regeneration scheme for the site. The extant 2012 outline permission, proposed the retention of the pair of locally listed buildings as part of a masterplan scheme and it is unfortunate that the current proposal is seeking to remove one of those remaining heritage features of the site.

Where a development proposal would directly impact on the significance of a non-designated heritage asset, such as a locally listed building then NPPF para.135 is triggered and requires a balanced judgement to be made in weighing the planning balance, having regard for the scale of any harm or loss and the significance of the asset.

The proposed removal of one of the pair of locally listed buildings is a detrimental impact on what is otherwise a broadly welcome and well thought out regeneration framework for the former hospital site. This however needs to be considered in the context of whether through the supporting appraisal and masterplan process, the development scheme as a whole would provide significant benefits which is sufficient to outweigh the removal of the locally listed building. It is noted that the application is supported by a Heritage Statement and Impact Assessment, which assesses the significance of the heritage assets and appraises the impacts of the proposal and a Design and Access Statement with a design concept for the site. These documents both seek to justify the removal of the second “pepper pot” building on the basis of its limited individual significance and due to the constraints associated with forming a principal access connection from London Road. This is because the existing access point, from London Road which is to be used as the main vehicular route into the site, is directly opposite to the “pepper pot” building and would inhibit the formation of a direct and legible route through the site.

It is arguable whether a fully convincing argument has been put forward to justify the retention and reuse of only one of those “pepper pots”, when the scheme is in outline, with only means of access being considered for approval. The access onto London Road would require diversion around the locally listed building if it were to be retained, so this would affect the proposed alignment and layout of one of the principal connections and green corridors through the site.

The issue of the proposed demolition of one of the “pepper pot” buildings is a regrettable part of the outline application and in conflict with the intentions of policy CP20 and saved policy E19, which seeks to resist proposals which would detrimentally impact on the significance of a heritage asset. Policy AC6 requires the effective protection and enhancement of heritage assets within and adjacent to the former DRI site and the loss of the “pepper pot” building is contrary to this requirement of the policy.

However, it must be taken into consideration that the “pepper pots” are both included on the Council’s Local list and are, therefore, non-designated assets. Although these buildings are established components of this particular part of the townscape and of the former hospital, the public benefits of this development proposal, which need to be fully considered in the planning balanced judgement when considering the loss of a non-designated asset, are as follows:

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

1. The proposal would amount to a comprehensive redevelopment of a vacant brownfield site in a highly sustainable location, close to the city centre. It would provide a significant quantum of new homes and this would positively contribute to the city's overall housing need. This should be afforded significant weight in the balance.
2. The application makes a concerted effort to incorporate and re-use designated and non-designated heritage assets into the site layout and to positively incorporate features such as the Queen Victoria statue into its public realm component. In my opinion, embracing these heritage assets into the overall site layout, subject to further detailed analysis and applications to control those works, is a very positive aspect of the proposal which should be attributed significant weight in the planning balance.
3. The proposal layout of the scheme, although indicative at this stage, provides clear parameters and a comprehensive urban design vision for future reserved matters applications. The indicative layout has strong urban design credentials and the access and connectivity components and strong legible routes through the site would, in my opinion, deliver a scheme with a definite 'sense of place'. The loss of the pepper pot tower is required to maintain clear sight and pedestrian access through the site and I appreciate the urban design rationale for this component.
4. The proposed development, although a 'tight' scheme in financial viability terms, delivers an agreed Section 106 package which would, following scrutiny from the District Valuer, provide a proportionate level of infrastructure to deliver the development. This also has regard for the financial costs of the development in terms of the retention and restoration of the retained heritage features, which are factored into the limited viability of the scheme. This agreed package would include the provision 10% affordable housing on-site.

#### Design Objectives and Parameters

The outline application is supported by a masterplan for the site and development parameters, contained in the Design and Access Statement, which sets out the place making principles, suggested layout and urban design objectives. Outline permission is only being sought for the principles of development as well as the means of access, although the applicant is seeking to fix various development parameters at this stage, which are included in the submitted parameters plans. These principles are intended to be prescriptive in relation to the amount of land proposed for development and for the public realm and to identify the retention of existing buildings and structures. The reserved matters would then need to accord with these parameters, as well as the approved means of access.

In relation to urban design objectives for the DRI site, Policy AC6 requires a positive contribution to the townscape of London Road to be achieved and a high standard of design, in line with the requirements of Policies CP3 and CP4. In terms of land use requirements the policy expects development to deliver a mix of house types and supporting facilities to form a new neighbourhood, a green pedestrian and cycle link from Arboretum to Besses Recreation Ground and improved accessibility to transport hubs and the city centre.

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

The masterplan proposals comply with these intentions of Policy AC6 and provide a residential – led development with a small element of complementary commercial, community and retail uses. The scheme would be structured around existing landscape and heritage features and form a network of open spaces and public realm which link through the site with pedestrian and cycle connections.

The Council's Urban Designer is generally supportive of the design ethos and layout, which is proposed and the context analysis which supports the proposal. I note that she does raise some concerns about the potential scale and height of the development and treatment of the finished floor levels across the site. The levels across the site slope considerably between Osmaston Road and London Road frontage and the detailed scheme would need to take account of the sloping nature of the topography and work with the levels to avoid the use of significant retaining features within the development. Since the outline scheme is not seeking approval for scale or layout at this stage, the suggested cross sections and illustrations are purely indicative and these matters will be appropriately dealt with at reserved matters stage. Conditions can be attached to ensure that suitable sections and floor levels for buildings and the open space are considered in all phases of the development. The Urban Designer also highlights the absence of a car parking strategy within the master plan proposals. Whilst, this may be useful in terms of place making and good urban design practice, this application is not seeking approval for the layout or design and no details of street blocks or house types are being dealt with under this scheme. The Design and Access Statement includes general guidance on the car parking principles and this indicates that a mix of on-street and plot parking is being considered for the development. This level of detail is considered adequate at this stage, with scope to develop an appropriate parking scheme for each phase under the reserved matters.

Overall, proposal is considered to be well considered and takes a comprehensive approach to the site, which is welcomed. The development would significantly enhance the permeability and townscape quality in this important area of the city and provide a balanced and legible environment which is integrated into the wider street scene and largely sensitive to the historic features on and around the site. The place making principles and urban design tools required in Policies CP3 and CP4 have been largely adopted in the master planning for this strategic site and this demonstrates that the development should contribute to the distinctiveness and character of this area of city. It is must be noted however, that whilst the proposed development does contain many positive elements and is a considered masterplan which is based on an analysis of context and character of the surrounding townscape, the adverse impacts which have been identified to the heritage assets are contrary to the intentions of Policy CP4, which expects proposals to demonstrate that proposals respond to the context of the local area, focus on important views to and from an area and landmark buildings and any significant features of local history.

### **Transport impacts and Access**

#### **Proposed Accesses**

The former DRI site is located in a highly sustainable location, adjacent to the city centre and within walking distance of the main bus station and railway station. It sits alongside three major transport routes in the city, which are also bus and cycle

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

routes. The site is therefore accessible to various forms of transport and has good connections with the city centre and other parts of the city. Despite this the site itself is currently very inward looking and has a limited number of existing linkages with the surrounding townscape. This is due to its previous use as a major hospital, which needed to provide a secure environment for its patients. The London Road frontage in particular, currently has a substantial retaining wall along the boundary and only a single access into the site, towards the eastern end, which was previously one of main entrances into the hospital.

The application seeks approval for the means of access to the development, with all other matters reserved. The masterplan proposals seek to provide two principal vehicle accesses into site, with a separate in and out access to Wilderslowe House. A single access onto London Road would utilise the previous hospital entrance and a new access onto Osmaston Road is to be provided alongside the former villas at 123-129a. Both accesses are appropriate in location and layout and are in a similar position to those approved under the previous outline permission (DER/11/10/01429) granted in 2012. There are no proposals for a vehicular link through the development site, except for an emergency access route and this would avoid the potential for rat-running through the site. This is welcome and would ensure that only visitors to the new community would drive into the development. The Highways Officer has not raised any concerns in respect to the proposed vehicular access arrangements for the scheme, having regard for the proposals agreed under the previous approval.

#### Traffic Impacts – Transport Assessment

The applicant has submitted a Transport Assessment (TA) and framework Travel Plan in support of the application. The TA assesses the impacts of the proposed development on the highway network and takes as its baseline the permitted outline scheme. In terms of the traffic impacts of the proposed residential-led development, the extant outline permission has to be taken into account, which included the provision of approximately 6 000 square metres of retail floor space, including a large food store, as well as 400 dwellings. The traffic generation associated with the approved food store and residential scheme would be significant and have a greater impact on the local road network than the current proposal for 500 dwellings. I note therefore that the Highways Officer is comfortable with the potential traffic impacts which are given in the TA and does not consider that any off-site improvements to the local highway network are necessary to mitigate for the impacts of the development.

The parking provision for the development will be dealt with under a detailed reserved matters scheme, although the TA states that it will be provided in accordance with the standards in the Local Plan – Part 1.

#### Pedestrian and Cycle Connections

The master plan proposals introduce new pedestrian and cycle connections into and through the development, to improve linkages with the wider area, including the city centre, Castle Ward and the Arboretum. These connections are indicative at this stage, but do illustrate the intention to enhance the permeability of the site and create a legible scheme and integrated urban neighbourhood. Policy AC6 requires the provision of a “green link” for pedestrians and cyclists through the site between the Arboretum and Bass’s Recreation Ground. The application proposes both formal and

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

informal links through the development, which fulfil the policy objective. The formal route is in a central position, running alongside the retained “pepper-pot” tower between London Road and Osmaston Road. The informal link is identified as a green corridor, which would run along the southern edge and flatter part of the site and has the potential to provide an easily accessible link to the Arboretum.

The masterplan shows an egress going onto Litchurch Street, a private road within the community hospital. This raises concerns that the route would not be capable of becoming a publicly maintained footpath and cycle path, since a key section of the route would be in private ownership. The Highways Officer has raised significant objections to this aspect of the proposal and I concur with his view that this is not appropriate, since it should egress directly onto Osmaston Road to the north of the Urgent Care Centre. There is a strip of land alongside Osmaston Road, which is in Council ownership and is currently preventing the preferred egress being delivered, since it is not in the applicant’s control. This issue will be resolved, when the land becomes dedicated as public highway, which is the intention of the Council, although this process will not be completed until after the application is determined. Despite the route to Osmaston Road not being resolved at this stage, the applicant is committing to delivery of a green pedestrian/ cycle route through the development, which meets the requirement of Policy AC6. The details of the route, including its alignment and layout are not for determination at outline stage and will be reserved for the detailed scheme. The green links will be secured as part of a phased development of the site. It is reasonable to attach a condition to prevent an egress onto a private road, to ensure delivery of the route directly onto the public highway.

The Highways Officer also requires an improved pedestrian link into the city centre, via new access through the wall in the Bradshaw Way boundary. This has impacts on the setting of the nearby listed wall and railings and the Conservation Officer has referenced this in her comments. However, I am satisfied that a connection to the city centre is necessary for both permeability and improved highway safety for pedestrians and the details of this element of the scheme can be resolved at reserved matters stage.

Overall, the transport implications and access proposals are considered to be consistent with the objectives of Policy CP23, which seeks to promote sustainable transport and greater travel choices, for occupiers of a development. The transport impacts of the development are considered to be acceptable in this city centre location and provides for improved connections to the nearby areas of the city.

### **Open Space and Trees**

#### **London Road Linear Park**

The development proposals include a number of landscape / green infrastructure features including the development of a new linear park along the London Road frontage, incorporating a number of retained mature trees and the creation of two ‘green links’ between London Road and Osmaston Road, including pocket parks and new tree planting. The principle of including these features is to be welcomed and is consistent with Policy AC6, which specifically requires developments to make a positive contribution to the townscape of London Road and the provision of a green route providing a pedestrian and cycle link.

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

The central public realm link through the site between London Road and Osmaston Road (pepper-pot corridor) is best located to serve as a green pedestrian and cycle link, although a separate link is also proposed towards the community hospital to the south. This is identified on the masterplan as an “informal green link” and would terminate at Litchurch Street, a private road through the community hospital site. The remainder of the route, which is approx. 200 metres onto Osmaston Road falls outside of the application site. The formation of a primary pedestrian/ cycle route through the development, which does not egress onto the public highway is not desirable since it relies on a private road, which outside the control of the Council’s Highway Authority. It could be subject to closure by the hospital (or other landowner), which would remove the benefit of the link to provide a through access to the Arboretum. This cannot therefore form an off-road green link through the development for the purposes of fulfilling the aspiration of Policy AC6.

The general approach to green infrastructure in the site masterplan is also consistent with Policy CP16, CP17 and AC5 as it provides public access to new and existing green space for the occupants of the development and the wider area, due to the additional linkages which are proposed to be provided as part of the scheme and incorporates landscape features as an integral part of the development.

The main consideration in relation to biodiversity is the selective removal of mature trees on the London Road frontage. A number of these trees are covered by TPOs. Trees are an important part of the green infrastructure on the site and the removal of trees can be regrettable. An Arboricultural Assessment and tree constraints plan has been submitted in support of the application which propose the removal of various groups of trees which are on the site. Some of these are for arboricultural reasons, due to poor health and condition and the rest are to meet design and layout objectives set out in the masterplan.

The loss of any protected trees and any associated impacts on biodiversity is regrettable, although in this case, the Council’s Arboricultural Officer has discussed the tree removal on site with the applicant and is supportive of the proposals. It is also worth noting that the most significant trees on site are being retained and incorporated into the linear park and open space corridors which are proposed in the masterplan. Any impacts on protected species, including bats can be mitigated and dealt with appropriately by planning conditions and under a Natural England Licence, as referred to below. On this basis, the proposed removal of trees is considered acceptable in terms of Policies CP16 and C19, which both seek to protect such landscape assets in a manner appropriate to their significance.

### **Other Environmental Impacts**

#### **Noise and Air Quality**

The former hospital site is located in area close to the city centre and abutting the Inner Ring Road, which experiences high levels of noise, mainly from traffic and poor air quality. There is an Air Quality Management Area (AQMA) along Bradshaw Way, London Road and Osmaston Road as a result of high levels of NO<sub>2</sub> and particulate emissions from traffic flows. The applicant has provided both a Noise Assessment and Air Quality Assessment to assess the impacts on the proposed redevelopment and in particular the residential element of the scheme.

**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

The noise assessment acknowledges the high levels of traffic noise around the site, although it is concluded that with suitable mitigation measures being introduced into the design and layout of the dwellings and outdoor amenity area, the noise levels would be kept within acceptable limits. The Environmental Health Officer acknowledges these findings and accepts the recommendations to minimise noise impacts in the detailed layout. Since the application is only seeking approval in principle for the various types of development proposed, it is reasonable to secure appropriate noise mitigation via suitable planning conditions.

In respect to air quality, the submitted assessment acknowledges that the development is likely to see significant adverse impacts from the increases in levels traffic on an already busy network, likely to occur in the future. The Environmental Health Officer considers that “the development would introduce sensitive receptors i.e. residential dwellings, into an area of known poor air quality and which has been designated an Air Quality Management Area. Future occupants are therefore at risk of being exposed to high levels of nitrogen dioxide (NO<sub>2</sub>) and possibly fine particulate matter (PM<sub>2.5</sub>). However, he also notes that potential air quality emissions in the future are uncertain, due to improvements in vehicle emissions and may actually improve over time. The Officer has adopted a precautionary principle and assumed significant impacts on sensitive receptors in the development as a result of poor air quality. There is the added dimension of current national government policy to mandate Derby to implement a Clean Air Zone which will affect this location.

Whilst there is the potential for significant impacts on future residents, arising from poor air quality, it must be borne in mind that the site was previously occupied by a large hospital, with significant traffic generation and large number of patients. The comparison with the previous use means that it would not be reasonable to resist residential uses on this site, solely on air quality grounds. The Environmental Health Officer has taken this into account and accepts that it would be unreasonable to resist the principle of residential development on this site, subject to various conditions to limit the impact of traffic emissions on future occupants. This includes submission of a mitigation plan for air quality for each phase of development and a 10 metre buffer for residential development from the carriageway of London Road, Bradshaw Way and Osmaston Road. Such a buffer would be achieved with ease on the Bradshaw Way and London Road frontages due to the location of the site boundary wall and mature trees which form a natural buffer. However, the applicant has raised concern in relation to Osmaston Road due to the proximity of the existing former dwellings at 123 -129 Osmaston Road and the need to form an active street frontage which complements the Hartington Street Conservation Area opposite the site. Some other form of mitigation to protect living environments from poor air quality may be required in this location.

Overall, I am satisfied that the high noise levels and poor air quality arising from the busy road network in this location can be dealt with appropriately at reserved matters stage and controlled by a set of planning conditions. These environmental issues are a result of this site being adjacent to the city centre and the AQMA and can be satisfactorily mitigated, such that the intentions of saved policies GD5 and E12 can be met.

**Classification: OFFICIAL**

### Contamination

Following the demolition of the hospital buildings the site has largely been cleared and the ground extensively disturbed, due to the significant scale of the works undertaken. A Preliminary Contamination Assessment has been submitted with the application, which recommends that due to ground disturbance, that further gas and soil monitoring on the site is carried out before any development works commence.

The Environmental Health Officer is satisfied with the results of the assessment and recommends planning conditions are attached to secure a site investigation for contamination and possible remedial measures if necessary. This is in my opinion an acceptable approach and accords with the requirements of saved policy E13, relating to site contamination.

### Flood Risk

The former DRI site is in an area of low flood risk, Flood Zone 1, although it is a substantial site area, which requires a sustainable drainage solution to deal with surface water. A Flood Risk Assessment and Drainage Strategy have been included with the application, which provides a proposed surface water drainage strategy for the development. This suggests that discharge for surface water within the development would be close to greenfield discharge rate as practically possible as part of a wider detailed drainage design, submitted as part of the reserved matters.

Following the submission of additional drainage information in February 2017, the Land Drainage team are satisfied that the proposal is capable of providing sustainable (SUDs) drainage in the development to meet the their requirements and minimise flood risk to the wider area. Accordingly the proposal meets the flood risk intentions of Part 1 Policy CP2.

### Ecology

In regards to protected species, the former hospital site was known to support bat roosts and activity in some of the hospital buildings and trees. A bat survey was undertaken to support the previous outline application in 2010, which found evidence of bat roosts and conditions were attached to require mitigation measures to be put in place to protect bat habitat during and post – demolition. Most of those buildings have now been demolished and only a small number of buildings now remain on the site. I note the comments made by Derbyshire Wildlife Trust in relation to the demolition about the failure to obtain a licence to safeguard the bat habitat from Natural England. This is regrettable and should not be repeated for this development.

A further bat survey was carried out in February 2016 as part of a Preliminary Ecological Appraisal which has been undertaken and this reveals that some of the historic buildings and trees have the potential to support bat roosts. Further dusk emergence surveys and dawn re-entry surveys were then carried out in 2016 that confirmed bat roosts in 123-129 Osmaston Road and The Lodge. These buildings are proposed to be retained as part of the development and brought back into re-use. A mitigation strategy and Natural England licence would therefore be required to protect the bat habitat from refurbishment works to form part of the development. Derbyshire Wildlife Trust (DWT) have noted that the survey work was carried out to a “highly professional standard” and that no further survey works are required at this stage. The presence of protected species, in this case bats have therefore been

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

identified on the site, and their protection would be adequately safeguarded by a set of mitigation measures to be implemented before and during construction. These can be secured by planning conditions as recommended by DWT and would ensure that the requirements of Part 1 Policy CP19 to protect biodiversity are complied with.

The appraisal also identified the potential for breeding birds to be present in the trees on the site, which would require protection for any works carried out during the breeding season.

Ecological enhancements in the development are also proposed as part of the open space and landscape strategy in the master plan, by means of native planting and provision of bird and bat boxes within the site. These are broadly welcomed by DWT and a scheme of biodiversity enhancement can be secured through the reserved matters, by means of a planning condition.

#### **Planning Balance: harm v benefits**

In coming to a decision on whether the acknowledged harm to the heritage assets on the site resulting from the development proposals, as identified by the various consultees including the Council's Conservation Officer, should lead to a refusal of outline permission, regard must be had for the relevant adopted Local Plan – Part 1 policies in particular CP20 and AC6 and saved policy E19, which feeds into the balancing exercise required under both paras.134 and 135 of the NPPF.

The removal of a section of the listed wall and railings fronting onto London Road, to form a principal pedestrian entrance into the site would amount to less than substantial harm to the designated heritage asset, which must be considered with regard to para.134 of the NPPF and balanced against the public benefits of the proposal. The loss of the historic fabric of a small portion of the listed wall and railings constitutes a limited degree of harm in my view, which must be weighed against the benefit of enabling an improvement to the permeability of the development site between London Road and Osmaston Road and providing additional pedestrian access to the new areas of public realm and to the retained "pepper pot" building. This limited amount of demolition to the wall and railings, would not in my view amount to a detrimental impact on the listed structure, which does not therefore conflict with the provision of policy CP20 and saved policy E19.

Paragraph 135 relates specifically to applications which impact on non-designated heritage assets and this includes buildings on the Council's Local List. It requires that the effect on the significance of the heritage asset, should be taken into account and in weighing applications that affect directly or indirectly impact on that asset, a balanced judgement is required having regard for the scale of the harm or loss to the significance. It is fair to say that the requirements of para. 135 are not as robust as that of para.134, when weighing the impacts of development on non-designated assets in the planning balance.

Taking into account the impact of the proposal on the "pepper pot" building which is to be demolished, it clearly amounts to a direct and significant impact resulting in the loss of the heritage asset. Being mindful of the views of the Council's Conservation Officer, the building is currently part one of a pair, which are landmark features on the site and make direct reference to the 19<sup>th</sup> Century hospital. However, the building is only of local historic significance, which is why it is on the local list and it does not

**Classification: OFFICIAL**

have any statutory protection through listing and is outside the conservation area. The weight given to its significance in the planning balance must therefore be less than that given to a statutory listed structure or building in the conservation area. In weighing up the loss of the “pepper pot” building, in the planning balance, the wider benefits of the proposed redevelopment of the hospital site, both in terms of the physical regeneration, economic and social benefits of housing delivery and public realm, as well as the conservation of the other heritage assets on and around the site must be taken into consideration.

In terms of the significant planning benefits of the development proposal, the regeneration of a strategic brownfield site in a highly sustainable location is a material consideration which must be given due weight in the planning balance. The proposal would deliver a new residential neighbourhood of up to 500 units, with enhanced connections to the surrounding communities and to the city centre. This amounts to a significant housing delivery for the city, which is policy compliant and would make a material contribution towards the city’s housing requirement. The proposal is for a mix of different housing types, including care home facilities to give a sustainable community, with supporting facilities.

The scheme is also proposed to retain and enhance the setting of trees on the site and introduce a new framework of public realm, open space and landscaping through a comprehensive development, incorporating the retained trees and heritage features. The delivery of new high quality public open space within the site, through the provision of the linear park alongside London Road and Bradshaw Way and around the retained “pepper pot” building would open up the site to public access and make a positive contribution to the townscape in this part of the city.

The overall masterplan proposal, whilst it is indicative also provides clear parameters and a comprehensive urban design vision for future reserved matters applications. The indicative layout has strong urban design credentials and the access components and strong legible routes through the site would, in my opinion, deliver a scheme with a definite ‘sense of place’. The loss of the pepper pot tower is required to maintain clear sight and pedestrian access through the site and I appreciate the urban design rationale for this component.

These parameters are considered to be in compliance with requirements of Policy AC6, although it must be noted that the loss of the locally listed building is in conflict with this policy.

Having said that there are also acknowledged to be substantial benefits that the masterplan proposals would deliver to the former hospital site, which are related to the proposed heritage improvements to retained buildings and structures on the site. Subject to further detailed analysis and consideration, the proposed reuse and restoration of these heritage assets is a very positive component which should be attributed significant weight in the planning balance.

In weighing up the balance between the benefits and the adverse impacts of the development proposals, I consider that the regeneration benefits of the scheme, delivery of significant new housing and complementary facilities and provision of a network of public green spaces, public realm and pedestrian/ cycle links through the

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

site and comprehensive urban design vision for the site would outweigh the harm to and loss of the identified heritage assets which are affected by the development.

In terms of the planning balance which is being considered under the requirements of the NPPF paras. 134 and 135 I conclude that the proposed development does give rise to significant benefits which would outweigh the harm to the locally listed “pepper pot” building and to the London Road wall and railings. It is very rare that a scheme will comply in every respect with every policy in the development plan. The Courts have held that a failure to accord with some policy aspects does not automatically mean that it cannot, as a matter of planning judgment, accord with the plan considered as a whole.

In this case, whilst the proposal is acknowledged to be in conflict with the some of the provisions of Policies CP20, CP4 and AC6 and saved policy E19, when taken as a whole the development proposal does in my view accord with the adopted Local Plan – Part 1 and saved City of Derby Local Plan Review; as a result of the significant public benefits associated with the delivery of a large quantum of housing on a highly sustainable site and the inclusion of a number of designated heritage assets into the scheme.

### **Section 106 Package**

Through Policy AC6 of the Derby City Local Plan – Part 1, the development of the former DRI site is required to provide “effective protection and enhancement of heritage assets within and adjacent to the site” and “a positive contribution to the townscape of London Road”. The application proposes to undertake refurbishment works and conversion of the retained heritage assets on the site, including one of the locally listed pairs of “pepper pot” buildings. Through the Section 106 agreement, the applicant has also agreed to provide a significant amount of on-site public open space to include a linear park on the London Road frontage and green corridor through the site as well as other public realm works and the reuse of the retained locally listed building for community use. Collectively these works come at a significant financial cost to the development. Even without the retention of the second pair of “pepper pot” buildings, the applicant has approached the Council with concerns regarding the viability of the other requested Section 106 contributions. It is therefore safe to assume that the viability of the development would be further reduced by the retention and restoration of the second “pepper pot” building.

The District Valuer (DV) was therefore engaged to provide an independent assessment of the development’s viability. The DV has concluded that while the provision of affordable housing is not viable for this development there is scope to provide limited financial contributions. The DV has also recommended that a review/overage mechanism be agreed with the applicant due to the uncertainty of future costs as a result of the outline nature of the application.

Following the issuing of the DV’s report, further negotiation with the developer was undertaken on the contributions which the development can afford. This has resulted in the offer of a full primary education contribution and just over a fifth of the policy compliant secondary education contribution. The Council’s education team acknowledges that whilst a reduced secondary education contribution may put

**Classification: OFFICIAL**

pressure on future school capacity, this contribution is acceptable in the context of site viability.

The education contributions are in addition to on-site provision of public open space and public realm to form part of the development scheme. Officers are satisfied that the level of contributions being provided up front and on-site are in line with recommendation of the DV report and indeed represent a slightly enhanced offer. In lieu of an overage/ review mechanism being included in the Agreement, the applicant has agreed to the provision of 10% affordable housing on site.

In terms of overage, this is a mechanism for the provision of on-site infrastructure or financial contributions equivalent to the level not being provided during the life of the development which would make the scheme policy compliant. This is in the event that viability improves in the future.

Agreed Section 106 contributions:

- Full contribution towards primary education
- Partial contribution towards secondary education
- On-site public open space including play area
- On-site public realm
- Community/sports use in the remaining 'pepper pot' tower
- On site affordable housing.

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

- A. To authorise** the Director of Strategy Partnerships, Planning and Streetpride to negotiate the terms of a Section 106 Agreement to achieve the objectives set out below and to authorise the Director of Governance to enter into such an agreement.
- B. To authorise** the Director of Strategy Partnerships, Planning and Streetpride to **grant permission** upon conclusion of the above Section 106 Agreement.

**Conditions:**

1. Matters to be reserved. – scale, layout, design and landscaping
2. Two year time limit for reserved matters and three years for implementation
3. Plans/ drawings to be approved under the permission.
4. Details of the phasing of the development, including timetable for repair and refurbishment of the retained buildings on site: Wilderslowe House, 123-129a Osmaston Road and the "pepper pot" building to be agreed.
5. As part of any phase or phases of development which requires the removal of part of any section of the wall and railings fronting onto London Road and Bradshaw Way, precise details of the siting and width of opening, finishes, copings and use of material to be removed and proposed footpath levels through the raised ground to be submitted and agreed.

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

6. Permission does not imply approval for the removal of any of the rear extensions to the buildings at 123-129a Osmaston Road.
7. No demolition of the “pepper pot” building hereby permitted to be carried out until a detailed reserved matters scheme which includes the development of that part of the site has been submitted and agreed.
8. To agree the layout, boundary treatment and landscaping of the proposed curtilage area for Wilderslowe House, as part of the detailed reserved matters for the works to Wilderslowe House
9. Permission does not imply approval for the formation of a pedestrian access by any works to the listed curtilage wall of Wilderslowe House
10. The details to be submitted for re-use and refurbishment of 123 -129a Osmaston Road, to include a heritage assessment of each of the buildings, including their extensions.
11. Minimum number of residential units in C3 use to be implemented across the whole development shall be no less than 400 dwellings, unless an alternative is agreed in writing.
12. Maximum limit on floor space for A1 retail, A3, A4 and B1a uses as per the application.
13. Range of goods limit for A1 retail to limit range of goods to convenience only up to limit the overall floor space to 1,000 sqm (gross) only.
14. As part of a detailed approval for any phase or phases of the development, pedestrian and cycle links through that part of the development and connections with the surrounding area, to be submitted showing siting, alignment and width of the route.
15. The route of the informal green link through the site and access onto the private road is not to be approved under this permission.
16. Details to be submitted for any phase or phases of the development to include analysis of existing and proposed floor levels across the site and details of the treatment of finished floor levels for buildings, public realm and outdoor spaces.
17. Details to be submitted for any phase or phases of the development to include a noise mitigation assessment for that phase or phases
18. Where any phase or phases of the development include a commercial use in the A3, A4 and B1 use class, then a noise assessment to be carried out and agreed for those uses.
19. As part of any phase or phases of the development which fronts onto Osmaston Road, London Road and Bradshaw Way, an air quality mitigation plan to be submitted and agreed, to minimise increases in local emissions from traffic associated with the development and mitigation scheme to protect occupants of all proposed dwellings likely to be exposed to significant levels of air pollution.
20. As part of any phase or phases of the development, no residential units shall be sited within 10 metres of the carriageway of Bradshaw Way and London Road

**Classification: OFFICIAL**

and within 5 metres of Osmaston Road, unless otherwise agreed in writing by the local planning authority.

21. As part of any phase or phases of the development details of a surface water drainage strategy for that phase or phases, to be agreed. Details to include SUDs measures to limit surface water run off.
22. Before any works are carried out to buildings or trees which may affect bat habitat, a bat mitigation and monitoring strategy, including need for Natural England licence to be submitted and agreed
23. Compensatory bat roosting measures to be implemented as part of any phase or phases of the development, in line with details to be agreed.
24. As part of any phase or phases of the development intrusive site investigations to be carried out to determine levels of ground gases and soil contaminants on the site. An investigation report to be submitted and agreed before commencing.
25. Where investigation report confirms significant contamination exists, remediation method statement for that phase to be submitted and approved.
26. All elements of agreed remediation statement for each phase to be validated and validation report to be submitted and agreed, before occupation.
27. Details of internal road layout, servicing, parking and pedestrian/ connections green link, widening of footway, wheel washing facility and construction management plan to be submitted.
28. Before occupation accesses on London Road and Osmaston Road, travel plan and green link to be submitted and provided.
29. No vehicle connection between London Road and Osmaston Road.

**Reasons:**

1. To comply with the relevant Town and Country legislation.
2. To comply with the relevant Town and Country legislation.
3. For the avoidance of doubt.
4. To ensure a comprehensive approach to the development and proper control over delivery and to secure the repair and renovation of the historic buildings on the site in a timely manner – Policy AC6, CP3, CP4, CP6 & CP20
5. To safeguard the significance and setting of the listed structure and ensure proper control over the removal of historic fabric – Policy CP20, saved Policies E19, E20
6. To safeguard the significance and character of the buildings in the Conservation Area and ensure proper control over any alterations or removal of historic fabric – Policy CP20, saved Policy E18
7. To ensure that demolition is carried out as part of an approved phased development and to safeguard the significance and character of the locally listed building – Policy CP20, saved Policy E19

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**

8. To safeguard the significance and setting of the listed structure and ensure proper control over the removal of historic fabric – Policy CP20, saved Policies E19, E20
9. To safeguard the significance and setting of the listed structure and ensure proper control over the removal of historic fabric – Policy CP20, saved Policies E19, E20
10. To safeguard the significance and character of the buildings in the Conservation Area and ensure proper control over any alterations or removal of historic fabric – Policy CP20, saved Policy E18
11. To ensure the development is policy compliant and secures an appropriate contribution towards housing delivery for the city – Policy AC6 & CP6
12. To ensure that commercial and retail uses are complementary to the needs of the residential neighbourhood hereby approved – Policy AC6, CP13 & CP15
13. To minimise impact on the vitality and viability of the defined centres, including city centre – Policy CP12 & CP13
14. To provide appropriate pedestrian and cycle connections through the development, with the wider area to promote varied modes of transport to and from the site – Policy AC6 & CP23
15. The alignment of the pedestrian and cycle link through the development as shown on the indicative layout plan does not secure the use of the route for the public in perpetuity and is therefore not appropriate to accord with the policy – Policy AC6 & CP23
16. To secure a suitable urban design and layout which has regard for the topography and physical features of the site – Policies CP3, CP4, AC6 & saved Policy GD5
17. To minimise the impacts of noise disturbance to future occupants of the development in the interests of residential amenity – saved Policy GD5
18. To assess and minimise impacts from noise disturbance resulting from commercial uses approved on the development – saved Policy GD5
19. To protect future occupants of the development from the adverse effects of poor air quality – saved Policy GD5
20. To protect future occupants of the development from the adverse effects of poor air quality – saved Policy GD5
21. To ensure surface water drainage arrangements for the development which minimise flood risk to the wider area – Policy CP2
22. To safeguard protected species and their the habitat from the adverse impacts of the development and provide mitigation in interests of biodiversity – Policy CP19
23. To provide enhancement habitat features for protected species in the interests of safeguarding biodiversity – Policy CP19

**Classification: OFFICIAL**

24. To protect future occupiers of the development from site contamination – saved Policy GD5
25. To protect future occupiers of the development from site contamination – saved Policy GD5
26. To protect future occupiers of the development from site contamination – saved Policy GD5
27. In interests of highway safety – Policy CP23
28. In interests of highway safety – Policy CP23
29. In interests of highway safety – Policy CP23

**Informative Notes:**

Heritage assets

No works to demolish or make alterations any of statutory listed buildings and structures on and around the site can be undertaken without the benefit of listed building consent for those works. Works to demolish or develop any part of the buildings in the Hartington Street Conservation Area will require a detailed planning application, before any works commence. All further applications affecting the heritage assets will require a detailed heritage impact assessment to be provided of those buildings or structures.

Wildlife protection

No removal of trees or shrubs or works to or demolition of buildings or structures that may be used by breeding birds should take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the work is commenced and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site.

- 1) The above conditions require works to be undertaken in the public highway, which is land subject to the provisions of the Highways Act 1980 (as amended) and over which you have no control. In order for these works to proceed, you are required discuss the proposed works with the highway authority to arrange for the appropriate agreement under the Highways Act.
- 2) For details of the 6C's design guide and general construction advice please contact Robert Waite Tel 01332 642264.
- 3) Derby City Council operates the Advanced Payments Code as set out in sections 219 to 225 Highways Act 1980 (as amended). You should be aware that it is an offence to build dwellings unless or until the street works costs have been deposited with the Highway Authority.

**S106 requirements where appropriate:**

Contributions towards primary and secondary education and 10% affordable housing to be provided on site.

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with  
means of access)**

**Application timescale:**

The application had a 13 week target date of 12 April 2017, although an extension of time for determination has been agreed until 18 August. The scheme is brought to committee due its strategic nature and objection from the Conservation Area Advisory Committee.

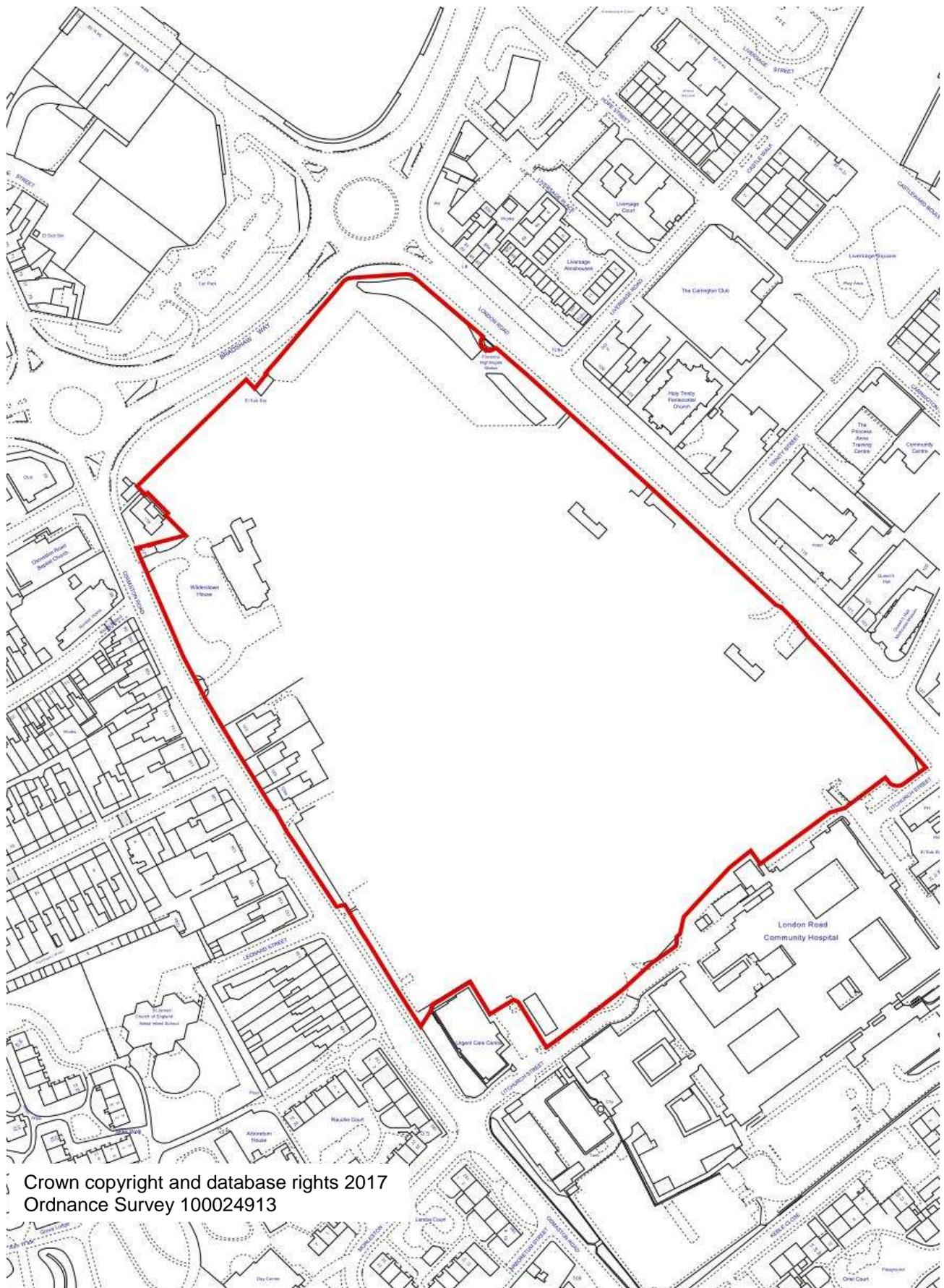
**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 2**

**Application No: DER/01/17/00030**

**Type: Outline (with means of access)**



Crown copyright and database rights 2017  
Ordnance Survey 100024913



## Derby City Council

Delegated decisions made between 01/05/2017 and 30/06/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
11/14/01559/PRI	Full Planning Permission	5 Poplar Row, Darley Abbey, Derby, DE22 1DU	Single storey rear extension to dwelling house (enlargement of kitchen)	Granted Conditionally	12/05/2017
09/15/01178/PRI	Full Planning Permission	60 Balaclava Road, Derby, DE23 8UJ	Change of use from retail (use class A1) to hot food takeaway (use class A5) and installation of flue to the rear elevation	Granted Conditionally	24/05/2017
03/16/00377/PRI	Listed Building Consent - alterations	5 Poplar Row, Darley Abbey, Derby, DE22 1DU	Single storey rear extension to dwelling house (kitchen), infilling of existing kitchen door and installation of a window and alterations to boundary walls	Granted Conditionally	12/05/2017
04/16/00516/PRI	Full Planning Permission	Mill Manager's House, Darley Abbey Mills, Darley Abbey, Derby, DE22 1DZ	Creation of residential accommodation in association with the adjacent West Mill wedding venue to include the creation of 7 new en-suite bedrooms with lounge, dining and kitchen facilities (use class C1)	Granted Conditionally	12/05/2017
05/16/00589/PRI	Full Planning Permission	Land adjacent 17 Rowallan Way, Chellaston, Derby, DE73 1WX	Erection of pre-school and school club building	Granted Conditionally	11/05/2017
06/16/00696/PRI	Full Planning Permission	Derby Conference Centre, London Road, Derby	Erection of smoking shelter, formation of additional car parking areas, access road, landscaping and associated works	Granted Conditionally	12/06/2017
09/16/01163/DCC	Local Council own development Reg 3	Friar Gate Bridge, Friar Gate, Derby	Erection of security fence	Granted Conditionally	18/05/2017
10/16/01234/PRI	Full Planning Permission	Land adjacent to 29 Arthur Street, Derby, DE1 3EF	Demolition of three garages and erection of two dwelling houses for student accommodation (use class C3)	Refuse Planning Permission	25/05/2017
10/16/01250/PRI	Full Planning Permission	65-69 Nottingham Road, Derby, DE1 3QS	Change of use from offices (use class B1) to eight apartments (use class C3) to include two storey extensions, alteration to the fenestration	Granted Conditionally	08/05/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
11/16/01332/PRI	Full Planning Permission	39 Highfield Road, Littleover, Derby, DE23 7DH	Two storey side and single storey front and rear extensions to dwelling house (garage, utility room, w.c., kitchen/dining area, bedroom, en-suite and enlargement of bedroom) and loft conversion, including dormer window to the side elevation.	Granted Conditionally	02/05/2017
11/16/01338/PRI	Full Application - Article 4	4 Potter Street, Spondon, Derby, DE21 7LH	Installation of replacement windows and alterations to the front elevation	Granted Conditionally	20/06/2017
11/16/01339/PRI	Full Planning Permission	The Papermill, Darley Street, Darley Abbey, Derby, DE22 1DX	Demolish existing store and remains of concrete wall to recently demolished garages. Erection of extension (office, kitchen and staff store) together with formation of glazed main entrance door and canopy. Formation of hard landscaping and erection of 1m high wooden posts along the back edge of the carpark access road and erection of a wall around yard area	Granted Conditionally	26/05/2017
11/16/01363/DCC	Local Council own development Reg 3	Former Derby City Council Social Services Office, Perth Street, Chaddesden, Derby, DE21 6XX	Demolition of building and erection of 11 dwelling houses (use class C3) with associated landscaping and other groundworks	Granted Conditionally	12/05/2017
11/16/01384/PRI	Full Planning Permission	516 Burton Road, Littleover, Derby, DE23 6FN	Change of use from dwelling house with care (use class C3b) to residential care home (use class C2) including the construction of a single storey rear extension	Granted Conditionally	12/06/2017
12/16/01447/PRI	Reserved Matters	Land at Hackwood Farm, Radbourne Lane, Derby	Erection of 40 dwellings, open space, drainage works, formation of access and associated infrastructure and landscaping - approval of reserved matters of appearance, landscaping, layout and scale under Outline permission Code no.DER/06/15/00847	Granted Conditionally	30/06/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
12/16/01448/PRI	Reserved Matters	Land at Hackwood Farm, Radbourne Lane, Derby	Erection of 370 dwellings, open space and infrastructure - approval of reserved matters of appearance, landscaping, layout and scale under Outline permission Code no.DER/06/15/00846	Granted Conditionally	30/06/2017
12/16/01455/DCC	Local Council own development Reg 3	Chellaston Junior School and the Golden Hour Club, Maple Drive, Chellaston, Derby, DE73 1RD	Single storey extension to school (enlargement of hall) and demolition of club building to allow for the formation of additional car parking spaces	Granted Conditionally	15/05/2017
12/16/01490/PRI	Full Planning Permission	114 Belper Road, Derby, DE1 3EQ	Single storey, two storey and three storey extensions to dwelling house. Landscaping works to the rear garden to include installation of decking and alterations to staircase. Installation of replacement windows and alterations to front boundary wall	Granted Conditionally	16/06/2017
12/16/01515/PRI	Listed Building Consent - alterations	1 St. Peters Street, Derby, DE1 2AE (HSBC)	Installation of a replacement fire door	Refuse Planning Permission	18/05/2017
01/17/00009/PRI	Full Planning Permission	32a Chatham Street, Derby, DE23 8TH	Two storey front, side and rear extensions to dwelling house (shower room, prayer room, five bedrooms, two en-suites and enlargement of family room and lounge) and formation of rooms in the roof space (three bedrooms)	Granted Conditionally	26/05/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
01/17/00041/DCC	Variation/Waive of condition(s)	River Derwent Corridor including sites from Darley Abbey, Little Chester, Chester Green, North Riverside, Bass Rec', Pride Park to Alvaston Park, Derby	Outline application with full details of 'Package 1' for flood defence works along the river corridor involving; demolition of existing buildings, boundary treatments and flood defence walls, removal of existing flood embankments, vegetation and trees, the raising, strengthening, realigning and construction of new flood defence walls, embankments, access ramps and steps, demountable flood defences and flood gates, the construction of replacement buildings, structures and community facilities, alterations to road, footpath and cycleway layouts along with associated and ancillary operational development in the form of ground works, archaeological investigation works and landscaping works to reinstate sites with environmental enhancements included - Variation of condition 4 of previously approved permission DER/02/15/00210 to include minor changes to the layout in the Duke Street, Sowter Road and St. Mary's Bridge areas.	Granted Conditionally	24/05/2017
01/17/00076/PRI	Full Planning Permission	7 Beech Court, Spondon, Derby, DE21 7TP	Single storey front extension to dwelling house (enlargement of kitchen)	Granted Conditionally	31/05/2017
01/17/00092/PRI	Full Planning Permission	67 Blagreaves Lane, Littleover, Derby, DE23 7FQ	Single storey side extension to dwelling house (store and office)	Granted Conditionally	21/06/2017
01/17/00096/PRI	Full Planning Permission	All Saints Church Office / Centre, Etwall Road, Mickleover, Derby, DE3 5DL	Installation of additional lighting to the existing car park area	Granted Conditionally	18/05/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
01/17/00097/PRI	Full Planning Permission	4 The Court, Alvaston, Derby, DE24 0JN	Single storey front extension to dwelling (porch and enlargement of kitchen) and raising of the roof height and installation of two dormer windows to the front elevation to form rooms in the roof space (two bedrooms, en-suite and store)	Granted Conditionally	23/05/2017
01/17/00099/PRI	Works to Trees under TPO	Trees at the rear of 8 & 9 New Orchard Place, Mickleover, Derby	Crown reduction of one Oak tree by 1.5m, one Oak tree by 1m and felling of an Ash tree protected by Tree Preservation Order no. 295	Granted Conditionally	03/05/2017
01/17/00107/PRI	Full Planning Permission	The New Lodge Nursing Home, 114 Western Road, Mickleover, Derby	Two storey side extension to nursing home (eight en-suite bedrooms) & installation of an external staircase.	Refuse Planning Permission	04/05/2017
01/17/00113/PRI	Full Planning Permission	6-7 Iron Gate, Derby, DE1 3FJ	Installation of a new shopfront and awning	Granted Conditionally	24/05/2017
01/17/00114/PRI	Listed Building Consent - alterations	6-7 Iron Gate, Derby, DE1 3FJ	Part removal of the existing shopfront and installation of new shopfront with Victorian arm awnings with integrated lighting	Granted Conditionally	24/05/2017
02/17/00147/PRI	Listed Building Consent - alterations	3-8 Royal Buildings, Victoria Street, Derby, DE1 1ES	Alterations, replacement and refurbishment of six shopfronts and a door.	Granted Conditionally	22/05/2017
02/17/00148/PRI	Full Planning Permission	3-8 Royal Buildings, Victoria Street, Derby, DE1 1ES	Alterations, replacement and refurbishment of six shopfronts and a door.	Granted Conditionally	22/05/2017
02/17/00158/PRI	Full Planning Permission	58 Thackeray Street, Sinfin, Derby, DE24 9GZ	Two storey side and rear and single storey front and rear extensions to dwelling house (dining room, wet room, utility room, bedroom, bathroom, en-suite and enlargement of living room)	Granted Conditionally	04/05/2017
02/17/00162/PRI	Full Application - Article 4	27 Arthur Street, Derby, DE1 3EF	Installation of replacement windows to the front elevation	Granted Conditionally	04/05/2017
02/17/00165/PRI	Full Planning Permission	16 Broadway, Derby, DE22 1BQ	Two storey side and rear extensions to dwelling house (kitchen/living space, bedroom, bathroom, en-suite and roof terrace) and erection of a detached garage	Granted Conditionally	23/06/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
02/17/00173/PRI	Full Planning Permission	Land adjacent to 66 Normanton Lane, Littleover, Derby (access of Brayfield Road)	Erection of a single storey building for use as a delicatessen (use class A1)	Refuse Planning Permission	30/05/2017
02/17/00179/PRI	Full Planning Permission	3 Kingsdale Grove, Chellaston, Derby, DE73 1NX	Two storey and single storey rear extensions to dwelling house (enlargement of kitchen, bathroom & bedroom)	Granted Conditionally	04/05/2017
02/17/00190/PRI	Full Planning Permission	144 Vicarage Road, Mickleover, Derby, DE3 5EG	Two storey side and single storey front and rear extensions to dwelling house (porch, garage, wet room, three bedrooms, bathroom and enlargement of kitchen/dining area)	Granted Conditionally	17/05/2017
02/17/00191/PRI	Full Planning Permission	3 Fremantle Road, Mickleover, Derby, DE3 5HW	Two storey side and single storey rear extensions to dwelling house (garage, utility room, en-suite and enlargement of kitchen/dining room and bedroom)	Granted Conditionally	16/05/2017
02/17/00195/PRI	Prior Approval-Miscellaneous	Derby Midland Railway Station, Railway Terrace, Derby, DE1 2RU	Erection of platform and connection with overbridge	Prior Approval Approved	04/05/2017
02/17/00196/PRI	Outline Planning Permission	Site of 93 - 95 and land at rear of 97 Wiltshire Road, Derby	Residential development (two dwellings)	Granted Conditionally	28/06/2017
02/17/00202/PRI	Advertisement consent	38 Corn Market, Derby, DE1 2DG (Derbyshire Community Bank)	Retention of the display of various signage	Refuse Planning Permission	19/05/2017
02/17/00208/PRI	Full Planning Permission	12 Liskeard Drive, Allestree, Derby, DE22 2GW	Single storey front extension to dwelling house (porch and w.c.)	Granted Conditionally	03/05/2017
02/17/00211/PRI	Full Planning Permission	Land adjacent 74 Westbury Street, Derby, DE22 3PN	Erection of two detached dwelling houses	Granted Conditionally	06/06/2017
02/17/00218/PRI	Full Planning Permission	Land adjacent to 37 Keats Avenue, Littleover, Derby, DE23 7EE	Erection of dwelling house and double garage	Granted Conditionally	26/05/2017
02/17/00221/PRI	Works to Trees under TPO	St. Josephs Church Hall, Mill Hill Lane, Derby, DE23 6SB	Various works to trees protected by Tree Preservation Order No. 146	Granted Conditionally	15/06/2017
02/17/00228/PRI	Full Planning Permission	30 Stoney Lane, Spondon, Derby, DE21 7QH	Single storey side extension to dwelling (dining room and utility room)	Granted Conditionally	03/05/2017
02/17/00229/PRI	Works to Trees under TPO	13 Buckminster Close, Oakwood, Derby, DE21 2EA	Crown reduction by 1.5-2m and crown lift to 5 metres of Oak Tree protected by Tree Preservation Order No. 24	Granted Conditionally	11/05/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
02/17/00231/PRI	Full Planning Permission	1 Hawke Street, Derby, DE22 3DP	Single storey front and two storey side and rear extension to dwelling house (porch, enlargement of hall,kitchen, bathroom and two bedrooms)	Granted Conditionally	05/05/2017
02/17/00234/PRI	Full Planning Permission	4 Primula Way, Littleover, Derby, DE23 7FU	First floor front extension to dwelling house (bedroom and en-suite)	Refuse Planning Permission	11/05/2017
02/17/00236/PRI	Full Planning Permission	Unit in South West corner of Pride Park Stadium, Pride Park, Derby, DE24 8XL	Change of use from fitness suite (use class D2) to restaurant and bar (use classes A3 and A4)	Granted Conditionally	26/05/2017
02/17/00240/PRI	Full Planning Permission	Racecourse Farm, Hampshire Road, Derby, DE21 6BT	Demolition of existing outbuildings and erection of one dwelling (use class C3)	Granted Conditionally	27/06/2017
02/17/00245/PRI	Full Planning Permission	First Floor, 1-5 Iron Gate, Derby, DE1 3FJ	Retention of change of use of first floor to escape room (use class D2)	Granted Conditionally	22/05/2017
02/17/00254/PRI	Works to Trees under TPO	10 Queen Mary Court, Derby, DE22 1BB	Crown reduction of three Yew trees by 0.5m-1m protected by Tree Preservation Order no. 64	Granted Conditionally	08/05/2017
02/17/00259/PRI	Full Planning Permission	418 Burton Road, Derby, DE23 6AJ	Change of use from residential care home (use class C2) to aesthetic treatment clinic (use class D1) including alterations and enlargement of the parking area and associated tree works	Granted Conditionally	23/05/2017
02/17/00262/PRI	Works to Trees under TPO	128 Whitaker Road, Derby, DE23 6AP	Re-pollard 4 Lime Trees protected by Tree Preservation Order No. 278	Granted Conditionally	16/05/2017
02/17/00265/PRI	Works to Trees under TPO	Trees at side of Step-In Family Centre, Stepping Lane, Derby	Pollarding of various trees protected by Tree Preservation Order No. 300	Granted Conditionally	24/05/2017
03/17/00267/PRI	Full Planning Permission	Rolls Royce Plc, Wilmore Road, Derby, DE24 9BD	Installation of a surface water drainage system and re-surfacing of an existing car park	Granted Conditionally	05/05/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
03/17/00272/PRI	Full Planning Permission	58 Blenheim Drive, Allestree, Derby, DE22 2LE	The application is for two storey and single storey side extensions and single storey front and rear extensions to dwelling house (porch, bike store/workshop, utility room, w.c, bedroom, en-suite and enlargement of kitchen)	Granted Conditionally	22/06/2017
03/17/00274/PRI	Full Planning Permission	5 Manor Avenue, Derby, DE23 6EB	Two storey rear extension to dwelling house (two bedrooms)	Granted Conditionally	08/06/2017
03/17/00275/PRI	Full Planning Permission	164 Sancroft Road, Spondon, Derby, DE21 7LD	Single storey side and rear extensions to dwelling house (kitchen and dining room)	Granted Conditionally	28/06/2017
03/17/00276/PRI	Full Planning Permission	Derby Rugby Club, Haslams Lane, Derby	Formation of a new external sports pitch, installation of new artificial grass pitches, a pitch perimeter barrier and associated gated entrances to form an enclosure, installation of new hard standing areas and other associated alterations	Granted Conditionally	14/06/2017
03/17/00281/DCC	Listed Building Consent - alterations	The Silk Mill Industrial Museum, 32 Full Street, Derby, DE1 3AF	Fire improvement works to include replacement/refurbishment of eleven fire doors/frames, two timber windows, provision of additional illuminated fire exit signage and emergency lighting, provision of additional smoke/heat detectors, new electrical drops and decorations to immediate areas including doors to match the existing and formation of an external footpath	Granted Conditionally	08/05/2017
03/17/00284/PRI	Full Planning Permission	38 Gisborne Crescent, Allestree, Derby, DE22 2FL	Single storey rear extension to dwelling house (dining room)	Granted Conditionally	24/05/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
03/17/00286/PRI	Full Application - disabled People	98 Blagreaves Lane, Littleover, Derby, DE23 7FP	Two storey and single storey rear extensions to dwelling house (wet room, two bedrooms, bathroom and enlargement of lounge/dining room, kitchen, and bedroom) and installation of a dormer window to the side elevation - amendments to previously approved planning permission Code No. DER/01/16/00048 to retain the extended raised patio area, installation of fencing and alterations to the single storey extension the installation of a lantern roof, reduction in width of the lounge window and installation of bi-fold doors to the patio	Granted Conditionally	30/05/2017
03/17/00288/PRI	Full Planning Permission	5 Victor Avenue, Derby, DE22 1AN	Single storey front extension to dwelling house (entrance lobby) and installation of render	Granted Conditionally	15/05/2017
03/17/00291/PRI	Variation/Waive of condition(s)	The Needles, Bembridge Drive, Alvaston, Derby, DE24 0UQ	Erection of a single storey convenience store with associated car parking, landscaping, access arrangements and ATM Machine on land adjacent to the Needles Public House - variation of condition 2 and removal of condition 17 of previously approved planning permission Code No. DER/10/16/01198 to erect a new smoking shelter	Granted Conditionally	16/05/2017
03/17/00292/PRI	Full Planning Permission	8 Sherwood Avenue, Littleover, Derby, DE23 7NF	Demolition of dwelling and erection of a replacement dwelling (use class C3)	Refuse Planning Permission	23/06/2017
03/17/00293/DCC	Local Council own development Reg 3	Dale Community Primary School, Porter Road, Derby, DE23 6NN	Installation of two replacement double door sets	Granted Conditionally	08/05/2017
03/17/00295/PRI	Variation/Waive of condition(s)	Land off Fellow Lands Way, Chellaston, Derby	Erection of 190 dwelling houses - Variation of conditions 1, 21 and 25 of previously approved permission DER/01/13/00082 to substitute the house types to plots 163-165 & 179-181	Granted Conditionally	11/05/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
03/17/00298/PRI	Full Application - Article 4	52 Camp Street, Derby, DE1 3SD	Installation of replacement windows to the front elevation	Granted Conditionally	03/05/2017
03/17/00301/PRI	Full Planning Permission	Land at side of 8 Henley Green, Derby, DE22 4JG	Erection of a dwelling house (use class C3) - amendments to previously approved planning permission Code No. DER/06/14/00888	Granted Conditionally	03/05/2017
03/17/00302/PRI	Variation/Waive of condition(s)	14 Kirkstead Close, Oakwood, Derby, DE21 2HN	Two storey and single storey rear extensions to dwelling house (study, bedroom and conservatory), installation of a porch to the front elevation and erection of an outbuilding (shed) - variation of condition 2 and removal of condition 4 of previously approved planning permission Code No. DER/10/16/01245 to amend the rear elevation, include a new rear garage with wall and remove the outbuilding (shed)	Granted Conditionally	16/05/2017
03/17/00303/PRI	Full Planning Permission	72 Western Road, Mickleover, Derby, DE3 5GP	Single storey rear extension to butchers shop (baking/cooking room)	Granted Conditionally	26/05/2017
03/17/00304/PRI	Works to Trees under TPO	Hunters Moon, 30 Penny Long Lane, Derby, DE22 1AW	Felling of two Ash Trees protected by Tree Preservation Order No. 201	Granted Conditionally	04/05/2017
03/17/00306/PRI	Full Planning Permission	Garage Block on the junction of Carson Road and Washington Avenue, Derby	Demolition of the existing garage block. Erection of two dwelling houses (use class C3)	Granted Conditionally	30/05/2017
03/17/00308/PRI	Full Planning Permission	97 Blagreaves Lane, Littleover, Derby, DE23 7FQ	Erection of an outbuilding to be used as dog grooming salon	Granted Conditionally	09/05/2017
03/17/00310/PRI	Full Planning Permission	2 Rowsley Avenue, Derby, DE23 6JY	Two storey side and rear extensions to dwelling house (three bedrooms and garage)	Refuse Planning Permission	23/05/2017
03/17/00311/PRI	Full Planning Permission	36 Westgreen Avenue, Allenton, Derby, DE24 9AP	Two storey side and first floor rear extensions to dwelling house (bedroom, en-suite, bathroom and enlargement of hallway and bedroom) including installation of new windows to the side elevation	Refuse Planning Permission	17/05/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
03/17/00312/PRI	Non-material amendment	3 Venice Close, Chellaston, Derby	Single storey front and side extensions to dwelling house (garage, store and enlargement of sitting room and dining room) - non-material amendment to previously approved planning permission DER/11/16/01385 to make the garage detached	Granted Conditionally	22/05/2017
03/17/00315/PRI	Full Planning Permission	103 Wilsthorpe Road, Chaddesden, Derby, DE21 4QS	Two storey rear and single storey front extensions to dwelling house (porch, study space and bedroom)	Granted Conditionally	22/06/2017
03/17/00316/PRI	Full Planning Permission	12 Cavendish Way, Mickleover, Derby, DE3 5BJ	Single storey side and rear extensions to dwelling house (w.c, utility room, garage and enlargement of kitchen) - amendments to previously approved planning permission Code No. DER/09/16/01085 to amend the roof design of the extension	Granted Conditionally	04/05/2017
03/17/00317/PRI	Full Planning Permission	43 Green Avenue, Chellaston, Derby, DE73 1TE	Installation of a dormer to the front elevation	Granted Conditionally	15/05/2017
03/17/00318/PRI	Full Planning Permission	141 Markeaton Street, Derby, DE22 3AW	Single storey side and rear extensions to dwelling house (bedroom, dining room and storage area)	Granted Conditionally	05/05/2017
03/17/00319/PRI	Certificate of Lawfulness Proposed Use	22 Seagrave Close, Oakwood, Derby, DE21 2HZ	Single storey side extension to dwelling house (w.c. and utility area)	Granted	11/05/2017
03/17/00320/PRI	Full Planning Permission	Unit 7, Prime Enterprise Park, Prime Park Way, Derby, DE1 3QB	Installation of air conditioning units to the side and rear elevations	Granted Conditionally	11/05/2017
03/17/00321/PRI	Certificate of Lawfulness Proposed Use	41 Bateman Street, Derby, DE23 8JQ	Change of use from a dwelling house (use class C3) to a house in multiple occupation (use class C4)	Granted	08/05/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
03/17/00326/PRI	Full Planning Permission	Guru Arjon Dev Gurdwara Sikh Temple, Stanhope Street, Derby	Change of use of storage area to meeting hall, two storey front extension (entrance hall, shoe rooms, w.c's. and library) in connection with Sikh temple (Use Class D2) and external alterations to include the installation of a staircase, new doors and a window - amendments to previously approved planning permission DER/10/16/01244 to increase the size of the first floor library	Granted Conditionally	07/06/2017
03/17/00327/PRI	Full Planning Permission	82 Otter Street, Derby, DE1 3FB	Installation of dormers to the front and rear elevations	Refuse Planning Permission	19/05/2017
03/17/00328/PRI	Certificate of Lawfulness Proposed Use	66 Lynton Street, Derby, DE22 3RU	Change of use from dwelling house (use class C3) to a house in multiple occupation (use class C4)	Granted	08/05/2017
03/17/00329/PRI	Full Planning Permission	3a College Place, Derby, DE1 3DY	Change of use from office (use class B1) to micropub (use class A4) and alterations to include installation of a new shopfront and a roof mounted refrigeration unit	Granted Conditionally	23/06/2017
03/17/00330/PRI	Full Planning Permission	8 Gurney Avenue, Sunnyhill, Derby, DE23 7GR	Two storey side and single storey front and rear extensions to dwelling house (kitchen, sitting room, wetroom, bathroom, bedroom and porch)	Granted Conditionally	09/05/2017
03/17/00331/PRI	Full Planning Permission	33 Marina Drive, Spondon, Derby, DE21 7AF	Single storey front, side and rear extensions to dwelling house (porch, garage, w.c., utility/store area, boot room, kitchen and enlargement of entrance hall)	Granted Conditionally	04/05/2017
03/17/00332/PRI	Full Planning Permission	12 Nevinson Avenue, Sunnyhill, Derby, DE23 7GT	Two storey side and single storey rear extensions to dwelling house (lounge, dining room, kitchen, bathroom and two bedrooms)	Granted Conditionally	08/05/2017
03/17/00334/PRI	Advertisement consent	Nuffield Health, Nottingham Road, Derby, DE21 6DA	Display of one internally illuminated entrance sign	Granted Conditionally	08/05/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
03/17/00335/PRI	Full Planning Permission	Brooklee House, Brook Farm, Chapel Lane, Chaddesden, Derby, DE21 4QT	Single storey rear extension to dwelling house (porch and sun lounge) and installation of an extraction flue	Granted Conditionally	27/06/2017
03/17/00336/PRI	Outline Planning Permission	Land at the rear of 43 Farley Road, Derby, DE23 6BW (access off Burton Road)	Residential development (one dwelling)	Granted Conditionally	22/05/2017
03/17/00338/PRI	Full Planning Permission	250 Derby Road, Chaddesden, Derby, DE21 6RW	Single storey rear extension to dwelling house (conservatory)	Granted Conditionally	23/05/2017
03/17/00340/PRI	Full Planning Permission	127-129 Reginald Road South, Derby, DE21 6NJ	Sub-division and change of use of part of a retail unit (use class A1) to a chiropodist (use class D1) including installation of a new shop front	Granted Conditionally	08/05/2017
03/17/00341/PRI	Certificate of Lawfulness Proposed Use	10 Eaton Avenue, Allestree, Derby, DE22 2EZ	Hip to gable roof conversion to the rear elevation	Granted	05/05/2017
03/17/00342/PRI	Full Planning Permission	51 Field Lane, Alvaston, Derby, DE24 0GQ	Single storey rear extension to dwelling house	Granted Conditionally	02/06/2017
03/17/00344/PRI	Full Planning Permission	57 Locko Road, Spondon, Derby, DE21 7AP	Single storey rear extension to dwelling house (sunroom, w.c. and enlargement of lounge) and installation of a new first floor window to the side elevation	Granted Conditionally	07/06/2017
03/17/00345/PRI	Certificate of Lawfulness Proposed Use	8 St. Brides Walk, Derby, DE22 4BX	Single storey side extension to dwelling house (w.c)	Granted	11/05/2017
03/17/00347/PRI	Full Planning Permission	1 Rona Close, Sinfin, Derby, DE24 9LE	Two storey side and single storey rear extensions to dwelling house (two bedrooms, two en-suites, w.c. and enlargement of kitchen) and installation of a canopy to the front elevation	Granted Conditionally	08/06/2017
03/17/00349/PRI	Works to Trees under TPO	Engadine, 91 Chain Lane, Littleover, Derby, DE23 7EA	Crown lift to 3 metres and Crown reduction by 3 metres of a Lime tree protected by Tree Preservation Order No. 343	Granted Conditionally	11/05/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
03/17/00350/PRI	Full Planning Permission	1 Sherston Close, Oakwood, Derby, DE21 2ER	Two storey and single storey side and single storey front extensions to dwelling house (garage, kitchen, utility room, study, bedroom and en-suite)	Refuse Planning Permission	01/06/2017
03/17/00351/PRI	Works to Trees under TPO	Land south of Mansfield Road, Breadsall Hilltop, Derby (between Porters Lane and Lime Lane)	Felling of 16 trees protected by Tree Preservation Order No's. 31 and 247	Refuse Planning Permission	22/05/2017
03/17/00352/PRI	Advertisement consent	Former Post Office Building, Victoria Street, Derby, DE1 1DD	Display of a non-illuminated fascia sign and window vinyls	Granted Conditionally	15/05/2017
03/17/00353/PRI	Full Planning Permission	51 Woodthorne Avenue, Shelton Lock, Derby, DE24 9FJ	Two storey and single storey side and first floor rear extensions to dwelling house (living space, bedroom, en-suite and enlargement of bedroom) and installation of a new window to the side elevation	Granted Conditionally	19/05/2017
03/17/00354/PRI	Prior Approval - Offices to Resi	Floors 3 - 6, Celtic House, Friary Street, Derby, DE1 1LS	Change of use from offices (use class B1) to 52 apartments (use class C3)	Prior Approval Approved	15/05/2017
03/17/00355/PRI	Full Planning Permission	42 Quarn Gardens, Quarn Street, Derby, DE1 3HJ	Installation of two new windows to the north and east elevations	Granted Conditionally	29/06/2017
03/17/00356/PRI	Full Planning Permission	44 Quarn Gardens, Quarn Street, Derby, DE1 3HJ	Single storey front extension to dwelling house (porch), installation of a pitched roof to the existing garage, alterations to existing windows and doors and installation of new windows and door	Granted Conditionally	29/06/2017
03/17/00357/PRI	Certificate of Lawfulness Proposed Use	60 Cordelia Way, Chellaston, Derby	Single storey rear extension to dwelling house (living area)	Granted	06/06/2017
03/17/00359/PRI	Non-material amendment	51 Park Farm Centre, Park Farm Drive, Allestree, Derby, DE22 2QQ	Installation of roller shutters, condensor units and a roof level plant screen - non-material amendment to previously approved planning permission DER/10/16/01288 to amend the location of the condensor units	Refuse Planning Permission	11/05/2017
03/17/00360/PRI	Full Planning Permission	Land at the side of 25 Templebell Close, Littleover, Derby, DE23 3YJ	Change of use from public open space to residential curtilage (use class C3)	Refuse Planning Permission	15/05/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
03/17/00361/PRI	Full Planning Permission	71 Wilson Road, Chaddesden, Derby, DE21 4JA	Single storey side and rear extensions to dwelling house (utility room, kitchenette, wet room, lounge and bedroom)	Granted Conditionally	24/05/2017
03/17/00362/PRI	Full Planning Permission	2 Chedworth Drive, Alvaston, Derby, DE24 0TL	Single storey rear extension to dwelling (enlargement of living room)	Granted Conditionally	09/06/2017
03/17/00363/PRI	Full Planning Permission	166 & 168 Blagreaves Lane, Littleover, Derby, DE23 7PX	Change of use of No. 166 from a dwelling house (use class C3) to dental practice (use class D1) including a linking two storey extension and single storey and first floor extension to No. 166 and single storey side extension to No. 168. Alterations to garden to form parking area and enlargement of vehicular access	Granted Conditionally	17/05/2017
03/17/00364/PRI	Full Planning Permission	74 West Bank Road, Allestree, Derby, DE22 2FZ	Single storey rear extension to dwelling house (dining space, family space and enlargement of kitchen)	Granted Conditionally	15/05/2017
03/17/00366/PRI	Full Planning Permission	70 Moor Street, Spondon, Derby, DE21 7EB	Installation of two light wells to the front elevation	Granted Conditionally	23/05/2017
03/17/00367/PRI	Variation/Waive of condition(s)	42 Colwyn Avenue, Derby, DE23 6HG	Two storey side and rear extensions to dwelling house (store, utility, shower room, en-suite and enlargement of kitchen and two bedrooms) and installation of rear dormer - variation of condition 2 of previously approved planning permission Code No. DER/02/15/00212 to amend the approved plans to change the garage to office space, increase the size of the rear dormer and amend the windows and doors to the rear elevation	Refuse Planning Permission	08/06/2017
03/17/00369/PRI	Full Planning Permission	Spondon Conservative Club, 13 Chapel Street, Spondon, Derby	First floor extension to club (function room)	Granted Conditionally	07/06/2017
03/17/00370/PRI	Full Planning Permission	8 Chatsworth Crescent, Allestree, Derby, DE22 2AN	Single storey rear extension to dwelling house (living space)	Granted Conditionally	16/05/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
03/17/00373/PRI	Advertisement consent	Unit 8a Kingsway Retail Park, Derby, DE22 3FA	Display of three internally illuminated fascia signs and one non-illuminated fascia sign	Granted Conditionally	16/05/2017
03/17/00374/PRI	Full Planning Permission	12 Oak Drive, Mickleover, Derby, DE3 5JB	Single storey side and rear extensions to dwelling house (shower room, dining room and enlargement of living room)	Granted Conditionally	16/05/2017
03/17/00375/PRI	Certificate of Lawfulness Proposed Use	19 Firs Crescent, Allestree, Derby, DE22 2HJ	Installation of a dormer to the side elevation, a rooflight to the front elevation, building up of rear wall to form a new gable with a window	Granted	18/05/2017
03/17/00376/PRI	Full Planning Permission	11 Rye Close, Oakwood, Derby, DE21 2BU	Two storey side extension to dwelling house (hall, w.c, two bedrooms and bathroom)	Granted Conditionally	23/05/2017
03/17/00377/PRI	Works to Trees under TPO	24 Manchester Street, Derby, DE22 3GA	Crown reduction by 3m and cutting back of lower branches of a Pear tree protected by Tree Preservation Order no. 207	Granted Conditionally	24/05/2017
03/17/00378/PRI	Works to Trees under TPO	Trees at Laverstoke Court, Peet Street, Derby, DE22 3NT	Pollarding of Lime Tree protected by Tree Preservation Order No.204	Granted Conditionally	16/05/2017
03/17/00379/PRI	Full Planning Permission	96 Allestree Lane, Derby, DE22 2HT	First floor side extension and single storey rear extension to dwelling house (bedroom, en-suite and enlargement of kitchen/dining area)	Granted Conditionally	17/05/2017
03/17/00380/PRI	Works to Trees under TPO	22 Manchester Street, Derby, DE22 3GA	Crown thin by 20% and removal of 3-5 dead branches and branches touching the dwelling and overhanging the car park of an Ash tree protected by Tree Preservation Order no. 207	Granted Conditionally	24/05/2017
03/17/00381/PRI	Works to Trees under TPO	The Bungalow, Folly Road, Darley Abbey, Derby, DE22 1ED	Crown reduction of eight Silver Birch trees by 2 metres protected by Tree Preservation Order No. 535	Granted Conditionally	26/05/2017
03/17/00384/PRI	Full Planning Permission	3 The Spot, London Road, Derby	Change of use from retail (use class A1) to restaurant/cafe (use class A3)	Granted Conditionally	19/05/2017
03/17/00385/PRI	Full Planning Permission	25 Edale Close, Allestree, Derby, DE22 2RL	Single storey rear extension to dwelling (enlargement of kitchen and lounge)	Granted Conditionally	07/06/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
03/17/00391/PRI	Prior Approval - Householder	5 Underhill Avenue, Derby, DE23 8WD	Single storey rear extension (projecting beyond the rear wall of the original house by 4m, maximum height 3.8m, height to eaves 2.75m) to dwelling house	Prior Approval Not required	02/05/2017
03/17/00392/PRI	Full Application - disabled People	33 Stanage Green, Mickleover, Derby	First floor side and single storey front extensions to dwelling house (porch, two bedrooms and en-suite)	Granted Conditionally	16/05/2017
03/17/00393/PRI	Full Planning Permission	27 Winchester Crescent, Chaddesden, Derby, DE21 4EN	Two storey side and single storey rear extensions to dwelling house (study, w.c, store, utility room, two bedrooms and enlargement of kitchen)	Granted Conditionally	19/05/2017
03/17/00394/PRI	Full Planning Permission	Unit E2, Cranmer Road, West Meadows Industrial Estate, Derby, DE21 6JL	Change of use from dance studio (use class D2) to general industrial (use class B2) and distribution and storage (use class B8)	Granted Conditionally	06/06/2017
03/17/00395/PRI	Full Planning Permission	52 Fiskerton Way, Oakwood, Derby, DE21 2HY	First floor side extension to dwelling house (bedroom and en-suite)	Granted Conditionally	23/05/2017
03/17/00396/PRI	Full Planning Permission	34 Carlyle Street, Sinfin, Derby, DE24 9GT	Single storey side extension to dwelling house (car port)	Granted Conditionally	23/05/2017
03/17/00397/PRI	Full Planning Permission	21 Derby Lane, Derby, DE23 8UB	Two storey side and rear extension to dwelling house (kitchen and bedroom)	Granted Conditionally	22/05/2017
03/17/00400/PRI	Full Planning Permission	Land at the rear of 2 Portico Road, Littleover, Derby, DE23 3NJ	Change of use from public open space to residential curtilage (use class C3) and erection of a 2.1m high boundary fence	Granted Conditionally	07/06/2017
03/17/00403/PRI	Full Planning Permission	12 Brunton Close, Mickleover, Derby	First floor side and single storey side extensions to dwelling house (two bedrooms, bathroom and utility room)	Granted Conditionally	24/05/2017
03/17/00404/PRI	Local Council own development Reg 3	Pear Tree Infant School, Pear Tree Street, Derby, DE23 8PN	Alterations to school to include the installation of a canopy and replacement windows and doors	Granted Conditionally	16/06/2017
03/17/00405/PRI	Prior Approval - Householder	149 Duffield Road, Derby, DE22 1AH	Single storey rear extension (projecting beyond the rear wall of the original house by 5.94m, maximum height 2.81m, height to eaves 2.81m) to dwelling house	Prior Approval Not required	05/05/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
03/17/00406/PRI	Prior Approval - Householder	60 Underhill Avenue, Derby, DE23 8WE	Single storey rear extension (projecting beyond the rear wall of the original house by 6m, maximum height 3.1m, height to eaves 3.1m) to dwelling house	Prior Approval Not required	05/05/2017
03/17/00407/PRI	Full Planning Permission	St. Mary's Catholic Primary School, Broadway, Derby, DE22 1AU	Single storey extension to school (breakfast club and w.c.)	Granted Conditionally	23/05/2017
03/17/00408/PRI	Full Planning Permission	59 Osmaston Road, Derby, DE1 2JH	Installation of a new shop front and change of use of the existing cellar to a flat (use class C3)	Refuse Planning Permission	26/05/2017
03/17/00409/PRI	Full Planning Permission	8 Weston Rise, Chellaston, Derby, DE73 1UQ	Single storey rear extension to dwelling house (dining room) and installation of a pitched roof to the existing side projection	Granted Conditionally	23/05/2017
03/17/00410/PRI	Full Planning Permission	3 Crich Circle, Littleover, Derby, DE23 6DS	Single storey rear extension to dwelling house (dining room and bedroom)	Granted Conditionally	23/05/2017
03/17/00411/PRI	Full Planning Permission	7 Back Lane, Chellaston, Derby, DE73 1TN	Two storey side and single storey side and rear extensions to dwelling house (garage, utility room, w.c., kitchen, dining room and two bedrooms)	Granted Conditionally	02/06/2017
03/17/00413/PRI	Full Planning Permission	52 Glenwood Road, Chellaston, Derby, DE73 1US	Erection of a detached double garage	Granted Conditionally	24/05/2017
03/17/00414/PRI	Full Planning Permission	Silverhill Primary School, Draycott Drive, Mickleover, Derby, DE3 0QE	Single storey extension to school (enlargement of hall)	Granted Conditionally	24/05/2017
03/17/00416/PRI	Certificate of Lawfulness Existing Use	29 Carlton Avenue, Shelton Lock, Derby, DE24 9EH	Single storey rear extension to dwelling house (kitchen)	Granted	25/05/2017
03/17/00417/PRI	Full Planning Permission	63 Wiltshire Road, Derby, DE21 6EY	Single storey rear extension to dwelling house (enlargement of kitchen and dining room)	Granted Conditionally	23/05/2017
03/17/00418/PRI	Full Planning Permission	10 Ranelagh Gardens, Derby, DE22 4DN	Two storey side and rear extensions to dwelling house (kitchen, utility room, w.c., bedroom, study, en-suites and enlargement of family room and bathroom)	Granted Conditionally	24/05/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
03/17/00419/PRI	Variation/Waive of condition(s)	Land adjacent 150 Uttoxeter Old Road / corner of Parcel Terrace, Derby, DE1 1NF	Erection of 7 apartments - variation of conditions 2 & 9 of previously approved planning permission Code No. DER/03/15/00386 to allow for enlarged windows to the bedroom accommodation and re-configuration of internal space.	Granted Conditionally	30/05/2017
03/17/00421/PRI	Works to Trees under TPO	10 Cloisters Court, Oakwood, Derby, DE21 4TF	Crown lift to 3m and crown thin by 10% of a Silver Birch tree, crown reduction by 1.5m in height of a Horse Chestnut tree, cutting back of branches of a Horse Chestnut tree to the boundary, crown reduction by 2m of a Sycamore tree, crown thin by 10% of a Rowan tree and cutting back of branches from the neighbours fence line of a Hawthorn protected by Tree Preservation Order No. 124	Granted Conditionally	26/05/2017
03/17/00422/PRI	Full Planning Permission	23 Bass Street, Derby, DE22 3BS	Change of use from a house in multiple occupation (use class C4) to a house in multiple occupation (sui generis use)	Granted Conditionally	24/05/2017
03/17/00423/PRI	Works to Trees under TPO	Shakespeare House, 93 Kedleston Road, Derby, DE22 1FR	Crown reduction by 1.5m of a Beech tree protected by Tree Preservation Order No. 52	Granted Conditionally	26/05/2017
04/17/00427/PRI	Full Planning Permission	26 Swinburne Street, Derby, DE1 2HJ	Change of use from residential (use class C3) to a house in multiple occupation (Sui Generis Use)	Granted Conditionally	08/06/2017
04/17/00428/PRI	Full Application - disabled People	3 Paddock Croft, Oakwood, Derby, DE21 2NA	Two storey side extension to dwelling house (store, kitchen, bedroom, bathroom and en-suite)	Granted Conditionally	28/06/2017
04/17/00431/PRI	Full Planning Permission	45 Foremark Avenue, Derby, DE23 6JQ	Two storey side and two storey and single storey rear extensions to dwelling house (study, store, kitchen/dining area, two bedrooms and en-suite), erection of an outbuilding (playroom) and installation of a canopy to the front elevation	Granted Conditionally	07/06/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
04/17/00432/PRI	Prior Approval - Householder	67 South Avenue, Chellaston, Derby, DE73 1RS	Single storey rear extension (projecting beyond the rear wall of the original house by 4m, maximum height 3.5m, height to eaves 2.15m) to dwelling house	Prior Approval Not required	15/05/2017
04/17/00433/PRI	Full Planning Permission	126 Allestree Lane, Derby, DE22 2JY	Two storey side extension to dwelling house (sitting room, store, bedroom and en-suite)	Granted Conditionally	26/05/2017
04/17/00434/PRI	Full Planning Permission	22 Coxon Street, Spondon, Derby, DE21 7JG	Single storey rear extension to dwelling house (living space and enlargement of kitchen/dining area)	Granted Conditionally	01/06/2017
04/17/00436/PRI	Full Planning Permission	420 Stenson Road, Derby, DE23 7HD	Single storey rear extension to dwelling house (orangery)	Granted Conditionally	26/05/2017
04/17/00438/PRI	Full Planning Permission	19 Sandringham Drive, Spondon, Derby, DE21 7QL	Two storey side extension to dwelling house (playroom, utility room, shower room and bedroom)	Granted Conditionally	02/06/2017
04/17/00439/PRI	Works to Trees in a Conservation Area	2 West Road, Spondon, Derby, DE21 7AB	Felling of a Scots Pine tree within the Spondon Conservation Area	Raise No Objection	26/05/2017
04/17/00442/PRI	Full Planning Permission	Brackensdale Infant School, Walthamstow Drive, Derby, DE22 4BS	Single storey extensions to nursery buildings	Granted Conditionally	30/05/2017
04/17/00443/PRI	Certificate of Lawfulness Proposed Use	46 Mandarin Way, Alvaston, Derby	Installation of solar panels	Granted	30/05/2017
04/17/00444/PRI	Full Planning Permission	185A Duffield Road, Derby, DE22 1JB	Change of use of detached building from dwelling house (use class C3) to bed and breakfast accommodation (use class C1) and formation of additional parking spaces	Granted Conditionally	22/06/2017
04/17/00445/PRI	Full Planning Permission	10 Haydn Road, Chaddesden, Derby, DE21 4HR	Single storey rear extension to dwelling house (conservatory)	Granted Conditionally	30/05/2017
04/17/00446/PRI	Full Planning Permission	35 Maple Drive, Alvaston, Derby, DE24 0FT	Single storey front, side and rear extensions to dwelling house (garage and enlargement of kitchen/dining area)	Granted Conditionally	08/06/2017
04/17/00448/PRI	Works to Trees in a Conservation Area	74 Friar Gate, Derby, DE1 1FN	Felling of an English Goat Willow tree within the Friar Gate Conservation Area	Raise No Objection	23/05/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
04/17/00449/PRI	Full Planning Permission	99 Woodlands Road, Allestree, Derby, DE22 2HH	First floor rear extension to dwelling house (two bedrooms)	Granted Conditionally	27/06/2017
04/17/00450/PRI	Works to Trees under TPO	15 Highfield Gardens, Derby, DE22 1HT	Crown lift by 4m and crown reduction by 2-2.5m metres of a Cedar Tree protected by Tree Preservation Order No.258	Granted Conditionally	06/06/2017
04/17/00451/PRI	Non-material amendment	147 Pastures Hill, Littleover, Derby, DE23 7AZ	Demolition of dwelling and erection of replacement dwelling house and detached double garage - non-material amendment to previously approved planning permission DER/07/15/00943 to amend the glazed screen to the front elevation	Granted	15/05/2017
04/17/00456/PRI	Works to Trees under TPO	257a Morley Road, Oakwood, Derby, DE21 4TD	Crown reduction by 0.5m, crown raise to 3m and crown clean of two Lime trees protected by Tree Preservation Order No. 75	Granted Conditionally	31/05/2017
04/17/00461/PRI	Advertisement consent	Market Place, Corn Market, Morledge, Albion Street, St Peter's Street and London Road, Derby	Display of banners on various lighting columns for a temporary period until 31st August 2017	Granted Conditionally	08/06/2017
04/17/00464/PRI	Non-material amendment	Agard Street Car Park, Agard Street, Derby, DE1 1DZ	Non-Material amendment to previously approved planning permission Code No. DER/08/15/01042 - To amend the approved elevations	Granted	23/06/2017
04/17/00467/PRI	Full Planning Permission	9 Curborough Drive, Alvaston, Derby, DE24 0SR	Two storey side extension to dwelling house (sitting room, bedroom and dressing room)	Granted Conditionally	27/06/2017
04/17/00468/DCC	Local Council own development Reg 3	Littleover Community School, Pastures Hill, Littleover, Derby, DE23 4BZ	Installation of replacement windows and doors to block 'N'	Granted Conditionally	13/06/2017
04/17/00470/PRI	Prior Approval - Offices to Resi	9 St. James Court, Friar Gate, Derby, DE1 1BT	Change of use from offices (use class B1) to eight studio flats (use class C3)	Prior Approval Approved	15/06/2017
04/17/00471/PRI	Full Planning Permission	8-10 St. Peters Churchyard, Derby, DE1 1NN	Installation of a new shop front, security gate and replacement windows	Granted Conditionally	26/06/2017
04/17/00474/PRI	Full Planning Permission	4-8 Osmaston Road, Derby, DE1 2HR	Installation of a new shop front	Granted Conditionally	06/06/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
04/17/00475/PRI	Advertisement consent	4-8 Osmaston Road, Derby, DE1 2HR	Display of one internally illuminated fascia sign and one externally illuminated projecting sign	Granted Conditionally	06/06/2017
04/17/00477/PRI	Full Planning Permission	Cambria, West Dene Avenue, Allenton, Derby, DE24 9AT	Single storey front extension to dwelling (porch)	Granted Conditionally	07/06/2017
04/17/00478/PRI	Full Planning Permission	28 Harrington Street, Pear Tree, Derby, DE23 8PG	Single storey rear extension to dwelling house (bathroom and kitchen)	Granted Conditionally	05/06/2017
04/17/00479/PRI	Certificate of Lawfulness Proposed Use	24 Springwood Drive, Oakwood, Derby, DE21 2HE	Single storey rear extension to dwelling house (garden room)	Granted	06/06/2017
04/17/00480/PRI	Full Planning Permission	32 Station Road, Mickleover, Derby	Single storey rear extension to dwelling house (kitchen and dining area)	Granted Conditionally	02/06/2017
04/17/00481/PRI	Full Planning Permission	49 Sandringham Drive, Spondon, Derby, DE21 7QP	Single storey side and rear extensions to dwelling house (dining room, sitting room, shower room, utility and enlargement of kitchen)	Granted Conditionally	21/06/2017
04/17/00482/PRI	Full Planning Permission	1154 London Road, Derby, DE24 8QE	Single storey rear extension to dwelling (bathroom and enlargement of lounge)	Granted Conditionally	13/06/2017
04/17/00483/PRI	Full Planning Permission	58 Gerard Street North, Derby, DE1 1PA	Two storey rear extension to form an additional flat in multiple occupation (use class C4)	Granted Conditionally	09/06/2017
04/17/00484/PRI	Full Planning Permission	150 Pear Tree Street, Derby, DE23 8PL	Single storey rear extension to dwelling house (kitchen)	Granted Conditionally	07/06/2017
04/17/00485/PRI	Full Planning Permission	Severn Trent Water, West Service Road, Raynesway, Derby	Erection of system control kiosk and construction of below ground storage tank	Granted Conditionally	06/06/2017
04/17/00487/PRI	Full Planning Permission	63 Chatsworth Street, Derby, DE23 6NS	Erection of outbuilding (garage and workshop)	Granted Conditionally	08/06/2017
04/17/00489/PRI	Full Planning Permission	27 Nevinson Avenue, Sunnyhill, Derby, DE23 7GU	Single storey side and rear extensions to dwelling house (store, utility room and enlargement of kitchen/dining area)	Granted Conditionally	31/05/2017
04/17/00492/PRI	Full Planning Permission	12 Cotton Brook Road, Derby, DE23 8YJ	Change of use of from storage/distribution (use class B8) to retail (use class A1)	Refuse Planning Permission	16/06/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
04/17/00493/PRI	Full Planning Permission	166 Danebridge Crescent, Oakwood, Derby, DE21 2HF	Two storey side extension to dwelling house (sitting room, utility room, bedroom and en-suite)	Granted Conditionally	07/06/2017
04/17/00494/PRI	Full Planning Permission	23 Rowley Gardens, Littleover, Derby, DE23 7GF	Single storey side extension to dwelling house (hall, utility room, w.c. and enlargement of kitchen/dining area)	Granted Conditionally	08/06/2017
04/17/00495/PRI	Full Planning Permission	13 Duffield Road, Derby, DE1 3BB	Installation of a dormer to the rear elevation	Refuse Planning Permission	07/06/2017
04/17/00496/PRI	Full Planning Permission	Units 9, 10 and 11 Albion Street, Derby, DE1 2PR	Installation of a new shop front	Granted Conditionally	02/06/2017
04/17/00498/PRI	Certificate of Lawfulness Proposed Use	30 Heron Way, Mickleover, Derby, DE3 5XA	Single storey rear extension to dwelling house (bedroom) , conversion of the garage to living space and external works to include installation of a retaining wall, steps and access ramp	Refuse Planning Permission	16/06/2017
04/17/00499/PRI	Works to Trees under TPO	Trees at Convent of Mercy, Broadway, Derby, DE22 1AU	Various works to trees protected by Tree Preservation Order No. 308	Granted Conditionally	13/06/2017
04/17/00501/PRI	Full Planning Permission	55 Draycott Drive, Mickleover, Derby, DE3 5QE	Two storey side extension to dwelling house (cloak room, w.c., bedroom/study and enlargement of kitchen and bedroom)	Refuse Planning Permission	15/06/2017
04/17/00503/PRI	Full Planning Permission	69 Kings Drive, Littleover, Derby, DE23 6EX	Two storey side and single storey front and rear extensions to dwelling house (porch, study, wet room, dining room, utility room, lounge, kitchen, three bedrooms, bathroom and w.c.) and alterations and enlargement of the existing detached garage	Granted Conditionally	31/05/2017
04/17/00505/PRI	Certificate of Lawfulness Proposed Use	222 Station Road, Mickleover, Derby	Erection of an outbuilding (summer house)	Granted	16/06/2017
04/17/00508/PRI	Full Planning Permission	62-64 Osmaston Road, Derby, DE1 2HZ	Sub-division and change of use of part of retail unit to form two flats (use class C3) including alterations to the side and rear elevations	Granted Conditionally	14/06/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
04/17/00509/PRI	Full Planning Permission	43 Devonshire Drive, Mickleover, Derby	Single storey rear extension to dwelling house (enlargement of kitchen and lounge)	Granted Conditionally	31/05/2017
04/17/00512/PRI	Local Council own development Reg 3	Unit C, 2 City Road, Derby, DE1 3RQ	Demolition of existing gable wall and part of the structure and erection of new gable wall to facilitate original construction of flood defence wall.	Granted Conditionally	08/06/2017
04/17/00515/PRI	Works to Trees in a Conservation Area	47 Belper Road, Derby, DE1 3EP	Crown reduction by 4 metres of a Magnolia tree and crown reduction by 3-4 metres in height and 1 metre diameter of a Conifer tree within the Strutts Park Conservation Area	Raise No Objection	26/05/2017
04/17/00517/PRI	Works to Trees under TPO	6 Gascoigne Drive, Spondon, Derby, DE21 7GL	Felling of an Oak tree protected by Tree Preservation Order No. 74	Granted Conditionally	13/06/2017
04/17/00521/PRI	Full Planning Permission	17 Park Farm Centre, Park Farm Drive, Allestree, Derby, DE22 2QQ	Change of use from retail (use class A1) to micropub (use class A4)	Granted Conditionally	15/06/2017
04/17/00522/PRI	Certificate of Lawfulness Proposed Use	183 Derby Road, Spondon, Derby, DE21 7LW	Change of use of annexe to physiotherapy clinic	Refuse Planning Permission	20/06/2017
04/17/00523/PRI	Full Planning Permission	35 Murray Road, Mickleover, Derby, DE3 5LD	Two storey side and single storey rear extensions to dwelling house (storage, dining room, en-suite and enlargement of lounge)	Granted Conditionally	08/06/2017
04/17/00526/PRI	Full Planning Permission	2 Highgate Green, Derby, DE22 4GG	Two storey side extension to dwelling house (living space and two bedrooms)	Granted Conditionally	19/06/2017
04/17/00527/PRI	Full Planning Permission	8 Durham Avenue, Derby, DE21 6EQ	Single storey front and rear extensions to dwelling house (porch and kitchen)	Granted Conditionally	16/06/2017
04/17/00529/PRI	Works to Trees in a Conservation Area	58 Belper Road, Derby, DE1 3EN	Crown reduction of five Silver Birch Trees and pollarding of one Lime Tree within the Strutts Park Conservation Area	Raise No Objection	14/06/2017
04/17/00531/PRI	Full Planning Permission	Victoria Chambers, 60 London Road, Derby	Change of use of second floor from office (use class B1) to health & disability assessment centre (use class D1) with ancillary office space	Granted Conditionally	19/06/2017
04/17/00532/PRI	Full Planning Permission	7 Brassington Road, Chaddesden, Derby, DE21 4QJ	Installation of new vehicle hardstanding and engineering works to include erection of a new retaining wall and guarding	Granted Conditionally	21/06/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
04/17/00534/PRI	Prior Approval - Householder	34 Crewe Street, Derby, DE23 8QL	Single storey rear extension (projecting beyond the rear wall of the original house by 6m, maximum height 3m, height to eaves 3m) to dwelling house	Prior Approval Not required	30/05/2017
04/17/00535/PRI	Prior Approval - Householder	43 Madeley Street, Derby, DE23 8EY	Single storey rear extension (projecting beyond the rear wall of the original house by 4m, maximum height 3m, height to eaves 3m) to dwelling house	Prior Approval Not required	31/05/2017
04/17/00537/PRI	Full Planning Permission	191 Vicarage Road, Mickleover, Derby, DE3 5EF	Single storey extensions to dwelling house (hallway, bathroom and bedroom), formation of rooms in the roof space to include the installation of a dormer to the rear elevation and formation of hardstanding area	Granted Conditionally	15/06/2017
04/17/00539/PRI	Full Planning Permission	13 Dexter Street, Derby, DE23 8LL	Single storey side and rear extensions to dwelling house (sun lounge, wet room and enlargement of lounge and kitchen)	Granted Conditionally	20/06/2017
04/17/00542/PRI	Works to Trees under TPO	3 Elms Garden, Littleover, Derby, DE23 6EF	Cutting back of branches of a Walnut tree by 2 metres on the north side Protected by Tree Preservation Order No. 155	Granted Conditionally	20/06/2017
04/17/00543/PRI	Works to Trees under TPO	Swarkestone Gardens, Chellaston, Derby	Felling of a Cedar Tree protected by Tree Preservation Order No.427	Refuse Planning Permission	16/06/2017
04/17/00546/PRI	Full Planning Permission	1 Hollowood Avenue, Littleover, Derby, DE23 6JD	Two storey side and rear and single storey front and rear extensions to dwelling house (porch, garage, sitting room, two bedrooms, en-suite and enlargement of kitchen/dining area)	Granted Conditionally	08/06/2017
04/17/00550/PRI	Full Planning Permission	6 Westhall Road, Mickleover, Derby, DE3 5PA	Single storey front, side and rear extensions to dwelling house (porch, store, utility, w.c, enlargement of kitchen/diner, sun lounge and games room)	Granted Conditionally	08/06/2017
04/17/00552/PRI	Full Planning Permission	15 Crich Avenue, Littleover, Derby, DE23 6ET	Single storey side and rear extensions to dwelling house (enlargement of kitchen/diner)	Granted Conditionally	19/06/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
04/17/00553/PRI	Full Planning Permission	20 Louvain Road, Derby, DE23 6BZ	Two storey rear and single storey front and rear extensions to dwelling house (hall, sitting room, utility room, two bedrooms, en-suite and enlargement of lounge and kitchen)	Granted Conditionally	15/06/2017
04/17/00554/PRI	Works to Trees under TPO	250 Birchover Way, Allestree, Derby, DE22 2RR	Crown lift by 3m and crown reduction by 3m of a Weeping Beech tree protected by Tree Preservation Order No. 180	Granted Conditionally	20/06/2017
04/17/00558/PRI	Works to Trees under TPO	Shakespeare House, 93 Kedleston Road, Derby, DE22 1FR	Felling of a Beech tree protected by Tree Preservation Order no. 52	Granted Conditionally	22/06/2017
04/17/00561/PRI	Full Application - disabled People	17 Appledown Way, Littleover, Derby, DE23 3YU	Single storey rear extension to dwelling house (bedroom and wet room)	Granted Conditionally	27/06/2017
04/17/00562/PRI	Prior Approval - Offices to Resi	First and Second Floors, Celtic House, Friary Street, Derby, DE1 1LS	Change of use from offices (use class B1) to 26 apartments (use class C3)	Prior Approval Approved	26/06/2017
04/17/00563/PRI	Full Planning Permission	20 Brierfield Way, Mickleover, Derby	Single storey side and rear extension to dwelling (study and bathroom)	Granted Conditionally	20/06/2017
05/17/00571/PRI	Full Planning Permission	39 Dale Road, Spondon, Derby, DE21 7DG	Single storey front, side and rear extensions to dwelling house (porch, living space and enlargement of kitchen)	Granted Conditionally	08/06/2017
05/17/00573/PRI	Full Planning Permission	Luman House, 2 Pontefract Street, Derby	Side and rear extensions to warehouse	Granted Conditionally	28/06/2017
05/17/00576/PRI	Full Planning Permission	8 Menin Road, Allestree, Derby, DE22 2NL	Single storey front and rear extensions to dwelling (lounge, dining room and enlargement of hall and bedroom)	Granted Conditionally	27/06/2017
05/17/00577/PRI	Full Planning Permission	12 Brayfield Road, Littleover, Derby, DE23 6LD	Retention of rear and side extension to dwelling house (kitchen and dining room)	Granted Conditionally	15/06/2017
05/17/00580/PRI	Prior Approval - Offices to Resi	Former Quarndon Electronics Ltd, Slack Lane, Derby	Change of use from offices (use class B1) to 22 flats (use class C3)	Prior Approval Approved	28/06/2017
05/17/00581/PRI	Full Planning Permission	16 Ordish Avenue, Chaddesden, Derby, DE21 6QF	Two storey side and single storey rear extensions to dwelling house (covered way, kitchen/dining space and two bedrooms)	Granted Conditionally	29/06/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
05/17/00582/PRI	Full Planning Permission	Telephone Exchange, Uttoxeter Road, Micklover, Derby, DE3 5GE	Installation of replacement 15m high monopole, three antennas, equipment cabinets and ancillary works	Granted Conditionally	30/06/2017
05/17/00583/PRI	Prior Approval - Householder	149 Rykneld Road, Littleover, Derby, DE23 7AL	Single storey rear extension (projecting beyond the rear wall of the original house by 4.5m, maximum height 3.75m, height to eaves 2.25m) to dwelling house	Prior Approval Not required	05/06/2017
05/17/00585/PRI	Full Planning Permission	117 Reigate Drive, Derby, DE22 4EQ	Two storey side and single storey front and rear extensions to dwelling house (porch, living room, playroom, bedroom, en-suite and enlargement of kitchen/dining room)	Granted Conditionally	28/06/2017
05/17/00587/PRI	Full Planning Permission	83 Spindletree Drive, Oakwood, Derby, DE21 2NQ	Installation of dormer windows to the front elevation to form rooms in the roof space (two bedrooms and bathroom)	Granted Conditionally	28/06/2017
05/17/00588/PRI	Full Planning Permission	31 Church Lane, Darley Abbey, Derby, DE22 1EX	Extensions and alterations to dwelling (double garage, canopy to the front entrance door, and two storey rear extension with integral external terrace area), alterations to existing roof. Associated external works, including front turning and parking area, boundary wall and general landscaping.	Refuse Planning Permission	29/06/2017
05/17/00592/PRI	Prior Approval - Householder	1 Newcrest Close, Littleover, Derby	Single storey rear extension (projecting beyond the rear wall of the original house by 5m, maximum height 3.7m, height to eaves 3.2m) to dwelling house	Prior Approval Not required	08/06/2017
05/17/00601/PRI	Works to Trees under TPO	2 Fieldgate Drive, Oakwood, Derby, DE21 2PL	Crown lift to 4 metres, crown reduction by 3 metres and removal of branches of Oak tree. Protected by Tree Preservation Order No.24	Granted Conditionally	29/06/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
05/17/00602/PRI	Non-material amendment	North west part of Rolls Royce Marine Ltd, Raynesway, Derby, DE21	Non-material amendment to previously approved application No. DER/07/12/00823 Erection of manufacturing building with associated offices and staff changing accommodation and associated vehicular access (amendment to previously approved application no. DER/11/09/01360/PRI) - Reduction in the overall building footprint. Reduction in the overall building height .Amendments to position and fenestration of windows and doors Addition of a new shutter door. Amendments to the external cladding module size plus option for type and profile	Granted	22/06/2017
05/17/00607/PRI	Full Planning Permission	23 Mimosa Crescent, Sunnyhill, Derby, DE23 7WP	First floor side and single storey front and rear extensions to dwelling house (porch, bedroom, en-suite and enlargement of conservatory)	Granted Conditionally	29/06/2017
05/17/00610/PRI	Full Planning Permission	14 Bramblewick Drive, Littleover, Derby, DE23 7YQ	First floor rear extension to dwelling house (bedroom, two en-suites, bathroom and dressing room)	Granted Conditionally	16/06/2017
05/17/00616/PRI	Full Planning Permission	11 Sandown Avenue, Mickleover, Derby, DE3 5QQ	Two storey side extension to dwelling house (utility room, play room, w.c., bedroom and enlargement of kitchen, bedroom and bathroom)	Granted Conditionally	29/06/2017
05/17/00619/PRI	Certificate of Lawfulness Proposed Use	36 Arran Close, Sinfin, Derby, DE24 9LN	Single storey rear extension to dwelling (enlargement of bedroom)	Granted	20/06/2017
05/17/00620/PRI	Works to Trees in a Conservation Area	St. Werburghs House Nursing Home, Church Street, Spondon, Derby, DE21 7LL	Crown reduction of a Hornbeam tree to give 3 metres clearance of the house and crown lift to 5 metres of Holly Tree within the Spondon Conservation Area	Raise No Objection	27/06/2017
05/17/00633/PRI	Local Council own development Reg 3	Derby Bus Station, Riverlights, Morledge, Derby, DE1 2AY	Use of land as a site compound for a temporary period	Invalid - Finally Disposed of	16/05/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
05/17/00635/PRI	Non-material amendment	Land at Severn Trent Water Plc, Derby Sewage Treatment Works, Megaloughton Lane, Spondon, Derby	Erection of anaerobic digestion facility - non-material amendment to previously approved planning permission DER/06/16/00795 to amend the layout and elevations	Granted	06/06/2017
05/17/00637/DCC	Local Council own development Reg 3	Gayton Junior School, Gayton Avenue, Littleover, Derby, DE23 1GA	Installation of double doors with access ramp and steps	Granted Conditionally	20/06/2017
05/17/00646/PRI	Full Planning Permission	1 Sale Street, Derby, DE23 8GE	Single storey rear extension to dwelling house (wet room and enlargement of kitchen)	Granted Conditionally	28/06/2017
05/17/00652/PRI	Works to Trees in a Conservation Area	Tree at the rear of 40 St. Marys Gate, Derby, DE1 3JZ	Removal of three branches from a Sycamore tree within the City Centre Conservation Area	Raise No Objection	27/06/2017
05/17/00664/PRI	Full Planning Permission	Land at the side of 1 Portland Close, Mickleover, Derby, DE3 5BR	Erection of a dwelling house (use class C3)	Refuse Planning Permission	29/06/2017
05/17/00675/PRI	Prior Approval - Householder	164 Portland Street, Derby, DE23 8PJ	Single storey rear extension (projecting beyond the rear wall of the original house by 4.5m, maximum height 3.8m, height to eaves 2.1m) to dwelling house	Prior Approval Not required	29/06/2017
05/17/00683/PRI	Full Planning Permission	42 Sale Street, Derby, DE23 8GD	Two storey and single storey rear and single storey side extensions to dwelling house (family room, kitchen, shower room, lobby and bedroom)	Granted Conditionally	28/06/2017
05/17/00690/PRI	Non-material amendment	727 Osmaston Road, Derby, DE24 8NG	Change of use from retail (use class A1) to family entertainment centre (use class D2) with ancillary cafe (use class A3). Recladding of part of building - non-material amendment to previously approved planning permission DER/01/17/00007 to allow the unit to be used as a health and fitness club and alterations to the elevations	Granted	27/06/2017
05/17/00705/PRI	Full Planning Permission	The New Lodge Nursing Home, 114 Western Road, Mickleover, Derby	Single storey side extension to nursing home (four en-suite bedrooms)	Granted Conditionally	28/06/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
05/17/00713/PRI	Non-material amendment	Land west of Belmore Way, Alvaston, Derby, DE21 7AY	Erection of industrial units and associated infrastructure - Non-material amendment to previously approved permission DER/11/14/01517 to amend the position of windows and doors on the east and south elevations of unit 8	Granted	27/06/2017
05/17/00730/PRI	Certificate of Lawfulness Existing Use	101 Stepping Lane, Derby, DE1 1GL	Change of use from dwelling house (use class C3) to a house in multiple occupation (use class C4)	Granted	20/06/2017
05/17/00738/DCC	Demolition-Prior Notification	Moorways Sports Centre, Moor Lane, Allenton, Derby, DE24 9HY	Demolition of sports centre and swimming pool	Raise No Objection	28/06/2017
06/17/00840/PRI	Prior Approval - Householder	18 Oaktree Avenue, Derby, DE24 8ES	Single storey rear extension (projecting beyond the rear wall of the original house by 6m, maximum height 3m, height to eaves 3m) to dwelling house	Invalid - Finally Disposed of	27/06/2017