

## **Applications to be Considered**

### **Purpose**

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

### **Recommendation(s)**

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

### **Reason(s)**

- 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.

### **Public/stakeholder engagement**

- 5.1 None.

### **Other options**

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

### **Financial and value for money issues**

- 7.1 None.

### **Legal implications**

- 8.1 None.

### **Climate implications**

- 9.1 None.

### **Other significant implications**

- 10.1 None.

This report has been approved by the following people:

Role	Name	Date of sign-off
Legal		
Finance		
Service Director(s)		
Report sponsor	Paul Clarke	07/02/2023
Other(s)	Ian Woodhead	07/02/2023

Background papers:	None
List of appendices:	Appendix 1 – Development Control Report

**Planning Control Committee 16/02/2023**  
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Item No.	Page No.	Application No.	Location	Proposal	Recommendation
9.1	1- 18	22/01035/FUL	Land At Phoenix Green Phoenix Street Derby	Installation of pontoon mooring platform and formation of access path	<b>To grant</b> planning permission with conditions.
9.2	19 - 26	22/01855/FUL	Lindenwood 39 Penny Long Lane Derby	Single storey extension to dwelling house, installation of replacement roofline, changes to fenestration and application of new materials including timber cladding and standing seam metal roof	<b>To grant</b> planning permission with conditions.
9.3	27 - 42	22/01772/FUL	Site Of Former Derbyshire Royal Infirmary London Road Derby	Erection of an additional storey and external changes to block E6 to create an additional 21 apartments (Use Class C3) together with installation of electric vehicle charging points and sub-station	<p><b>A. To authorise</b> the Director of Planning, Transport and Engineering to negotiate the terms of a Section 106 Agreement to achieve the objectives set out below and to authorise the Director of Legal, Procurement and Democratic Services and Monitoring Officer to enter into such an agreement.</p> <p><b>B. To authorise</b> the Director of Planning, Transport and Engineering <b>to grant</b> permission upon conclusion of the above Section 106 Agreement.</p>

## **Committee Report Item No: 9.1**

**Application No: 22/01035/FUL**

**Type: Full Application**

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### **1. Application Details**

**1.1. Address:** Land at Phoenix Green, Phoenix Street, Derby.

**1.2. Ward:** Arboretum

**1.3. Proposal:**

Installation of pontoon mooring platform and formation of access path.

**1.4. Further Details:**

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan/22/01035/FUL>

#### **Brief description**

The application site includes an area within the river and an area of open space adjoining the river, to the south of Causey Bridge. It sits to the north of the footbridge that connects Phoenix Street and Cathedral Green. The open space within the site sits at a raised level compared to Phoenix Street and the river. It comprises a grassed area of open space that includes a number of trees.

Planning permission is sought for the installation of a floating pontoon on the river, parallel to the left (eastern) bank and opposite the Museum of Making. The pontoon is proposed to extend to some 20m in length and some 2.46m in width and comprises a steel structure with wooden decking. It is designed to rise and fall with changing water levels and is proposed to be secured to the riverbank by two steel arms set in concrete blocks within the open space, some 5m from the river edge. The pontoon will be accessed by a walkway from the riverbank which rests on top of one of the arms. The walkway is proposed to have handrails on either side for safety and a gate is proposed to block access to the walkway when the boat is not in service.

The planning application also includes a new, 1.5m wide section of pathway, extending north to south and alongside the river and this is proposed to connect the access ramp to the existing riverside footpath that sits to the south. An area alongside the path is identified for the provision of seating and an information board.

The Derby Riverboat is proposed to moor next to the pontoon and it is intended that the pontoon would serve as the Riverboats' permanent mooring for the boat at all times of the year. The pontoon is proposed to allow visitors to access the riverboat which is operated by the Derby and Sandiacre Canal Trust who intend to run leisure cruises along the river Derwent as far as Darley Abbey and within the World Heritage Site (WHS).

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

<b>Application No:</b>	19/00525/FUL	<b>Type:</b>	Full Application
<b>Decision:</b>	Granted Conditionally	<b>Date:</b>	11.09.2019
<b>Description:</b>	Installation of landing stage and formation of path		

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**Type: Full Application**

<b>Application No:</b>	02/15/00210	<b>Type:</b>	Hybrid – Full & Outline
<b>Decision:</b>	Granted Conditionally	<b>Date:</b>	04.12.2015
<b>Description:</b>	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.		

### **3. Publicity:**

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.*

### **4. Representations:**

***In line with the Data Protection Act and associated legislation this appraisal should not include details, or seek to identify through repeating specific comments, the individuals who have objected, supported or made general comments about the application. Therefore, to maintain anonymity, the relevant planning grounds of objection, support or comment have only been included in broad terms. It is important to note that all comments received have been fully considered as part of the application process and included in the overall 'planning balance' exercise.***

In response to the original application submission, 16 representations were received with 15 of those raising objections to the application. The majority of the objections were from other river users. The nature of the issues raised, generally related to the following;

- Concerns regarding safety and the need for other river users to navigate around the pontoon as it partially blocks the upstream channel.
- The siting of the pontoon increasing the risk of collision, injury and capsizing along with damage to other boats using the river.
- The siting of the pontoon being adjacent to an island in the river, which narrows the river channel.
- To avoid collision, the usable section of the river would have to be shortened which would impact on training opportunities for other river users.

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- The proposal not being environmentally friendly and uneconomical as the route covered by the Riverboat can be walked in 10 mins.
  - The proposal does not consider the short-term impact of cars and coaches parking on Stuart Street that may be setting down and picking up passengers.
  - The flood situation and flows across Stuart Street and resulting impacts on the pontoon having not being properly considered. River levels under normal circumstances and in peak flood are given but no attempt has been made to describe the river flow in either condition.
  - The pontoon and narrow boat being exposed in the flood condition. Water flows will result in a rotational, overturning action tending to rip the foundations out of the ground. These conditions have not been properly considered.
  - Information relating to the foundation design being insufficiently detailed.
  - Handrails are shown on the ramp but not on the ends or the land side of the pontoon.

### **5. Consultations:**

#### **5.1. Highways Development Control:**

In highway terms, there are no alterations to the proposals which would have a material impact. The Highway Authority response remains one of No Objection.

#### **5.2. Highways Land Drainage:**

This application is in the flood plain and will flood at frequent intervals. It is however a water compatible development so there should be negligible problems. The run-off will not need to be controlled as the proposed works are immediately next to the river.

#### **5.3. Conservation Area Advisory Committee:**

This application was not considered by the Committee.

#### **5.4. Built Environment:**

##### **Designated Heritage Assets affected –**

The pontoon is located upon the River Derwent, which is within the Derwent Valley Mills World Heritage Site (DVMWHS), the path and fence within its buffer zone (its immediate setting). Nearby on the opposite side of the river there is the former Silk Mill (now the Museum of Making) which is a grade II listed building and the City Centre Conservation Area. These are classed as designated heritage assets, in the National Planning Policy Framework.

##### **Impact of proposals on Heritage Assets and comments –**

This proposal is for the installation of a mooring platform and formation of an access path. The following comments are a response to the amended information submitted. In terms of impact on the OUV of the DVMWHS, agree with the comments made by the DVMWHS Partnership dated 2nd September 2022 and 11th January 2023 that the proposals have been improved by the reduction of width of the footpath, the re-location of the path alignment and pontoon nearer the bridge. The Partnership's view

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is noted regarding the boundary treatment which is currently proposed. Suggest investigation of possible metal railings that could be a simple slender metal park fencing version of the timber fence already proposed (and relates generally to the design on the opposite riverbank). Suggest detailed design of railings requested prior to determination. Visually these would need to be dark or recessive in colour and agree that the handrails to the access walkway to the pontoon match. Agree also with the DVMWHS Partnership views in terms of the pontoon design, anything above the water line is also painted.

The site is very sensitive as it is located partially within or just outside the DVMWHS. There is a slight harmful impact of proposals on the OUV of the DVMWHS, the setting of the listed building and setting of the City Centre Conservation Area. To reduce the visual impact of these proposals on the OUV of the DVMWHS, setting of the nearby listed building and the setting of the conservation area the above suggestions are made.

### **Policies –**

The Planning (Listed Building and Conservation Areas) Act 1990 section 16, 66 and 72 as regards the statutory duties regarding listed buildings and conservation areas are relevant. Policies E18 and E19 of the saved Local Plan Review (2006), and Policies AC9 and CP20 of the Local Plan – core strategy (2017) are also relevant. Section 16 on Conserving and enhancing the historic environment of the NPPF is relevant (paras. 199, 200 and 202). There is a small degree of harm caused to the designated heritage assets and as regards to heritage policies in the National Planning Policy Framework this proposal's level of harm (classed as less "than substantial harm") is considered to be under para 202. '...Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use' (NPPF, Para 202).

### **Recommendation:**

Suggest further amendments, as outlined above, to reduce the visual impact and therefore harm to designated heritage assets along with more detailed design of boundary treatment. Where there is this level of harm, this harm should be weighed against the public benefits of the proposal. This weighing is undertaken by the Development Management Case Officer.

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

### **Additional comments received in response to revised plans**

#### **Observations:**

- Following my previous comments, a Supplementary Arboricultural report has been supplied which now shows the removal of trees 1, 2 and 7. Due to the site constraints and the required construction the trees cannot be retained. In this case alternative engineered solutions cannot be provided.
- Of note, trees 1 and 2 (Weeping Willow) are particularly suitable to their location (being associated with water). I am aware that on occasion there is an issue of branches impeding highway users immediately to the north of the tree.

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- The removal of the trees will result in a significant loss of public visual amenity as well a loss of ecological services (rain interception, particulate interception and cooling effect to name a few).
  - I am mindful that the trees will be impacted upon by the potential Our City Our River scheme (OCOR). Whilst a OCOR application has not been submitted the trees would need to be removed in order install this important piece of infrastructure.

### **Conclusion:**

- In isolation of the OCOR scheme I would raise an objection due to the loss of the three trees (in particular trees T1 and T2). However, and on balance, if it is very likely that the trees need to be removed sometime in the near future to enable the OCOR development then the premature removal of the three trees is acceptable subject to compensatory tree planting to be provided off site. If you are minded to approve this application, then it must be conditioned that nine trees must be planted off site. Species and locations to be agreed at a later date.

## **5.6. Environment Agency:**

### **Flood Risk**

We have no objection to this planning application.

Advice to Applicant - Signing up for flood warnings

The applicant/occupants should phone Floodline on 0345 988 1188 to register for a flood warning or visit <https://www.gov.uk/sign-up-for-flood-warnings>. It's a free service that provides warnings of flooding from rivers, the sea and groundwater, direct by telephone, email or text message. Anyone can sign up. Flood warnings can give people valuable time to prepare for flooding – time that allows them to move themselves, their families and precious items to safety. Flood warnings can also save lives and enable the emergency services to prepare and help communities. For practical advice on preparing for a flood, visit <https://www.gov.uk/prepare-forflooding>. To get help during a flood, visit <https://www.gov.uk/help-during-flood>. For advice on what do after a flood, visit <https://www.gov.uk/after-flood>.

Advice to LPA/Applicant - Flood Risk Activity Permit (FRAP)

The Environmental Permitting (England and Wales) Regulations 2016 require a permit or exemption to be obtained for any activities which will take place:

- On or within 8 metres of a main river (16 metres if tidal)
- On or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal) • On or within 16 metres of a sea defence
- Involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- In a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission



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For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activitiesenvironmental-permits> or contact our National Customer Contact Centre on 03708 506 506 (Monday to Friday, 8am to 6pm) or by emailing [enquiries@environmentagency.gov.uk](mailto:enquiries@environmentagency.gov.uk).

The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

### **Biodiversity**

We have reviewed the submitted 'Preliminary Ecological Appraisal, B J Collins Ltd, June 2022'. We have no objections, as long as the recommendations outlined in Section 6 of the PEA are followed and the further survey requirements in Section 7 are followed as necessary. We agree with the enhancement recommendations in Section 8.

### **5.7. Derbyshire County Council Archaeologist:**

The proposal site is within an area of 18th-19th century weirs and water management features (Derbyshire Historic Environment Record MDR9751) associated with the 1720 Silk Mill to the west of the Derwent, and thought to have been put in place to channel water along the mill stream to power the Silk Mill and also to create level water access across the Derwent between the Silk Mill and Derby Canal, whose entrance is just to the north.

The bulk of the proposal site is associated with the outlet channel from the eastern weir, which may also have provided water to the Phoenix Iron Foundry (MDR9645; established before 1852).

The proposal site however straddles the former channel, with its southern edge located over part of the former Phoenix Foundry and its northern edge over a former island located between the two weirs and of uncertain origin and function (it was present at least as early as 1720).

Notwithstanding this general archaeological interest, I note that the current proposals will not have major ground impacts, beyond the two anchor points which will presumably need fairly deep foundations. Comparison with historic mapping suggests that these are located within the (20th century) infill of the former outlet channel, and I do not therefore feel that will be a significant archaeological impact.

### **Additional comments received in response to revised plans**

I am happy that our previous advice stands, we do not envisage any impact from the changes outlined in the new submitted documents and I have no objection.

### **5.8. Derbyshire Wildlife Trust:**

In relation to the above application, we have reviewed the Preliminary Ecological Appraisal Report (Protected Species Surveyors Ltd, June 2022) and the Supplementary Arboricultural Report (Jonathan Oakes, November 2022).

No significant habitat of value appears to be affected by the proposals given the existing nature of the site. However, it is noted that three mature trees will be

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removed to allow creation of the path and that the site lies immediately adjacent to the River Derwent Local Wildlife Site (LWS Ref: 007). It is also noted that the PEAR states that there will be no loss of trees at the site. It is assumed that the PEAR was completed before the need to remove the trees was reached. We do have concerns about the loss of the three mature trees so close to the riverbank. If there is any scope to retain any of these trees through an alternative approach that would be welcomed. One possibility might be to pollard the willows and then monitor their condition afterwards. Willows tend to be quite resilient trees and might survive the construction impacts on their roots. With regards to LWS, mature trees, protected species and biodiversity enhancement we have the following comments and recommendations to make regarding this application.

**Amphibians & Reptiles**

Given the presence of suitable habitat to potentially support amphibians and reptiles within the site, a hand search of suitable vegetation and habitat features should be undertaken immediately prior to the start of vegetation clearance as detailed in the PEAR (Protected Species Surveyors, June 2022).

**Breeding Birds**

In line with recommendations within the PEAR ((Protected Species Surveyors, June 2022) no clearance of trees or scrub will be completed during the bird breeding season. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (as amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent. Therefore, no such vegetation clearance work should be undertaken 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. If any active nests are discovered, then the nest should be left undisturbed until the birds have fledged with an appropriate buffer surrounding the nest.

**Water voles**

Given the presence of some suitable habitat a check of the site for signs of water voles should be completed 1 week prior to the start of works as detailed in the PEAR (Protected Species Surveyors, June 2022).

**Lighting**

Any lighting scheme should use low level lighting and avoid the introduction of light to adjacent habitats including the river and retained trees. No light should be introduced within the vicinity of the new bat and bird boxes including the flight paths to these features which will be provided as biodiversity enhancement. Prior to the installation of lighting fixtures, a detailed lighting strategy should be submitted to and approved in writing by the LPA to safeguard bats and other nocturnal wildlife. This should provide details of the chosen luminaires, their locations, and any mitigating features such as dimmers, PIR sensors and timers. Guidelines can be found in Guidance Note 08/18 - Bats and Artificial Lighting in the UK (BCT and ILP, 2018). Such approved measures will be implemented in full.

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### **Biodiversity Enhancement Plan**

A Biodiversity Enhancement Plan (BEP) should be submitted to, and approved in writing by, the Local Planning Authority. Approved measures could include those listed below and shall be implemented in full and maintained thereafter. The Plan shall clearly show positions, specifications and numbers of features, which will include the following: • bird nest boxes. • integrated bat box. Photographs of these features in situ shall be submitted to the LPA to discharge this condition and the features shall be maintained in perpetuity. The retained amenity grassland should be improved in structure and diversity by sowing with a more diverse grass seed and implementation of a revised mowing strategy as recommended in the PEAR (Protected Species Surveyors, June 2022). The details of this will be included in the BEP. Three mature trees will be removed as part of these proposals. These should be replaced with tree and shrub planting using native species. Details of location and species should be provided.

**Construction Environmental Management Plan** Due to the low risk of harm to wildlife including amphibians, water voles and hedgehogs, and also given the potential for presence of invasive non-native plant species, precautions should be observed during construction works. These should be detailed in a CEMP and should include the following:

- Any excavations shall be covered overnight or have an escape ramp to prevent entrapment of wildlife.
- All pipework greater than 150 mm shall be blanked off at the end of the day.
- Chemicals, oils or fuel shall be stored securely.
- Working practices including pollution/dust prevention to avoid impacts on the adjacent River Derwent LWS (Ref: DE007)
- Working practices to avoid the transport/spread off site of Wildlife & Countryside Act 1981 Schedule 9 plants that may be found on site including Himalayan balsam and cotoneaster.

### **Additional comments received in response to Ecology Addendum Report**

Our comments remain the same and details of replacement native trees will need to be provided.

## **5.9. Derwent Valley Mills World Heritage Site Partnership:**

### **Additional comments received in response to revised plans**

The site lies within the Derwent Valley Mills World Heritage Site (DVMWHS) and its Buffer Zone. The Derwent Valley Mills were inscribed on the World Heritage List by UNESCO in 2001. The Derwent Valley Mills Partnership, on behalf of HM Government, is pledged to maintain the Outstanding Universal Value of the Derwent Valley Mills World Heritage Site by protecting, conserving, presenting, enhancing and transmitting its culture, economy, unique heritage and landscape in a sustainable manner.

The retrospective Statement of Outstanding Universal Value (SOUV) for the Derwent Valley Mills was adopted by the World Heritage Committee in 2010. The SOUV refers

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to the following UNESCO criteria, which the World Heritage Committee agreed were met at the time of inscription. They are:

C(ii) That the site exhibits “an important interchange of human values, over a span of time or within a cultural area of the world, on developments in architecture or technology, monumental arts, town planning or landscape design”;

C(iv) That the site is “an outstanding example of a type of building or architectural or technological ensemble or landscape, which illustrates a significant stage in human history”.

The SOUV records that these criteria were met for the following reasons:

C(ii) The Derwent Valley saw the birth of the factory system, when new types of building were erected to house the new technology for spinning cotton developed by Richard Arkwright in the late 18th century.

C(iv) In the Derwent Valley for the first time there was large-scale industrial production in a hitherto rural landscape. The need to provide housing and other facilities for workers and managers resulted in the creation of the first modern industrial settlements.

A Management Plan for the World Heritage Site was created in 2002 and updated in 2020. It has as the first of its nine aims to: “protect and conserve the Outstanding Universal Value of the DVMWHS to ensure its transmission to future generations.” In accordance with this aim, and with reference to the operational guidance in Section 20 of the Management Plan, I have consulted with Derbyshire County Council’s Conservation, Heritage and Design Service (which advises the World Heritage Site Partnership in planning matters) and have received the following advice: The sensitivities of the site in relation to the DVMWHS were set out in the WHS Partnership’s previous consultation response.

The scheme was supported in principle, although there were concerns over a number of aspects where it was considered that improvements could be made to reduce its potential impact on the OUV of the DVMWHS. Overall, the revised scheme is much improved. The reduced width of footpath from 3.0m to 1.5m is welcomed and although the length of the footpath has been extended to the bridge there is a clear rationale for this with the relocation of the pontoon further towards the bridge. However, there are still some concerns that have not been satisfactorily addressed from my previous consultation response. These are as follows:

- Fence/boundary treatment: The current proposals still show a timber post and rail fence along the entire length of the footpath. The WHS Partnership does not believe this is an acceptable contextual design response. As previously commented, we would advise that this is changed to a metal/steel system which is more in keeping and consistent with others that have been used in this location. This should also include an appropriate choice of colour in this location, preferably dark and recessive. We would advise that this is a very dark grey, such as RAL 7021, or black. Similarly, we would advise that the handrails, forming part of the access walkway to the pontoon, are painted to match for consistency.

- Pontoon design: Further satisfactory detailed design information has been provided to illustrate the proposals. Whilst we understand that this is to be supplied in a ‘metal

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grey' for reduced maintenance reasons it would be preferable for this to be painted to match the above handrail colours; at least anything above the water line.

Provided that this can be suitably conditioned by the local planning authority, these further alterations should ensure that any visual impacts on the World Heritage Site, and consequently on its Outstanding Universal Value, are kept to a minimum

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

- 6.1. 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
CP14	Tourism, Culture and Leisure
CP16	Green Infrastructure
CP17	Public Green Space
CP19	Biodiversity
CP20	Historic Environment
CP21	Community Facilities
CP23	Delivering a Sustainable Transport Network
AC1	City Centre Strategy
AC2	Delivering a City Centre Renaissance
AC7	The River Derwent Corridor
AC8	Our City Our River
AC9	Derwent Valley Mills World Heritage Site

#### **Saved CDLPR Policies**

GD5	Amenity
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:

[https://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/environmentandplanning/planning/localplan/evidencebase/Core-Strategy\\_ADOPTED\\_DEC-2016\\_V3\\_WEB.pdf](https://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/environmentandplanning/planning/localplan/evidencebase/Core-Strategy_ADOPTED_DEC-2016_V3_WEB.pdf)

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

[https://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/environmentandplanning/planning/localplan/part1/CDLPR\\_2017.pdf](https://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/environmentandplanning/planning/localplan/part1/CDLPR_2017.pdf)

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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.*

### **6.2. Non-housing applications:**

The Local Plan (consisting of the policies of the DCLP1 and the saved policies of CDLPR) covers the period 2011 to 2028 and was adopted on 25 January 2017. The policies of the local plan were reviewed in December 2021 in line with Regulation 10a of the Town and Country Planning (Local Planning) (England) Regulations 2017 and paragraph 33 of the NPPF, the provisions of which require Local Plan policies to be reviewed at least every 5 years. The officer led review, endorsed by the Council's Cabinet on 8 December 2021, indicated that all of the policies relevant to the consideration of this application are still up to date and carry weight in the decision-making process as they remain consistent with the NPPF and there have been no changes in local circumstances that render any of the policies out of date. The application is therefore being considered in terms of its accordance with the policies of the Local Plan and any other material considerations, including the National Planning Policy Framework.

## **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.

#### **7.1. The Principle of the Development**

#### **7.2. Impact on Open Space**

#### **7.3. Flood Risk**

#### **7.4. Biodiversity and Trees**

#### **7.5. Heritage Impacts and Design**

#### **7.6. Conclusion**

### **7.1. The Principle of the Development**

The Council is committed, through a number of policies in the Local Plan, to enhance the cultural and leisure offer in the City. This aspiration is reflected in Policies CP14 which aims to “enhance the quality of the City’s offer and visitor experience, increase visitor numbers” and AC7, Criterion (d) which aims to create a “high quality river corridor that maximises the river corridor’s leisure and tourism potential and enhances its links to the City Centre”. In addition, the Council is committed to delivering a renaissance for the City Centre and Policy AC2 highlights the different roles and functions of various areas within the City Centre. The application site lies within the Riverside area; an area where the Council aims to improve the use of the river and the river corridor as a key leisure destination. The information supporting

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the application highlights the benefits of this proposal to both the City's economy and Derby's tourist offer which accords with those policies. In all instances, the applicant's proposals would therefore accord with the Council's aspirations for increasing the use and activity on and around the river Derwent. The intention to increase the use of the river for tourism and create a more vibrant and attractive river front, is supported.

### **7.2. Impact on Open Space**

The application site falls within the City Centre which, according to the Council's own Open Space Study currently has a deficit of open space when compared to the Local Plan's Open Space Standard of 3.8 hectares per 1000 people. The aim of Policy CP17 is to protect and enhance the City's network of open space. The proposal includes the creation of a new section of footpath and the construction of two concrete retaining blocks within the open space.

This is small scale development, and it is considered that the impact on the open space would be minimal and the resulting effect on the overall provision of open space in the area would be negligible. Overall, the proposal is not considered to result in the loss of the open space or have a detrimental impact on its function or character. On this basis, the proposal offers no conflict with Policy CP17.

### **7.3. Flood Risk**

The site of the proposal lies within Flood Zone 3 of the SFRA1 given its location adjacent to the river. It is at a high flood risk and is within the Our City Our River (OCOR) project area.

The development of a pontoon mooring platform is a water compatible use, so it is an appropriate form of development in flood zone 3, in principle. The application is supported by a Flood Risk Assessment (FRA) which explains that the pontoon is designed to raise and lower according to the level of the river and will not impede river flows. Similarly, the FRA indicates that the method of fixing on the bank is minimal and will not significantly impede flows. The access path is also of minimal construction. It has been reduced in width to 1.5m and is proposed to be designed so that water will drain naturally to the river and a permeable surface is not proposed.

Land Drainage colleagues have raised no objections to the application and although the Environment Agency will require an Environmental Permit to carry out works within the river corridor, they have raised no objections to the application from a flood risk perspective.

Policy AC8 supports the delivery of the OCOR programme, and the application site is in the package 2 area of the project. Consideration has been given to the impact of the mooring platform and it is not considered that it would impede the delivery of the OCOR programme in this part of the city centre.

As the proposal is a water compatible form of development it is concluded that it accords with the requirements of Policy CP2 in respect of its flood risk.

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**7.4. Biodiversity and Trees**

The site is within an area designated as a wildlife corridor. The applicant has submitted a Preliminary Ecological Appraisal to support the application. The Appraisal identifies the habitats associated with the site to include amenity grassland, flowing water, hard standing, tall ruderals, scrub and trees. It identifies the area as having potential to be used by foraging/commuting bats and it also has the potential for use by nesting birds in the appropriate season. No evidence of badger, reptiles, amphibians, otter or water vole are identified as being recorded around the site and the botanical assessment found a range of relatively common herbs/grasses. The Appraisal recommends precautionary measures and further survey requirements for nesting birds but concludes that no wildlife sites would be affected by the works. An Addendum has subsequently been submitted following revisions to the scheme and confirmation of the removal of three trees as part of the works. The Addendum confirms that all trees on the site were surveyed for their potential to support roosting bats and concludes that they were found to have low roosting potential.

The detailed Arboricultural information that supports the application identifies seven trees within the open space and they are all identified as retention category B which are trees of moderate quality and value. Three trees are shown as needing to be removed to facilitate the development and they include two weeping willow and one, horse chestnut. The Tree Officer notes a significant loss of public visual amenity arising from the removal of those trees but advises that alternative engineering solutions cannot be used to enable the trees to be retained. There are other factors influencing the location of the pontoon on the riverside, including an easement associated with power cables that extend under the river at this point and I am satisfied that options to move the pontoon, in a bid to enable the trees to be retained, have been exhausted.

The applicants are committed to delivering replacement tree planting to mitigate for the loss of the three trees and a condition of planning permission is proposed to ensure that a suitable level of planting is proposed within an appropriate location alongside the river corridor. This would ensure that the proposal meets the green infrastructure intentions of Policy CP16.

Derbyshire Wildlife Trust (DWT) have been consulted on the application and they note that no significant habitat of value appears to be affected by the proposals, given the existing nature of the site although they do raise concerns regarding the loss of the three trees close to the riverbank. In accordance with the recommendations in the Preliminary Ecological Appraisal, they recommend precautionary works, prior to works commencing and recommend the imposition of conditions to secure a Biodiversity Action Plan and Construction Environmental Management Plan along with suitable replacement planting for the three trees that are to be removed. Based on the information provided and the recommendations of DWT and the Environment Agency in response to biodiversity, I am satisfied that the ecological impact of the proposal has been suitably assessed along with the impact of the works on protected species. Subject to the imposition of the conditions identified, I am satisfied that the proposal meets the biodiversity requirements of Policy CP19.



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**7.5. Heritage Impact and Design**

A number of factors have influenced the design of the pontoon and in particular, its siting. Revisions have been made during the life of the application to address issues relating to the easement that crosses the river and to also address issues raised by other river users. Since the revisions have been made, no further objections or issues have been raised by the other river users.

A Heritage Statement supports the application which assess the significance of the heritage assets in the area of the site and the impact of the proposed development on those assets. The river and the floating pontoon would be located in the southern end of the Derwent Valley Mills World Heritage Site (DVMWHS) with its anchor points and access path in its buffer zone. The Statement identifies other heritage assets nearby including the Grade II listed Silk Mill - Museum of Making and its Grade I listed Bakewell Gates, the Grade I listed Cathedral and the City Centre Conservation Area, all of which stand on the opposite bank of the river.

The applicants Heritage Statement states that the physical aspects of the proposal are small in scale and removable and would have a negligible impact on the visual aspects and landscape setting of the WHS. It concludes that no adverse impacts arise for any heritage assets with only beneficial impacts arising because of access being allowed by the development, to the riverboat.

The applicants have revised the design of the proposal and addressed comments raised by the DVMWHS Panel and Conservation Officer during the life of the application. The footpath has been realigned and reduced in width from 3m to 1.5m. A section of timber fencing has also been removed from the proposed works. The DVMWHS Panel and Conservation Officer note that the revisions have improved the proposal, but both indicate that the pontoon design should also be improved by ensuring that anything above the waterline is painted in a dark / recessive colour in order to reduce impacts of the outstanding universal value (OUV) of the WHS. In response to this, a painted finish is proposed to be secured for the pontoon and its handrails, by condition of planning permission. The Conservation Officer identifies a slight degree of harm as arising for the OUV of the DVMWHS, setting of nearby listed buildings and setting of the city centre conservation area. The DVMWHS Panel did note the potential of the proposal to urbanise what is currently a tranquil parcel of green space but note that the scheme is much improved by the revisions that have been made.

In determining the application Sections 66(1) and 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 must be considered as it requires that special regard is given to the desirability of preserving a listed building or its setting and special attention is paid to the desirability of preserving or enhancing the character or appearance of conservation areas. Local Plan Policy CP20 seeks the protection and enhancement of the city's historic environment, including the WHS, listed buildings and conservation areas and Policy AC9 recognises the outstanding universal value of the Derwent Valley Mills World Heritage Site and its buffer zone. Saved Policies E18 and E19 also seek to preserve and enhance the character and appearance of historic, listed buildings and conservation areas and protect them from development which is harmful.

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The slight degree of harm arising as a result of urbanising the green space is contrary to the intentions of the adopted Local Plan Policies. The level of harm is considered to be “less than substantial harm” and, in accordance with paragraph 202 of the NPPF, the harm must be weighed against the public benefits of the proposal. The benefits of the proposal include the improvement of access to the river, which will encourage tourism and create leisure activity on the river, attracting visitors who will have a new method of exploring the WHS. The World Heritage Site Panel, indicated in their first consultation response that the introduction of the pontoon is supported by them in principle, as it will help contribute towards the fulfilment of Objective 5.5 of the current Management Plan (2020-25) which seeks to encourage the development of alternative transport options for exploring the DVMWHS. These public benefits are considered to outweigh the slight level of harm which has been identified for the heritage assets. For this reason, I am satisfied that the heritage tests in the NPPF are satisfactorily met by the proposal.

In respect of non-designated assets, I note that the County Archaeologist does not object to the proposal and does not identify a need for a scheme of archaeological works as they advise that the current proposals will not have major ground impacts and they conclude that they do not consider the proposal will result in a significant archaeological impact. The proposals therefore offer no conflict with policy E21.

The scale of the proposals is limited and its design has been simplified with the revisions made during the life of the application. Whilst the removal of three trees from the riverside is not ideal, in this City Centre location and alongside the river, the pontoon is considered an acceptable addition given its association with the river and the leisure use that it will encourage. It is concluded that the proposals would suitably fit into their context and no wider design objections to the application are raised in respect of Policies CP3 and CP4.

## **7.6. Conclusion**

The proposal accords with the Council’s aspirations for increasing the use and activity on and around the river Derwent. The design and siting of the pontoon has been revised and its location is acceptable. The less than substantial harm deemed to be arising for the designated heritage assets in the area are outweighed by the increased leisure and tourism opportunities presented by the proposal. While the loss of the three trees is regrettable, impacts on protected species and the wildlife corridor have been sufficiently assessed and conditions of planning permission are proposed to ensure that suitable enhancement measures and replanting are delivered within the river corridor. There are no overriding amenity or highway safety issues arising and overall, the proposal would accord with the Policies of the adopted Local Plan when taken as a whole and the over-arching design/heritage guidance in the NPPF.

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

**8.1. Recommendation:**

**To grant** planning permission with conditions.

**8.2. Summary of reasons:**

The proposed pontoon mooring platform and path are considered acceptable in this city centre location and on the river Derwent. The less than substantial harm deemed to arise from the proposal, for the designated heritage assets in this area of the city, are considered to be outweighed by the increased tourism and leisure activity along the river corridor and within the World Heritage Site. Subject to compliance with the conditions outlined, no adverse impacts on the public open space or on the habitat value of the designated wildlife corridor are anticipated. The proposals are water compatible and are acceptable in flood risk terms.

**8.3. Conditions: (Presented in an abbreviated format for the purpose of this report)**

**General conditions:**

1. Standard condition (3 year time limit)

**Reason:** As required by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

2. Standard condition (Approved plans)

**Reason:** For the avoidance of doubt.

**Pre-commencement conditions:**

3. Condition requiring details of painted finish for works above water level.

**Reason:** In the interests of visual amenity and protection of heritage assets.

4. Submission of a Construction Environmental Management Plan.

**Reason:** To protect wildlife and the wildlife corridor during the course of construction works.

**Pre-Occupation conditions:**

5. Submission of a detailed Biodiversity Action Plan.

**Reason:** To mitigate impacts on biodiversity arising from the proposal.

6. Details of replacement tree planting to include species, location, timetable for delivery and future management.

**Reason:** To ensure suitable mitigation for loss of trees on site.

**Management conditions:**

7. Submission of details of any external lighting proposed as part of the scheme.

**Reason:** In the interests of protected species.

8. Delivery of the development in accordance with the recommendations and enhancement measures outlined in the Preliminary Ecological Appraisal.

**Committee Report Item No: 9.1**

**Application No: 22/01035/FUL**

**Type: Full Application**

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**Reason:** In the interest of protected species and to protect wildlife and the wildlife corridor.

**8.4. Informative Notes:**

Flood Risk Advice on Flood Warnings and Flood Risk Activity Permit, provided by the Environment Agency.

**8.5. S106 requirements where appropriate:**

None.

**8.6. Application timescale:**

An extension of time has been sought from the applicants for a decision to be issued before 24.02.23.

**Application No: 22/01035/FUL**

**Type: Full Application**



## **Committee Report Item No: 9.2**

**Application No: 22/01855/FUL**

**Type: Full Application**

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### **1. Application Details**

**1.1. Address:** Lindenwood, 39 Penny Long Lane, Derby

**1.2. Ward:** Darley

**1.3. Proposal:**

Single storey extension to dwelling house, installation of replacement roofline, changes to fenestration and application of new materials including timber cladding and standing seam metal roof

**1.4. Further Details:**

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan//22/01855/FUL>

**Brief description**

The application site is detached residential property at 39 Penny Long Lane, (Lindenwood), which is a corner plot alongside Broadway. There is currently a two storey, red brick dwelling house with a tiled pitch roofline and an integral front double garage. It has previously been extended to the side elevation. There is a driveway with access from Penny Long Lane and side and rear garden with mature trees and hedge. The dwelling is one of three houses of a similar design.

The former rear garden of the property has a recently developed, two storey dwellinghouse, which is accessed from Broadway. The plot is not yet completed and is part of an approved residential development of 3 dwelling houses, which includes the rest of 39 Penny Long Lane (ref:20/00395/VAR and 19/00543/FUL). Only the dwelling at the rear, (Plot 3) has been constructed.

Full permission is sought to retain and re-model the existing dwelling and erect a single storey extension to the front of the building, with alterations to windows and roofline and installation of timber cladding and a standing seam metal roof. The roof of the existing dwelling would be removed and replaced with a shallow mono-pitch roofline. The roof height would be reduced from some 8.3 metres to 7 metres in height. The brick chimney stack would also be remodelled. The front extensions would be flat roof structures up to some 3.5 metres high and project some 11.5 metres from the existing front elevation. The existing integral garage would be retained, and three parking spaces formed with the existing access retained onto Penny Long Lane.

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

<b>Application No:</b>	22/00753/FUL	<b>Type:</b>	Full Application
<b>Decision:</b>	Pending consideration	<b>Date:</b>	
<b>Description:</b>	Demolition of dwelling house. Erection of replacement dwellinghouse (Use Class C3)		
<b>Application No:</b>	20/00395/VAR	<b>Type:</b>	Variation of condition
<b>Decision:</b>	Granted Conditionally	<b>Date:</b>	19.05.2020

## **Committee Report Item No: 9.2**

**Application No: 22/01855/FUL**

**Type: Full Application**

<b>Description:</b>	Substitution of house type Plot 3 - variation of condition 2 of previously approved planning permission Code No.19/00543/FUL to amend the approved plans		
<b>Application No:</b>	19/00543/FUL	<b>Type:</b>	Full application
<b>Decision:</b>	Granted Conditionally	<b>Date:</b>	03.06.2019
<b>Description:</b>	Substitution of house types to all plots		
<b>Application No:</b>	06/15/00842	<b>Type:</b>	Full Application
<b>Decision:</b>	Granted Conditionally	<b>Date:</b>	14.01.2016
<b>Description:</b>	Demolition of dwelling house. Residential development (three dwellings)		

### **3. Publicity:**

- Neighbour Notification Letter – 3 properties
- Site Notice
- Press Advert

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

### **4. Representations:**

***In line with the Data Protection Act and associated legislation this appraisal should not include details, or seek to identify through repeating specific comments, the individuals who have objected, supported or made general comments about the application. Therefore, to maintain anonymity, the relevant planning grounds of objection, support or comment have only been included in broad terms. It is important to note that all comments received have been fully considered as part of the application process and included in the overall 'planning balance' exercise.***

17 third party representations have been received which raise the following issues:

- Design of extensions / alterations not in keeping with the character of the dwelling house or the streetscene
- Design not in keeping with the nearby Leyland's Estate
- Over intensive development of the site
- Proposed materials look poor and out of keeping with character of the area
- Footprint of proposal outside of approved building line
- Significant reduction in garden area.
- Extension will cross main sewer

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**5. Consultations:****5.1. Built Environment:**

No comments made.

**6. Relevant Policies:****6.1. 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)**

CP3	Placemaking Principles
CP4	Character and Context
CP20	Historic Environment

**Saved CDLPR Policies**

H16	House Extensions
GD5	Amenity

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:

[https://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/environmantandplanning/planning/localplan/evidencebase/Core-Strategy\\_ADOPTED\\_DEC-2016\\_V3\\_WEB.pdf](https://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/environmantandplanning/planning/localplan/evidencebase/Core-Strategy_ADOPTED_DEC-2016_V3_WEB.pdf)

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

[https://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/environmantandplanning/planning/localplan/part1/CDLPR\\_2017.pdf](https://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/environmantandplanning/planning/localplan/part1/CDLPR_2017.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.*

**6.2. Non-housing applications:**

The Local Plan (consisting of the policies of the DCLP1 and the saved policies of CDLPR) covers the period 2011 to 2028 and was adopted on 25 January 2017. The policies of the local plan were reviewed in December 2021 in line with Regulation 10a of the Town and Country Planning (Local Planning) (England) Regulations 2017 and paragraph 33 of the NPPF, the provisions of which require Local Plan policies to be



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reviewed at least every 5 years. The officer led review, endorsed by the Council's Cabinet on 8 December 2021, indicated that all of the policies relevant to the consideration of this application are still up to date and carry weight in the decision making process as they remain consistent with the NPPF and there have been no changes in local circumstances that render any of the policies out of date. The application is therefore being considered in terms of its accordance with the policies of the Local Plan and any other material considerations, including the National Planning Policy Framework.

## **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.

#### **7.1. Design and visual amenity**

#### **7.2. Residential amenity**

#### **7.3. Heritage Impact**

#### **7.4. Conclusion**

### **7.1. Design and visual amenity**

The proposal is for extensions and alterations to a detached dwelling and integral garage at Penny Long Lane. The existing dwelling house is a typical post-war dwelling, of simple rectangular form with tiled roofline and faced in brick. The adjacent dwellings at 35 and 37 Penny Long Lane are the same design and form a short row. The proposed works are to remodel the existing dwelling, by altering window and adding new openings, changing the roof to a mono pitched roofline in standing seam metal and recladding the whole envelope of the building in dark timber and brick. Single storey extensions are proposed to the front of the dwelling, of rectangular form, with flat sedum roof and mono pitch roof with solar panels.

Saved policy H16 Housing Extensions states that permission will be granted for extensions to residential properties provided that "there is no significant adverse effect on the character and appearance of the dwelling or the streetscene" taking into account design, massing, visual prominence and materials. The policy also requires that "the first floor of a two-storey side extension is set back to avoid a terraced or cramped effect in the streetscene". The principle of good design is reinforced by adopted policies CP3 Placemaking Principles and CP4 Character and Context which seek to ensure high quality design and a good relationship between proposed development and existing buildings and the local area and Section 12 of the NPPF.

The extensions to the front of the dwelling would increase the overall footprint of the building and increase its prominence from Penny Long Lane. However, given the large extent of the front curtilage and the existing mature vegetation along the frontage, the altered dwelling house, would be partially screened and not become unduly dominant in the surrounding street scene. It is also noted that the change in roofline from conventional pitched to mono pitch would result in the overall height being some 1 metre lower than the existing building.

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The design and form of the proposed alterations and extensions to the dwelling house would result in a substantial change to the appearance and character of the building. It would give a more contemporary and bold form to the dwelling, which would contrast with the traditional house types in this residential area. Whilst a more modern house design and facing materials, would be different to the existing style of dwellings in Penny Long Lane and Broadway, the design approach taken has a cohesive form and, in my view, it would make a positive contribution to the appearance of the local street scene.

The remodelled and extended dwelling house would still be proportionate in scale and appearance to other houses in the immediate area and is therefore considered to be appropriate in this residential context. It would preserve the character and appearance of Penny Long Lane and Broadway and, overall, it would accord with the design principles set out in Policies CP3 and CP4 of the DCLP- Part 1 and saved Policy H16 of the CDLPR.

The dwelling is also proposed to be a passive house design, which uses natural ventilation and glazing to heat and cool the building. Rainwater harvesting techniques and green roof are also proposed as a means of sustainable drainage. These low carbon heating and Suds drainage features would minimise the impact of the development on climate change and accord with the intentions of Policy CP2 of the DCLP1.

## **7.2. Residential amenity**

Saved policy GD5 Amenity prohibits "unacceptable harm to the amenity of nearby areas" from the effects of loss of privacy or light, massing, emissions, pollution, parking and traffic generation. The policy is reinforced by the provisions of saved policy H16 Housing Extensions which also requires the creation of a "satisfactory living environment" which in turn is supported by the NPPF, which states that "planning policies and decisions should ensure that developments [create] a high standard of amenity for existing and future users" (paragraph 130).

The proposed alterations to the existing dwelling would not lead to any significant harm to the amenity or privacy of the adjacent dwelling at 37 Penny Lane or to the new dwelling on Plot 3 to the rear. This is because the footprint of the existing dwelling is to be retained, with no increase in its overall height or in the number of windows to the north side elevation, which faces the side of No.37. Whilst windows are proposed to be altered in position and appearance they would not be to principal rooms. Existing windows on the front and rear elevations would also be altered in size and form, but not to increase views over the neighbouring properties.

Window openings to the rear elevation of the existing dwelling would be reduced in number and first floor windows would serve bathroom and dressing rooms, so that overlooking of Plot 3 to the rear would be substantially lessened from the existing situation. These alterations to the window arrangement would improve privacy for the new dwelling to the east and for the occupants of No.39. The first floor openings on the rear elevation should be obscure glazed to maintain privacy for future occupants and this can be secured by planning condition. The orientation of principal openings in the remodelled dwelling would be primarily towards the west and south, which would maximise daylight and minimise loss of privacy for neighbouring dwellings.

## **Committee Report Item No: 9.2**

**Application No: 22/01855/FUL**

**Type: Full Application**

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Overall, the proposed extensions and alterations to the existing dwelling would not result in a significant loss of residential amenity, for nearby residents on Penny Long Lane and Broadway and I am satisfied that the proposal would accord with the amenity requirements of the saved Policies GD5 and H16 CDLPR.

### **7.3. Heritage Impact**

The Leyland's Conservation Area lies on the opposite side of Penny Long Lane to the site. The site therefore impacts on the setting of the Conservation Area and the proposed extensions and alterations to the existing dwelling would affect the setting of this heritage asset.

The Conservation Officer has chosen not to comment on this application and has raised no concerns about the proposals. I am therefore satisfied that the proposed works to the dwelling would not result in harm to the character of the nearby Conservation Area. Therefore, the proposal meets the requirements of Policy CP20 of the DCLP1.

### **7.4. Conclusion**

The extensions and alterations to this detached dwelling house, are considered acceptable in terms of the impacts on residential amenity and visual amenity and on the setting of the nearby Leyland's Conservation Area. Accordingly, the proposals would meet the intentions of the relevant Local Plan policies and overarching guidance in the NPPF, which promote good design and safeguard amenity in all developments. It is therefore recommended that full permission be granted with conditions.

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

### **8.1. Recommendation:**

**To grant** planning permission with conditions.

### **8.2. Summary of reasons:**

The proposed extensions and alterations to the dwelling house are considered to be acceptable in terms of impacts on the local streetcene and on amenities of nearby residential properties and there would be no harm to the setting of the nearby Leyland's Conservation Area.

**The following conditions are in an abbreviated format and will be precisely worded before any decision is dispatched.**

### **8.3. Conditions:**

1. Standard condition (time limit)

**Reason:** As required by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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2. Standard condition (approved plans)

**Reason:** For avoidance of doubt

3. Details of external materials for the development to be agreed before construction.

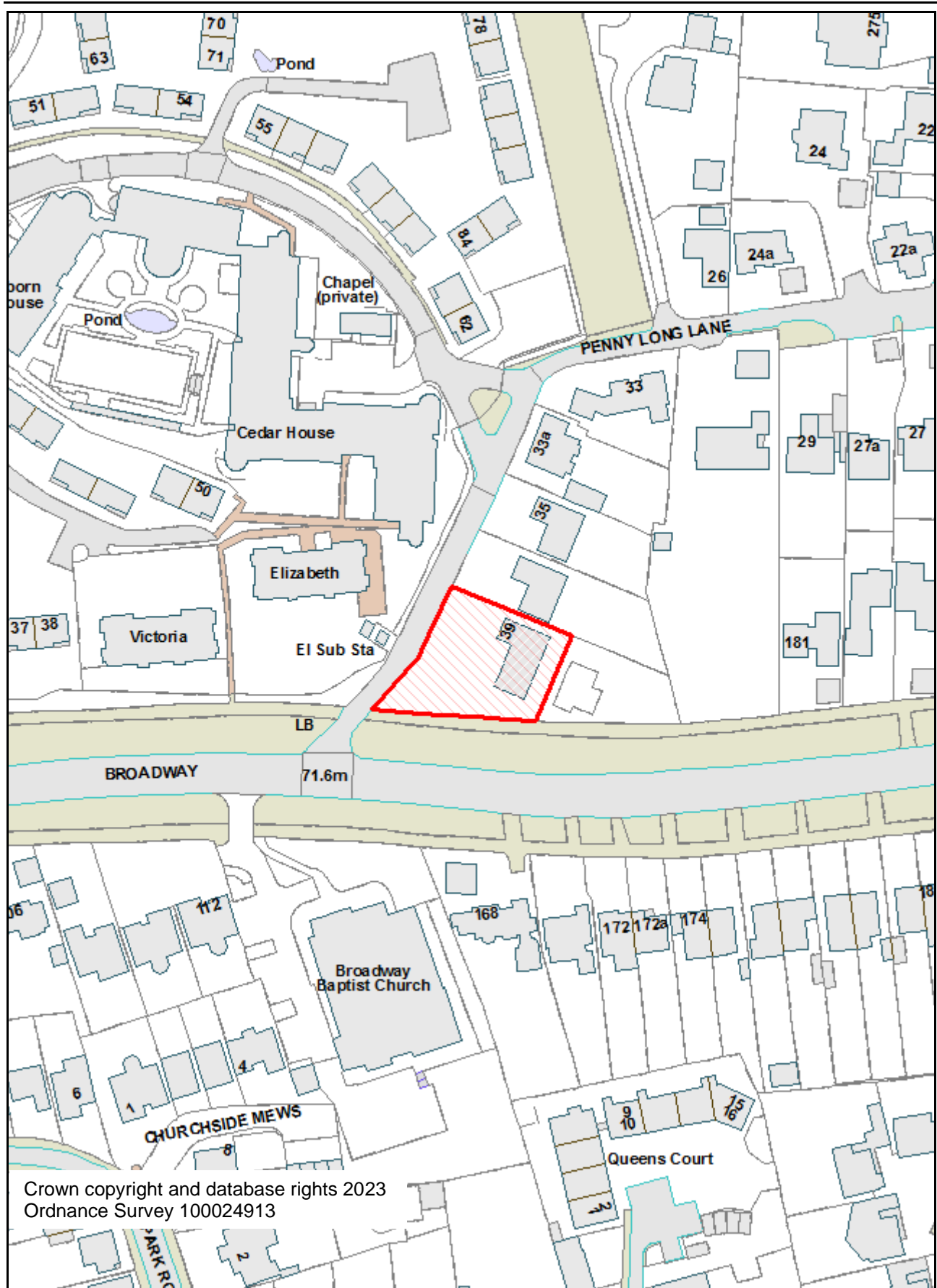
**Reason:** In interests of visual amenity.

4. First floor window openings to east facing rear elevation to be obscure glazed to protect privacy

**Reason:** To safeguard residential amenities of property on Plot 3.

**8.4. Application timescale:**

The target date for determination has expired and an extension of time has been agreed to the 23 February.



## **Committee Report Item No: 9.3**

**Application No: 22/01772/FUL**

**Type: Full Application**

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### **1. Application Details**

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

**1.2. Ward:** Arboretum

**1.3. Proposal:**

Erection of an additional storey and external changes to block E6 to create an additional 21 apartments (Use Class C3) together with installation of electric vehicle charging points and sub-station

**1.4. Further Details:**

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan//22/01772/FUL>

**Brief description**

This application relates to the former Derbyshire Royal Infirmary site, between London Road and Osmaston Road, which is currently being developed for residential development comprising 920 apartments and dwelling houses. The site is adjacent to the city centre, fronting Bradshaw Way and includes various heritage assets; Grade II listed wall and railings fronting London Road and Queen Victoria Statue and the locally listed two Pepperpot buildings. The site also has various retained trees and some are covered by a Tree Preservation Order.

Redevelopment of the site is currently underway under the planning permission ref:18/01677/FUL which was granted in 2019, which has subsequently been varied by a number of Section 73 Variation of condition and Non- Material Amendment applications. This permission is for 796 dwellings, comprising 773 dwellings and apartments and conversion to residential of Wilderslowe House and 123-129a Osmaston Road and other ancillary uses, landscaping and formation of access. A further full permission was granted for an additional 124 apartments (ref:21/01740/FUL) in June 2022, which involves additional storeys on some of the approved apartment blocks fronting London Road and Bradshaw Way.

The current proposal seeks full permission to form an additional storey, above one of the approved apartment buildings (block E6) which lies to the south eastern corner of the development site, fronting onto London Road. It would also sit alongside the Florence Nightingale Community Hospital. The proposal would create an additional 21 apartments (16 one bed and 5 two bed units) to give a total of 103 apartments in the building. The approved building is four storeys in height and the proposal would add a fifth floor. An array of solar panels would be sited on the flat roof of the building. The appearance and materials for the additional storey would tie in with the approved design and materials palette.

Permission is also sought for the provision of 8 Electric vehicle charging points to parking spaces already approved for the apartment building under the 2019 permission. A proposed new sub station within the car park to service the charging points is also included in the application. The approved car park for the apartment building has 50 spaces, which will be accessed from a service road from London Road.

## **Committee Report Item No: 9.3**

**Application No: 22/01772/FUL**

**Type: Full Application**

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

<b>Application No:</b>	21/01740/FUL	<b>Type:</b>	Full Application
<b>Decision:</b>	Granted Conditionally	<b>Date:</b>	14.06.2022
<b>Description:</b>	Erection of additional 124 apartments		

<b>Application No:</b>	18/01677/FUL	<b>Type:</b>	Full Application
<b>Decision:</b>	Granted Conditionally	<b>Date:</b>	21.06.2019
<b>Description:</b>	Erection of 796 dwellings comprising 773 dwellings and apartments, conversion of Wilderslowe House into 10 apartments conversion of nos 123-129A Osmaston Road into 12 apartments, alteration and refurbishment of The Lodge together with conversion and extension of the 'Pepper pot' buildings into a cafe, exhibition/meeting space, and gym/fitness facilities. Relocation of the listed Queen Victoria statue, together with formation of vehicular access, public open space, landscaping and associated engineering works		

<b>Application No:</b>	18/01678/LBA	<b>Type:</b>	Listed Building Consent
<b>Decision:</b>	Granted Conditionally	<b>Date:</b>	25.04.2019
<b>Description:</b>	Erection of 796 dwellings comprising 773 dwellings and apartments, conversion of Wilderslowe House into 10 apartments conversion of nos 123-129A Osmaston Road into 12 apartments, alteration and refurbishment of The Lodge together with conversion and extension of the 'Pepper pot' buildings into a cafe, exhibition/meeting space, and gym/fitness facilities. Relocation of the listed Queen Victoria statue, together with formation of vehicular access, public open space, landscaping and associated engineering works		

### **3. Publicity:**

- Neighbour Notification Letter – 4 properties
- 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.*

**4. Representations:**

*In line with the Data Protection Act and associated legislation this appraisal should not include details, or seek to identify through repeating specific comments, the individuals who have objected, supported or made general comments about the application. Therefore, to maintain anonymity, the relevant planning grounds of objection, support or comment have only been included in broad terms. It is important to note that all comments received have been fully considered as part of the application process and included in the overall 'planning balance' exercise.*

One third party objection has been received which raises the following issues:

- Loss of light to nearby houses
- Blocking views and massing impact.

**5. Consultations:**

**5.1. Highways Development Control:**

These observations do not preclude and should be read in conjunction with those made by my colleague in Transport Planning under a different cover.

The development is served off an adoptable road (subject to agreement ' my ref PD291); although the parking area associated with the development will be retained as a private courtyard.

By reference to drawings 18-1685/E-001J, 18-1685/E-002a, the supporting Transport Assessment Addendum and Planning Statement, it appears that the proposals will increase the number of units proposed by 21, whilst not increasing the level of parking provision.

I do note that as part of the proposals, 8 Electric Vehicle Charging spaces will be provided; however this utilises space that could have previously been used for the parking of more conventional vehicles; so potentially there is a reduction in the number of parking spaces available for all users; and the potential outcome is that some residents may choose to park their vehicles on adjacent roads and streets.

The Transport Assessment Addendum (page 16) demonstrates that there should be capacity within the parking area shown to accommodate parking for this block of units. My colleague from Transport Planning will comment upon whether this assessment is correct.

Nevertheless, the site is in a sustainable location, very close to city centre shops, amenities, and public transport opportunities; it would therefore be very difficult to argue that the additional traffic likely to be generated by the proposals will have a severe impact upon the surrounding highway network or lead to highway safety concerns.

**Recommendation:**

The Highway Authority has No Objection to the proposals.



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**5.2. Highways Transport Planning:**

This application seeks to increase the dwellings in Block E6 from the current 82 dwellings to 103 creating an additional 21 dwellings. Below is the difference between the consented application and the revised proposals.

Although, the parking numbers will remain as 50 spaces, the change will be that 42 spaces will be for residents of Block E6 and there will be 8 EV charging spaces to be available to be used by the public. The site is located 0.3 miles from Derby City Centre and is in a sustainable location.

Site Layout and Access

The site layout will remain the same as previously agreed in the approved application (21/01740/FUL). The vehicular access will also remain unchanged as consented in previous applications. The priority junctions onto Osmaston Road and London Road are in the process of being constructed. Block E6 will be utilising the London Road access. The pedestrian and cyclist accesses to the site will also remain the same as agreed on previous applications.

Trip Generation

The previously agreed estimated trip generation for the site was for the 82 dwellings of Block E6. Below is a table of the previously consented trip generation and the additional impact of the 21 dwellings. This shows that the additional dwellings would have an additional impact of 7 and 6 trips during the AM and PM peaks. Overall, the impact of the 103 dwellings would be 33 and 30 trips during the AM and PM peaks respectively. This equates to approximately 1 vehicle every 2 minutes during the AM and PM peaks. The net impact of the development in terms of vehicle movements is therefore likely to be minimal. In light of the above, the proposed development is unlikely to result in a severe impact on the existing highway network.

Parking

The parking provision for Block E6 is set to be 50 spaces in total. 42 of these will be for the residents. The proposals now include 8 EV charging spaces available to the public. The Transport Assessment Addendum submitted with the application takes into consideration DCLG parking provision standards. This can be seen below.

Based on this guidance, the parking demand for Block E6 is 31 spaces. The over-provision of 42 spaces is likely to reduce the impact of on-street parking issues as a result of this development.

The applicant has followed the 6C's guidance for cycle parking provision, where one cycle space must be provided for every five dwellings. It is highly recommended, due to the location of the development, that the applicant reconsiders this to provide 1 cycle space per dwelling to improve the sustainability of the site. These spaces should also be covered and secure to satisfy Part 5, Condition 4a of the decision notice of 21/01740/FUL.

Conclusion

The development is unlikely to cause any issue arising from traffic generation with a likely net increase of 7 and 6 two-way trips in the AM and PM peak. The application is in a sustainable location and the parking provision is satisfactory to serve the

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development. It is strongly recommended to the applicant to include 1 cycle space per dwelling to improve the sustainability of the site. These cycle spaces should be secure and covered. In light of the above, Transport Planning has no objection to the proposals.

### **5.3. Conservation Area Advisory Committee:**

Not considered by the committee.

### **5.4. Built Environment:**

#### **Heritage Assets affected –**

There are several listed buildings nearby including the grade II listed buildings including the walls and railings along London Road, Carlton House, Crown and Cushion Public House, the statue of Queen Victoria, the listed Alms-houses, Wilderslowe House and the Hartington Street Conservation Area is located far west of the site off Osmaston Road. These are designated heritage assets in NPPF (2021) terms. There are also two pairs of locally listed pepper pot towers on the site and other locally listed heritage assets including Queens Chambers (opposite on London Road), 100, 109-115, 117A London Road and Church of the Holy Trinity. These are heritage assets.

#### **Impact of proposals and comments –**

This application is for an additional storey (from the approved four to five storeys) and external changes to block E6 to create an additional 14 apartments (an increase from 89 to 103) to what was approved under previous applications including 18/01677/FUL and 21/01740/FUL. Concern about the relationship with the pepper pot towers and incremental increases in height of blocks have previously raised under the previous application and remain.

No issue with electrical vehicle charging points or substation location and design if materials match existing.

In terms of the increase of height the currently approved block E6 stands to the south of Pepper pot south and there was a gradual increase of height of blocks as you move along London Road to the city centre which relates to the move towards the larger building heights of the city centre. The proposal context elevation to London Road shows the additional storey (fifth storey) to block E6 which disrupts that logical gradual increase.

Although the numbers of apartments appear small the impact as a result of these on the scheme overall is more harmful to heritage assets than the original and subsequent scheme.

The site is elevated and there are changes in levels, so the increases are even more exaggerated and obvious rather than being subtle. In terms of designated heritage assets there is an increased harmful impact, in comparison to the previous amended application, on the setting of other listed buildings nearby including the grade II listed London Road Alms-houses, London Road listed wall and Carlton House.

The proposals to provide the extra apartments is harmful to significance in its close relationship and dominance in relation to the locally listed south pepper pot tower, as

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a non-designated heritage asset. There is also a harmful impact on the setting of the locally listed buildings as well as south Pepper pot including Queens Chambers (opposite on London Road), 117A London Road and Church of the Holy Trinity. There is minimal impact on the character and appearance of the conservation area as it is geographically removed from the proposed additions but further information within a HIA is needed.

**Policies –**

The Planning (listed building and conservation areas) Act 1990 section 16, 66 and 72 as regards the statutory duties regarding listed buildings and conservation areas is relevant here. As is E18 and E19 of the saved Local Plan Review (2006) and CP20 of the Local Plan – core strategy (2017). Section 16 on Conserving and enhancing the historic environment of the NPPF is relevant, in particular, para 199, 200, 202 and 203. There is slight harm caused to the designated heritage assets and as regards to heritage policies in the National Planning Policy Framework this proposal's level of harm (classed as less than substantial harm) it is considered to be under para 202. '...Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use' (NPPF, Para 202). This means that where there is this level of harm, this harm should be weighed against the public benefits of the proposal. This weighing is undertaken by the Development Management Case Officer. In terms of the impact on non-designated heritage assets para 203 reads '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 applications that directly or indirectly affect 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'.

**Recommendation:**

There is an increase degree of harm as a result of changes to the proposals in comparison to the approved scheme to both designated Heritage assets and non-designated Heritage assets as outlined above. This means that where there is this level of harm, this harm should be weighed against the public benefits of the proposal. This weighing is undertaken by the Development Management Case Officer.

**5.5. Derbyshire County Council Archaeologist:**

The proposals will have no archaeological impact.

**6. Relevant Policies:**

**6.1. 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.

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

CP1a	Presumption in favour of Sustainable Development
CP2	Responding to Climate Change
CP3	Placemaking Principles
CP4	Character and Context
CP5	Regeneration of Communities
CP6	Housing Delivery
CP7	Affordable and Specialist Housing
CP20	Historic Environment
CP23	Delivering a Sustainable Transport Network
MH1	Making it Happen
AC1	City Centre Strategy
AC4	City Centre Transport and Accessibility
AC5	City Centre Environment
AC6	Castleward and Former DRI

### Saved CDLPR Policies

GD5	Amenity
H13	Residential Development – general criteria
E13	Contaminated land
E17	Landscaping Scheme
E18	Conservation Areas
E19	Listed Buildings and Buildings of Local Importance
E20	Uses within Buildings of Architectural or Historic Importance
E24	Community Safety

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:

[https://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/environmantandplanning/planning/localplan/evidencebase/Core-Strategy\\_ADOPTED\\_DEC-2016\\_V3\\_WEB.pdf](https://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/environmantandplanning/planning/localplan/evidencebase/Core-Strategy_ADOPTED_DEC-2016_V3_WEB.pdf)

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

[https://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/environmantandplanning/planning/localplan/part1/CDLPR\\_2017.pdf](https://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/environmantandplanning/planning/localplan/part1/CDLPR_2017.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.*

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**6.2. Applications involving the provision of housing:**

The Local Plan (consisting of the policies of the DCLP1 and the saved policies of the CDLPR) covers the period 2011 to 2028 and was adopted on 25 January 2017. The policies of the local plan have been reviewed in line with Regulation 10a of the Town and Country Planning (Local Planning) (England) Regulations 2017 and paragraph 33 of the NPPF, the provisions of which require Local Plan policies to be reviewed at least every 5 years. The officer led review was endorsed by the Council's Cabinet on 8 December 2021.

The review found that, apart from the housing target elements of policy CP6 (Housing Delivery), the policies of the Local Plan remain consistent with national policies, including the latest updates to the NPPF and can be given weight in decision making.

Policy CP6 sets a housing requirement of 11,000 new homes over the 17 year Plan period (647 dwellings annually). However, in December 2020, Government amended it's 'Standard Method' for calculating Housing Need to include a 35% uplift in the top 20 largest urban areas in England which includes Derby. The standard method housing need calculation for Derby City now stands at 1,255 dwellings a year and this is significantly higher than the CP6 requirement. Therefore, the housing requirement in Policy CP6 is out of date.

A further consequence of the significant increase in housing requirement, brought about by the change to the standard method, is that the Council can no longer demonstrate a 5 year supply of housing land as required by the NPPF (NPPF paragraph 74 (footnote 39) refer). The current supply of deliverable sites is sufficient to provide 3.17 years of dwellings against the annual 1,255 requirement.

For the purposes of decision making, the lack of a demonstrable 5 year housing land supply means that the presumption in favour of development and the tilted balance set out in the NPPF is invoked (paragraph 11 footnote 8 of the NPPF).

Paragraph 11d of the NPPF requires that where there is no 5 year supply this means granting planning permission unless –

- i. The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole

As this proposal involves the provision of housing, the application is being considered in terms of its accordance with NPPF paragraph 11d and other material considerations. This does not mean that the policies of the Local Plan are ignored but that their requirements can be considered, and given weight, where they accord with the policies of the NPPF.

Other material considerations to weigh in the planning balance are that the Council's housing needs have increased significantly and as such the benefits of delivering housing carry greater weight. Also, the degree to which the Council is unable to demonstrate a 5 year supply is material. A housing land supply of 3.17 years is a

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significant shortfall and therefore very significant weight should also be applied in favour of applications that can contribute to increasing this supply.

The implications of the tilted balance on the officer recommendations are discussed further in the officer appraisal section of this report below.

## **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.

#### **7.1. Principle of residential development**

#### **7.2. Design and Visual Amenity**

#### **7.3. Residential Amenity**

#### **7.4. Heritage Impact**

#### **7.5. Highways Impact**

#### **7.6. Conclusion**

### **7.1. Principle of residential development**

This proposal is for an addition of a 21 residential units to apartment block E6, which forms part of the approved redevelopment scheme of the former Derbyshire Royal Infirmary site. Development is already underway with erection of new dwelling houses and some of the other apartment buildings, which have been approved on the site. The refurbishment of both of the two Pepperpot buildings has also been carried out and infrastructure works are ongoing with the formation of access road into the development from London Road.

The current application relates only to block E6, which is approved for 82 one and two bed apartments. The L shaped building would be sited on the London Road frontage adjacent to the community hospital. The overall permission for the site includes development of a group of 6 apartment buildings, which range from 4 to 7 storeys in height and form a coherent set of blocks fronting London Road and Bradshaw Way and which have a similar elevational treatment.

Permission is now sought to increase the number of apartments in block E6 by 21 units, to form 103 units, comprising 79 one bed and 24 two bed apartments.

The proposed increase in the scale and number of apartments, is in line with the intentions of the allocation Policy AC6 of the Local Plan - Part 1, which seeks a minimum of 400 dwellings on the former DRI site. The original permission ref: 18/01677 granted 796 dwellings on the overall site and the application to increase the number of apartments (21/01740/FUL), would deliver 920 residential units. This application would add a further 21 apartments to the development. This proposal is compliant with this policy, subject to a high quality design and residential amenity being provided. This proposal would also deliver a significant number of new homes to the city's 5 year housing supply, in a highly sustainable, city centre location where there is an identified housing need. The housing requirement for the city has also

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now increased, with the 35% uplift in delivery and Policy CP6 of the DCLP - Part 1 is out of date. The tilted balance is now in play in determination of new housing proposals. This scheme to increase the number of residential units on this strategically important redevelopment site, meets both the local and national policy tests for housing delivery and is therefore considered acceptable in principle.

## **7.2. Design and Visual Amenity**

The proposed formation of additional storey to the apartment building (E6) approved under the 2019 permission, would increase the building height from four to five storeys. The permission granted in 2022 (21/01740/FUL) gave consent for an additional storey to be added to three other blocks along the London Road frontage, E4, E3 and E2, which gradually increased the scale of built form to 5,6 and 7 storeys towards the city centre. Block E5 would sit on the north side of one of the Pepperpot buildings and is four storeys. Block E6 is to be located at the southern end of the development site, fronting London Road and is approved as a four-storey building with 82 apartments. This group of apartment blocks, as approved are between 4 and 7 storeys and form a coherent group when viewed from the street frontage, with similar elevational treatment and palette of external materials. Each block has its own private car parking area served from within the development site. Block E6 has a car park with 42 parking spaces located to the rear of the building.

The 2022 permission to increase the number of residential units within the apartment buildings, also altered the mix of one and two bed units, to increase the proportion of 1 bed apartments. This is to reflect the market demand, which is for more 1 bed units. The current application also seeks to add a higher number of 1 bed apartments in block E6, with the addition of 16 1 bed and 5 2 bed units to give a total of 103 apartments within the building.

The extension to the overall height of the apartment block by one storey, would in design terms, tie in with the appearance and materials palette used in the approved building and the rest of the E blocks on the site. The elevational treatment is not being amended to that approved under the full permission 21/01740/FUL. The group of buildings as a whole would still form a coherent group with a single design ethos and would read as a strong frontage to the street scene of London Road and Bradshaw Way. The design and form of the E blocks complement the rest of the development and the 2 Pepperpot buildings and make a positive contribution to the streetscape in this part of the city centre.

The addition of one storey to form a five-storey building would have a visual impact on the appearance of the group of E blocks, by increasing the bulk and scale of the building when viewed from London Road and in relation to the adjacent Pepperpot building. It would result in E6 being of similar height to the Pepperpot, rather than stepping up to it as it does currently. Having said that the Pepperpot building sits some distance from the proposed E6 block and it would appear unduly dominant alongside it. Block E5 is a four-storey building, although it is at a higher floor level and would not read as being much lower than block E6. Overall, I am satisfied that the additional storey to E6 block would not be so materially taller than the adjacent buildings, to appear excessive in scale or massing and given the considerable benefits derived from the 21 additional residential units in the city centre, with the

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tilted balance, the proposed extension is considered to be acceptable in its impact on the character of the London Road, street scene and wider visual amenity.

The proposed additional storey to the apartment building E6 would therefore meet the design principles and intentions of Policies CP3 and CP4 of the DCLP - Part 1 and in saved Policy H13 of the CDLPR, for new residential development.

The development would also deliver a large array of solar panels, to be sited on the flat roof of the apartment building, which would meet climate change aspirations for low carbon development. This would satisfy the intentions of Policy CP2 for reducing carbon emissions, in the DCLP- Part 1.

### **7.3. Residential Amenity**

The proposed increase in height of the apartment building by one storey would have no adverse impact of the living environment which is to be provided for future occupants of the residential units. The apartments would all have an adequate amount of internal floorspace with large window openings and good access to natural daylight.

The additional height of the building would result in some increase in massing impact for the nearby dwellinghouses on the development, which are located to the north and west of the proposed block. The houses are part of the wider redevelopment of the site, so the relationships between buildings have been considered as part of the full application for the whole development, 18/01677/FUL. The dwelling houses are positioned some distance from the building footprint and the additional floor is unlikely to have any substantive impact on daylight or privacy for the occupants of the nearby houses.

I am therefore satisfied that a satisfactory level of residential amenity is achieved by the proposal, which accords with the intentions of saved Policies H13 and GD5 of the CDLPR.

### **7.4. Heritage Impact**

The wider development site includes a number of heritage assets, including the locally listed Pepperpot buildings and statutory Grade II listed Queen Victoria statue, the wall and railings fronting London Road and Wilderslowe House, on Osmaston Road. The Hartington Street Conservation Area, with the three villas at 123-129a Osmaston Road also lies to the western edge of the site. The development of the former DRI also affects the setting of other heritage assets on London Road, which include the Grade II listed Liversage Almshouses.

This proposal is to increase the height of one the apartment buildings on the London Road frontage, which is adjacent to one of the Pepperpot buildings and fronts the listed wall and railings on London Road. The proposed extension would have a direct harmful impact on the setting of these heritage assets, as identified by the Conservation Officer. A harmful impact has also been noted to locally listed buildings on the opposite side of London Road, at Queens Chambers, 117a London Road and the Church of the Holy Trinity, although these buildings are a further distance away from the site. There is considered to be minimal impact on the Railway Conservation Area, which lies to the south and east of the development site.



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The Conservation Officer considers that there is an increase in harm to the nearby heritage assets as a result of the proposed additional storey to block E6, which is in addition to the harm resulting from the previous approval for height extensions to blocks, E2, E3 and E4.

In determining the application regard must be had for the statutory duty under Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest. Local Plan policies CP20 of the DCLP – Part 1 and saved Policies E19 and E18 of the CDLPR which seek to protect the character and significance of the historic buildings are also relevant. The proposals must also be considered against the heritage guidance in the NPPF and in particular the requirements of para. 202, which requires developments which cause less than substantial harm to be weighed in the balance against the public benefits of the proposals.

In terms of the impact on non-designated heritage assets para 203 is relevant and requires the effect of an application to be taken into account and a balanced judgement required, having regard for the scale of any harm.

The identified harm to the nearby listed buildings and structures is in relation to the additional height to the apartment building E6 21 extra residential units. In line with the requirements of Para.202 of the NPPF, this harm to the setting and significance of the nearby listed buildings, is considered to be outweighed by the public benefits of the development, in terms of significant new housing delivery, on top of the already approved mixed housing which is being delivered on the site, to meet demand for 1 and 2 bed apartments in a highly sustainable, city centre location, with access to various facilities and transport modes. The public benefits delivered by the development as a whole, are as follows:

- high quality living environment to be provided in the development, with access to local amenities and open space on site.
- high quality urban design and form of development, which makes a positive contribution to the London Road /Bradshaw Way streetscape and the city centre context.

The harm to the setting of the locally listed Pepperpot building and the other identified buildings on London Road, must be measured against para.203 and the harm is considered to be outweighed by the significant benefits of the proposed development which are set out above.

The proposed development of 21 additional apartments would give rise to significant new, high quality and sustainable housing, which outweighs the limited harm to the setting of the affected heritage assets. Accordingly, the heritage tests in the NPPF are satisfactorily met by the proposals.

## **7.5. Highways Impact**

The apartment building E6 has a private car park with 50 parking spaces, which is served off the primary access road through the site, from London Road. This car park already has approval under the 2019 permission for the whole development and its

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layout is not proposed to be altered under this application. Cycle storage is also incorporated within the building, at the main entrance. This application seeks consent to use 8 of the parking spaces for electric vehicle charging and be made available for public use.

The site is in a highly sustainable location, on the edge of the city centre and in close proximity to public transport facilities and cycle routes. It is therefore accessible to local amenities and to a wide choice of transport modes, close to the site.

A Transport Assessment has been submitted in support of the application to consider the impacts of the additional 21 residential units on vehicle trips. The Transport Planning Officer is satisfied that the net impact of the development on the local highway network is likely to be minimal. In terms of parking demand, the Officer considers that the parking demand for the apartment building in this location, is likely to be 31 spaces. Given that there would be 42 parking spaces available for residents only, there would be adequate parking to meet the needs of the development and reduce the potential for on-street parking issues.

Whilst there is proposed cycle parking provision within the development, the Highways Officer considers that additional cycle parking should be provided within the site, with provision of covered and secure spaces. This can reasonably be secured through a suitable planning condition.

Overall, the Highway Officers are satisfied that the revised parking arrangement for the development, with provision of EV charging parking spaces, would not have an adverse impact on the local highway network and provide more opportunities for sustainable travel. For these reasons, it accords with the transport objectives set out in Policy CP23 of the DCLP - Part 1.

## **7.6. Conclusion**

### **Section 106**

Because there would be an increase in the number of residential units on the whole development site, the developer has agreed to the provision of one additional unit for affordable rented housing to be secured through the Section 106 agreement. This will be delivered either within block E6 or within the wider development site. The level of affordable housing proposed is consistent with that agreed in the original application. The unit will be subject to the standard cascade mechanism where the developer may apply to the City Council to vary the way the affordable housing obligation is provided in the event that a Registered Provider cannot be found take on the unit.

The proposed addition of 21 apartments through an increase in height to block E6 of the approved development is considered to be acceptable in both visual and residential amenity, with no adverse impacts on the highway network and is in line with the intentions of the relevant Local Plan policies of the Derby City Local Plan-Part 1 and the saved City of Derby Local Plan Review, when taken as a whole and the overarching guidance in the NPPF.

The identified harm to the nearby heritage assets is outweighed by the significant public benefits of the development, which includes substantial housing delivery in a

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highly sustainable city centre location and provision of a high-quality living environment, such that the NPPF heritage tests are appropriately met.

It is therefore recommended that full permission be granted with conditions.

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

**8.1. Recommendation:**

- A. **To authorise** the Director of Planning, Transport and Engineering to negotiate the terms of a Section 106 Agreement to achieve the objectives set out below and to authorise the Director of Legal, Procurement and Democratic Services and Monitoring Officer to enter into such an agreement.
- B. **To authorise** the Director of Planning, Transport and Engineering to **grant permission** upon conclusion of the above Section 106 Agreement.

**8.2. Summary of reasons:**

The increase in height of the apartment building by one storey to deliver additional residential units, is considered to be acceptable in both visual and residential amenity, with no adverse impacts on the highway network. The identified harm to the nearby heritage assets is outweighed by the significant public benefits of the development, which includes substantial housing delivery in a highly sustainable city centre location and provision of a high-quality living environment, such that the NPPF heritage tests are appropriately met.

**8.3. Conditions:**

1. Standard condition (time limit)

**Reason:** As required by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Standard condition (approved plans)

**Reason:** For the avoidance of doubt.

**Pre-occupation conditions**

3. Details of facing materials, depth of reveal for windows and doors, and brickwork detailing to be agreed in writing before construction above foundation level.

**Reason:** To ensure external appearance complements streetscape

4. Details of all covered and secure cycle parking provision for the site to be agreed in writing by the occupation of the apartments.

**Reason:** In interests of sustainable travel

5. Scheme of biodiversity enhancement (to include any of the following: the incorporation of bat roosting bricks, house sparrow nesting terraces, swift

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and starling boxes) to be implemented within the development as agreed in writing.

**Reason:** To protect and enhance biodiversity value of the site.

**8.4. Informative Notes:**

Type here or delete heading

**8.5. S106 requirements where appropriate:**

Affordable housing provision

**8.6. Application timescale:**

The target determination date for the application is 15 February and an extension of time will be sought to cover the committee meeting.

