

B1 APPLICATIONS

1 Code No: DER/905/1625

Type: Full

1. **Address:** Land adjacent to 36 Alvaston Street
2. **Proposal:** Conversion of storage building to residential
3. **Description:** Planning permission is sought, with means of access details applied for, to convert an existing storage building to residential use. The site is located on the south side of Alvaston Street approximately 50m to the west of the junction with Stiles Road. The existing building is a single storey eaves-fronted building with a pitched roof which stands at the back of the site adjacent to No. 34 Alvaston Street. The building would require fairly substantial renovation and it currently has three sets of timber double doors on the front elevation facing Alvaston Street. The site is served by an existing vehicle access onto Alvaston Street.
4. **Relevant Planning History:** -
5. **Implications of Proposal:**
 - 5.1 **Economic:** None
 - 5.2 **Design and Community Safety:** Details of the design and external appearance of the development would be required by condition. The details would include the location of doors and windows to serve the proposed accommodation.
 - 5.3 **Highways:** The existing vehicle access to the site has sub-standard visibility and the proposed access has insufficient visibility. The Highways Officer has recommended that the existing hedge at the front of the site and No. 36 Alvaston Street is removed and any new boundary treatment is set back a minimum of 1m, to allow a 2m visibility line along the whole length of the existing frontage. The existing stone wall at the front of the site is less than 1m in height from ground level and can be retained. The proposed development requires the provision of one parking space on site, together with vehicle turning provision. These details can be addressed by condition.
 - 5.4 **Disabled People's Access:** Would be addressed at a later stage through the Building Regulations.
 - 5.5 **Other Environmental:** See Officer Opinion in relation to possible wildlife implications.
6. **Publicity:**

B1 APPLICATIONS (cont'd)

1 Code No: DER/905/1625

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

7. **Representations:** Four letters of objection have been received in response to this application and concerns are principally expressed about the impact of the proposed development in highways safety terms and the impracticalities of converting the existing building. Concerns are also expressed about the existence of bats in the building. The representations are reproduced.

8. **Consultations:**

English Nature – any response will be reported orally.

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

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

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

10. **Officer Opinion:** There are no objections in principle to the conversion of this storage building to residential use in this area. The site is located in a residential context and the street pattern on this part of Alvaston Street is a little irregular in terms of the alignment of the dwellings from Nos. 30 - 40. I, therefore, raise no objections to the location of a dwelling in this position. Vehicle access into the site can be reasonably controlled by condition and the inclusion of the required parking on-site would avoid additional parking pressure on this relatively narrow part of Alvaston Street.

The building may have to be substantially refurbished to convert it to residential use. A planning permission can be conditioned to ensure that any development is acceptable in privacy and overlooking terms for the most affected neighbouring properties. The proposed residential conversion would also have to adhere to the Building Regulations.

B1 APPLICATIONS (cont'd)

1 Code No: DER/905/1625

One of the objectors has raised concerns about the existence of bat roosts in the building and, in accordance with CDLP policy E9, the City Council has a duty to draw the applicant's attention to their possible presence and the obligations that stem from that. From my Officer's inspection of the site it would appear that there are potential access/egress points for bats into the building through the timber doors and roof. The applicant should, therefore, be reminded of her obligation under other legislation.

11. Recommended decision and summary of reasons:

11.1 A. To grant planning permission with conditions.

B. To remind the applicant of her responsibilities under the Wildlife and Countryside Act 1981 and the Conservation Regulations 1994 in respect of the presence on the site of any protected species, such as bats.

11.2 Summary of reasons: The conversion of the building to a residential purpose and the means of access are acceptable in this location and are in accordance with policies H22 and H28 of the adopted City of Derby Local Plan.

11.3 Conditions

1. Before any development commences, precise details of the works proposed to convert the building shall have been submitted to an approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.
2. Before any development commenced, the hedge that is located on the front boundary of the site and No. 36 Alvaston Street shall be removed in accordance with a scheme to be submitted to and agreed in writing by the Local Planning Authority. Before any development is commenced, an on-site parking and vehicle turning layout, together with precise access details, shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.
3. Standard condition 19 (means of enclosure)
4. Standard condition 30 (surfaces to be drained, surfaced etc)
5. Standard condition 38 (disposal of sewage)

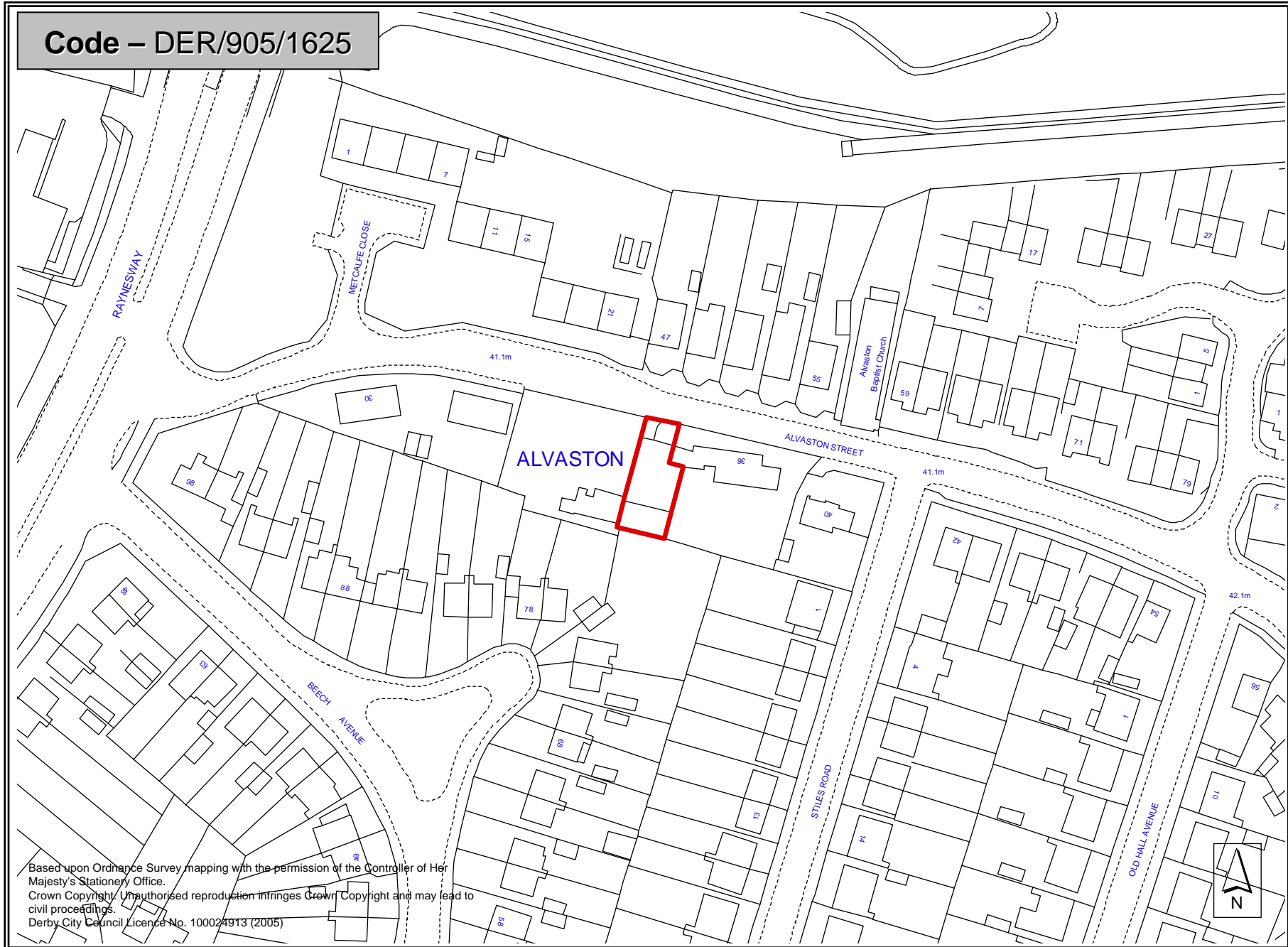
B1 APPLICATIONS (cont'd)

1 Code No: DER/905/1625

11.4 Reasons

1. In the interests of the appearance of the development in the streetscene and to safeguard the amenities of nearby residents, in accordance with policies H22 and H28 of the adopted City of Derby Local Plan.
2. To provide an unimpeded visibility line across the site frontage and to provide the development with on-site parking and turning facilities, in the interests of the safety of users of the site and Alvaston Street and in accordance with policy T22 of the adopted City of Derby Local Plan.
3. Standard reason E14 (adopted CDLP H22 and H28)
4. Standard reason E14 (adopted CDLP H22 and H28)
5. Standard reason E21

Code – DER/905/1625



Based upon Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office.
Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to civil proceedings.
Derby City Council Licence No. 100024913 (2005)

B1 APPLICATIONS (cont'd)

2 Code No: DER/803/1442

Type: Full

1. **Address:** 137 Manor Road
2. **Proposal:** Extension to residential home for elderly people (four bedrooms)
3. **Description:** This application was submitted more than two years ago, but has been held in abeyance regarding a land ownership issue that has now been resolved. Permission is sought for the erection of a single-storey rear extension to provide four additional bedrooms to this established residential home. The proposed rear extension would be 9.1m x 9.9m, and 5.3m in height, with a pitched roof. It would be situated 3m from the boundary with No. 135 and would have two windows facing that boundary. The boundary between Nos. 135 and 137 Manor Road is a very well established 2m privet hedge.

The properties on either side of the application site are residential in character. To the rear of the site are a number of fine trees that are protected by a Tree Preservation Order and are close to the boundary. A total of 14 car parking spaces would be provided for the residential home. The boundary with Nos. 139 and 139B Manor Road is a 1.5m fence, with a number of trees along its length.

4. **Relevant Planning History:** DER/802/1230 – Conversion of existing dwelling house to a residential care home with extensions – granted March 2003.
5. **Implications of Proposal:**
 - 5.1 **Economic:** Increased staff may be required.
 - 5.2 **Design and Community Safety:** I have no objections to raise in respect of design and community safety.
 - 5.3 **Highways:** There is an existing vehicular access onto Manor Road. The proposed level of car parking is quite acceptable for the use proposed.
 - 5.4 **Disabled People's Access:** The proposed accommodation is all on the ground floor.
 - 5.5 **Other Environmental:** There are some fine mature trees close to the site boundary. The advice of the Arboricultural Officer is reported at Section 8.
6. **Publicity:**

B1 APPLICATIONS (cont'd)

2 Code No: DER/803/1442

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

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

- boundary dispute regarding land to north east
- property is unsuitable for a care home
- the use will cause traffic problems
- the proposal will detract from residential amenity
- adverse effect on trees
- parking is inadequate
- decrease in property values
- restrictive covenant exists preventing such a use
- lack of amenity space for residents
- overlooking, loss of privacy

8. **Consultations:**

DCommS (Arboricultural Officer) – no objection to the removal of trees within the application site. Concern expressed over the fine Oak trees close to the site boundary. Appropriate condition requested to ensure that the roots of those trees are not damaged.

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

H23 - Residential institutions
T22 - Parking standards
E31 - Design
E11 - Trees

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

10. **Officer Opinion:** This is a large detached property within an extensive curtilage. The principle of the use as a Care Home was established by the granting of planning permission in 2003, and adequate car parking can be provided within the site. I am satisfied that the design of the proposed extension is appropriate in relation to the existing building and is of a scale that would have no unreasonable effect on Nos. 135, 139 or 139B Manor Road. There is a very well established and dense

B1 APPLICATIONS (cont'd)

2 Code No: DER/803/1442

privet hedge along the boundary with No. 135 Manor Road that would ensure that there would be no unreasonable overlooking caused in relation to that property. I have therefore concluded that, in residential amenity terms, the proposal is quite acceptable.

I have noted the Arboricultural Officer's comments in respect of the mature trees close to the site boundary and an appropriate condition is recommended. I have looked closely at the points raised by the objectors. The initial confusion over the site boundary has now been resolved and, as I have indicated, the use as a care home is established. The low-key nature of the proposal is quite appropriate, and I have had to conclude that no unreasonable loss of residential amenity would be caused by the proposal, certainly none that could justify a refusal of planning permission. I therefore now fully support the proposal, subject to the suggested conditions.

11. Recommended decision and summary of reasons:

11.1 To grant permission with conditions.

11.2 Summary of reasons: The proposal has been considered in relation to the provisions of the City of Derby Local Plan and all other materials considerations as indicated in 9 above, and it is in accordance with policies H23 and T22 of the adopted City of Derby Local Plan and is an acceptable form of development in siting, design, residential amenity and highways terms in this location.

11.3 Conditions

1. Standard condition 09A (amended plans 3 October 2005)
2. Standard condition 27 (external materials)
3. Standard condition 30 (hard surfaces)
4. Before the development commences, a method statement for the construction of the footings/foundations of the proposed extension shall have been submitted to and agreed in writing by the Local Planning Authority.

11.4 Reasons

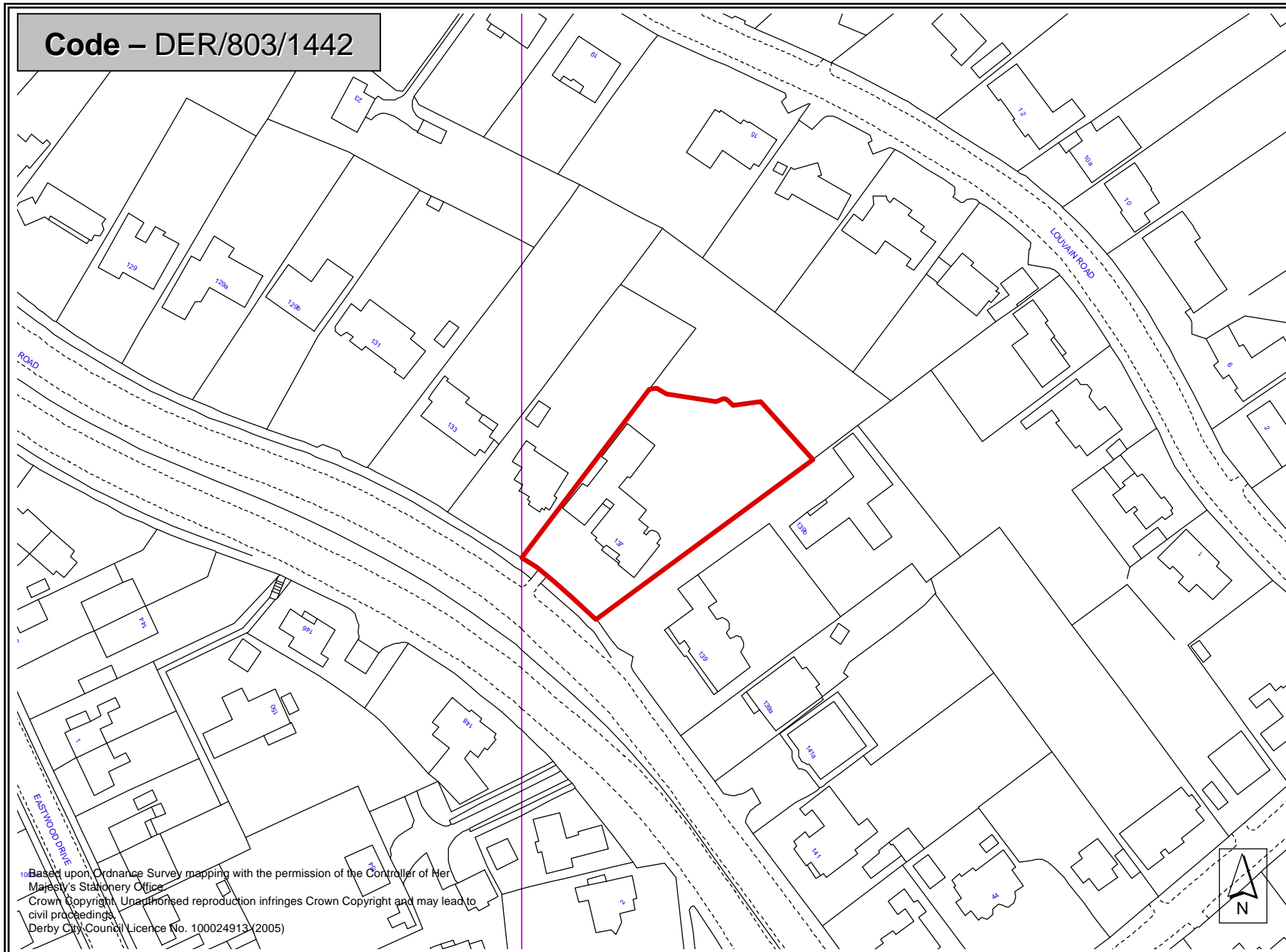
1. Standard reason E04
2. Standard reason E14 ... policy E31
3. Standard reason E18 ... policy H23

B1 APPLICATIONS (cont'd)

2 Code No: DER/803/1442

4. In order to ensure the continuing health of the mature trees adjacent to the site boundary, in the interests of the visual amenity of the area ... policy E11.

Code – DER/803/1442



100 Based upon Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office.
Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to civil proceedings.
Derby City Council Licence No. 100024913 (2005)

B1 APPLICATIONS (cont'd)

3 Code No: DER/905/1537

Type: Full

1. **Address:** Site of 181 and 185 Station Road, Mickleover
2. **Proposal:** Demolition of existing dwelling houses and erection of 12 apartments
3. **Description:** Full planning permission is sought to redevelop this site which is located on the East side of Station Road. The site is located between the junctions of Micklecross Close and East Avenue and it covers an area of approximately 2050 sqm. The site currently accommodates a pair of detached bungalows and these would be demolished to accommodate the development. The site is accessed by two vehicle accesses on either side of the frontage and these would be retained.

The proposed development includes the erection of two buildings which would individually accommodate six apartments. The proposed buildings would stand back approximately 17m from the site frontage behind the shared parking area. The proposed three storey buildings are gable-fronted and the architectural design is characteristic of the immediate locality. The Officer Opinion section address the proposed design in a little more detail.

4. **Relevant Planning History:** None.
5. **Implications of Proposal:**
 - 5.1 **Economic:** None.
 - 5.2 **Design and Community Safety:** I raise no objections to the elevational design of the proposed development in this residential context. The applicant has submitted a street-scene drawing which illustrates the relationship of the proposed development to existing neighbours. A copy will be displayed at the meeting.
 - 5.3 **Highways:** There are no highways objections in principle to the proposed development in this residential context.
 - 5.4 **Disabled People's Access:** The proposed apartments would be made accessible through the Building Regulations.
 - 5.5 **Other Environmental:** The site is covered by TPO No. 8. The Order includes frontage trees on the site and various trees in the gardens of the neighbours to the north and south, Nos. 185a and 179. The application is accompanied by a Tree Survey and this has been scrutinised by the Council's Arboricultural Manager. The footprint of the building adjacent to the boundary with No. 179 has been amended

B1 **APPLICATIONS** (cont'd)

3 **Code No:** DER/905/1537

to accommodate a protected Pine tree which stands in the rear garden of No. 179. The agent has confirmed that the tree has been resurveyed to ensure that the building has been correctly re-sited.

6. **Publicity:**

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

7. **Representations:** Nineteen letters of objection have been received in response to this application and will be available in the Members' rooms. Concerns are expressed about the siting, design and impact of the proposed development on the character of the area. Concerns are expressed about the impact of the proposed development on the surrounding protected trees and highway safety. Concerns are also expressed about the existence of bats in the building. The application is accompanied by a bat survey for the existing bungalows and DWT have been asked to comment on it.

8. **Consultations:**

DCommS (Arboriculture) – no objections to the amended siting of the proposed buildings.

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

DWT – recommends that further work be undertaken with regard to the bat surveys and separate survey work should be undertaken, at the appropriate time of year, to establish whether or not great crested newts are present in the garden pond. It is recommended that English Nature be consulted on these issues for guidance on the required survey work. English Nature has, therefore been consulted.

STW – recommends the inclusion of a standard drainage condition.

English Nature – to be reported.

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

- H22 - Residential development on unallocated land
- H28 - Layout and design of residential development

B1 **APPLICATIONS** (cont'd)

3 **Code No:** DER/905/1537

- E9 - Development affecting sites potentially supporting wildlife species.
- E31 - Design
- T22 - Parking standards.

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

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

Siting and Design

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

Highways and Parking

The revised parking layout at the front of the site is acceptable in highways terms. The parking layout provides one space per unit and three spaces for visitor parking. This level is acceptable in this case.

B1 APPLICATIONS (cont'd)

3 Code No: DER/905/1537

Environmental Issues

Concern has been raised about the existence of bat roosts in the existing buildings and, in accordance with CDLP policy E9, the City Council has a duty to draw the applicant's attention to this issue. Separate legislation is also in place to address the issue of bat protection which the agent is fully aware of. On the basis of the submitted bat survey it is concluded that it is unlikely that both of the existing bungalows would support bat roosts. It is, however, recommended that emergence surveys are carried out for both properties and a thorough internal survey is conducted for No. 185, this was previously unfeasible as the property owner was away. The agent has confirmed that the investigation has taken place and the findings will be available at the meeting. The bat survey suggests that the potential for bat roosting should not be considered a major planning constraint in this case. The submitted ecological survey concludes that no nature conservation constraints to the proposed development were observed during the survey period. Both reports have been sent to DWT for their scrutiny.

11. Recommended decision and summary of reasons:

- 11.1 A. **To authorise** the Assistant Director – Development to negotiate the terms of a Section 106 Agreement to achieve the objectives set out in 11.5 below and **to authorise** the Director of Corporate Services to enter into such an agreement.
- B. **To authorise** the Assistant Director – Development **to grant** planning permission on the conclusion of the above Agreement, with conditions.
- C. **To remind** the applicants of their responsibilities under the Wildlife and Countryside Act 1981 and the Conservation Regulations 1994 in respect of the presence on the site of any protected species such as bats.
- D. If the applicant fails to sign the S106 Agreement by the expiry of the 13 week target period, consideration be given, in consultation with the Chair, to refusing the application.
- 11.2 **Summary of reasons:** The siting, design, effect on the street-scene and massing impact of the proposed development are acceptable in this location and are in accordance with policies H22, H28, E31 and T22 of the adopted City of Derby Local Plan.

B1 APPLICATIONS (cont'd)

3 Code No: DER/905/1537

11.3 Conditions

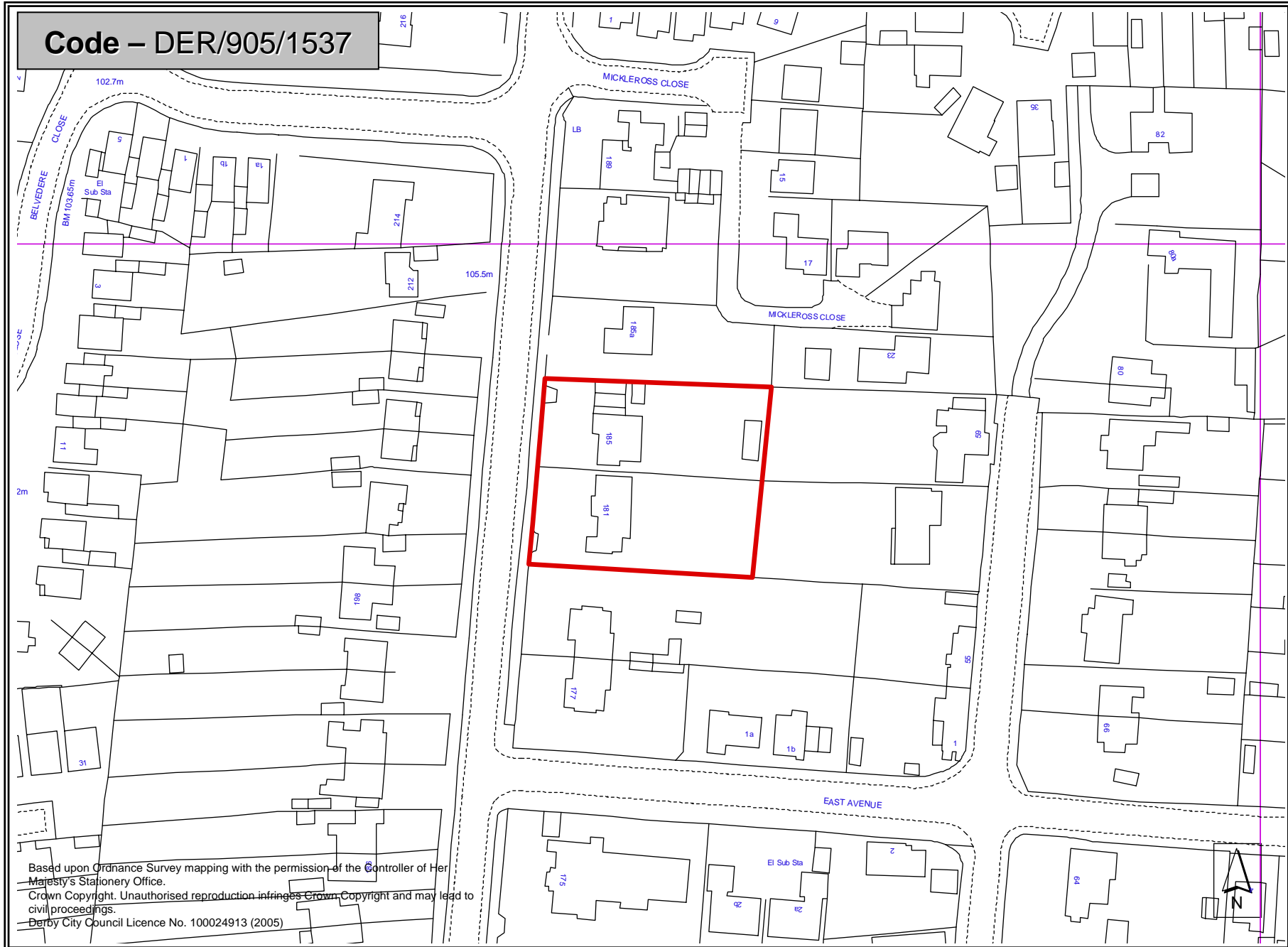
1. Standard condition 84 (drawing Nos)
2. Standard condition 27 (materials)
3. Standard condition 20 (approval of landscaping scheme)
4. Standard condition 22 (landscaping within 12 months (cond. 3))
5. Standard condition 24A (vegetation – protection incl. overhanging)
6. Standard condition 19 (means of enclosure)
7. Standard condition 30 (surfaces to be drained, surface etc)
8. Standard condition 38 (disposal of sewage – details)

11.4 Reasons

1. Standard reason E04
2. Standard reason E14 (H22/E31)
3. Standard reason E14 (H22/E31)
4. Standard reason E14 (H22/E31)
5. Standard reason E29
6. Standard reason E14 (H22)
7. Standard reason E14 (H22)
8. Standard reason E21

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

Code – DER/905/1537



Based upon Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office.
Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to civil proceedings.
Derby City Council Licence No. 100024913 (2005)

B1 APPLICATIONS (cont'd)

4 Code No: DER/905/1610

Type: Full

1. **Address:** Land rear of 14 Moorland Road, Mickleover
2. **Proposal:** Erection of dwelling house and formation of access
3. **Description:** This application seeks permission for the erection of a single detached dwelling house on land to the rear of No. 14 Moorland Road, a private road. No. 14 Moorland Road is situated to the front of the site close to the highway and adjacent to No. 12 Moorland Road. It is proposed to use a single shared access from the highway to serve both No. 14 and the proposed dwelling house to the rear of the site. There are existing dwelling houses on the opposite, north, side of Moorland Road, while to the south is the site of planning application DER/805/1307 for which permission was granted for five dwelling houses at the 27 October meeting. To the east of the application site is the British Legion sports ground.

The proposed dwelling house is detached and at this stage no garage is proposed. The house would have the first floor contained within a quite extensive roof space. The building would be 12.8m x 9.5m with a roof height of 6m. Primary fenestration would be to the front (north) and to the rear (south). A 10m x 10m turning area would be provided, together with space for a future garage.

It is proposed to provide a bin store close to the highway at the front of the site to serve both No. 14 and the proposed house. The fine hedge and Horse Chestnut tree (protected by recent TPO) at the front of the site are to be retained.

4. **Relevant Planning History:** DER/605/1072 – Erection of dwelling house and access – refused August 2005 on the grounds of impact on the Chestnut tree and hedge and development being out of keeping with the established form of development.
5. **Implications of Proposal:**
 - 5.1 **Economic:** None.
 - 5.2 **Design and Community Safety:** No objections in respect of the design of the building or community safety aspects.
 - 5.3 **Highways:** No objections, subject to a satisfactory bin storage area being provided, together with a 10m x 10m vehicle turning area.
 - 5.4 **Disabled People's Access:** None.

B1 APPLICATIONS (cont'd)

4 Code No: DER/905/1610

5.5 Other Environmental: The fine hedge and TPO protected tree on the Moorland Road frontage are to be retained.

6. Publicity:

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

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

- proposal would cause traffic safety problems
- damage to trees and hedges
- problems for refuse/emergency vehicles
- loss of overall residential amenity
- sewage system has problems
- adverse effect on sports ground (loss of footballs likely).

Any further representations will be reported at the meeting.

8. Consultations:

DCommS (Arboricultural Officer) – details requested of the construction method for the drive, in order to protect the hedge and protected tree on frontage.

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

H22 - Residential development on unallocated land
H28 - Layout and design of residential development
E11 - Trees
E31 – Design.

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

The guidance of PPG3 (Housing) is also relevant.

9. Officer Opinion: Local Plan policy H22 allows for small-scale infill development of this type, subject to the requirements of relevant criteria. In this particular case I am satisfied that the design of the proposed house is acceptable for this location, and its position would

B1 APPLICATIONS (cont'd)

4 Code No: DER/905/1610

not unreasonably detract from the existing amenities of the residents at No. 12 Moorland Road. The depth and extent of these plots on Moorland Road are such that a dwelling house of the type and scale proposed can be accommodated here without an unreasonable effect on adjacent properties in terms of overlooking and space between buildings.

The form of access to the highway would allow for the retention of the fine existing hedge and the protected Horse Chestnut tree and these aspects are to be welcomed. The form of access would involve a drive directly alongside the applicant's existing house, but I do not consider, upon further consideration, that any unreasonable loss of amenity would be caused to third parties. The proposed house would be situated 41m from No. 12 Moorland Road and 33m from No. 14 Moorland Road. Subject to the recommended conditions, I have to conclude that the requirements of policies H22 and H28 are reasonably met, and that the proposal is in line with the guidance given in PPG3. I therefore support the proposal as submitted, subject to conditions.

11. Recommended decision and summary of reasons:

11.1 To grant planning permission with conditions.

11.2 Summary of reasons: The proposal has been considered in relation to the provisions of the City of Derby Local Plan and all other material conditions as outlined in 9 above. The layout and design of the development is satisfactory, without unreasonable harm to the amenities of third parties.

11.3 Conditions

1. Standard reason 27 (external materials)
2. Standard reason 19 (means of enclosure)
3. Standard reason 30 (hard surfaces)
4. Before any work commences, details of the means of construction for the access from the highway and the drive, shall be submitted to and be approved in writing by the Local Planning Authority.
5. The window in the west elevation shall be obscure glazed at all times unless otherwise agreed in writing by the Local Planning Authority.

11.4 Reasons

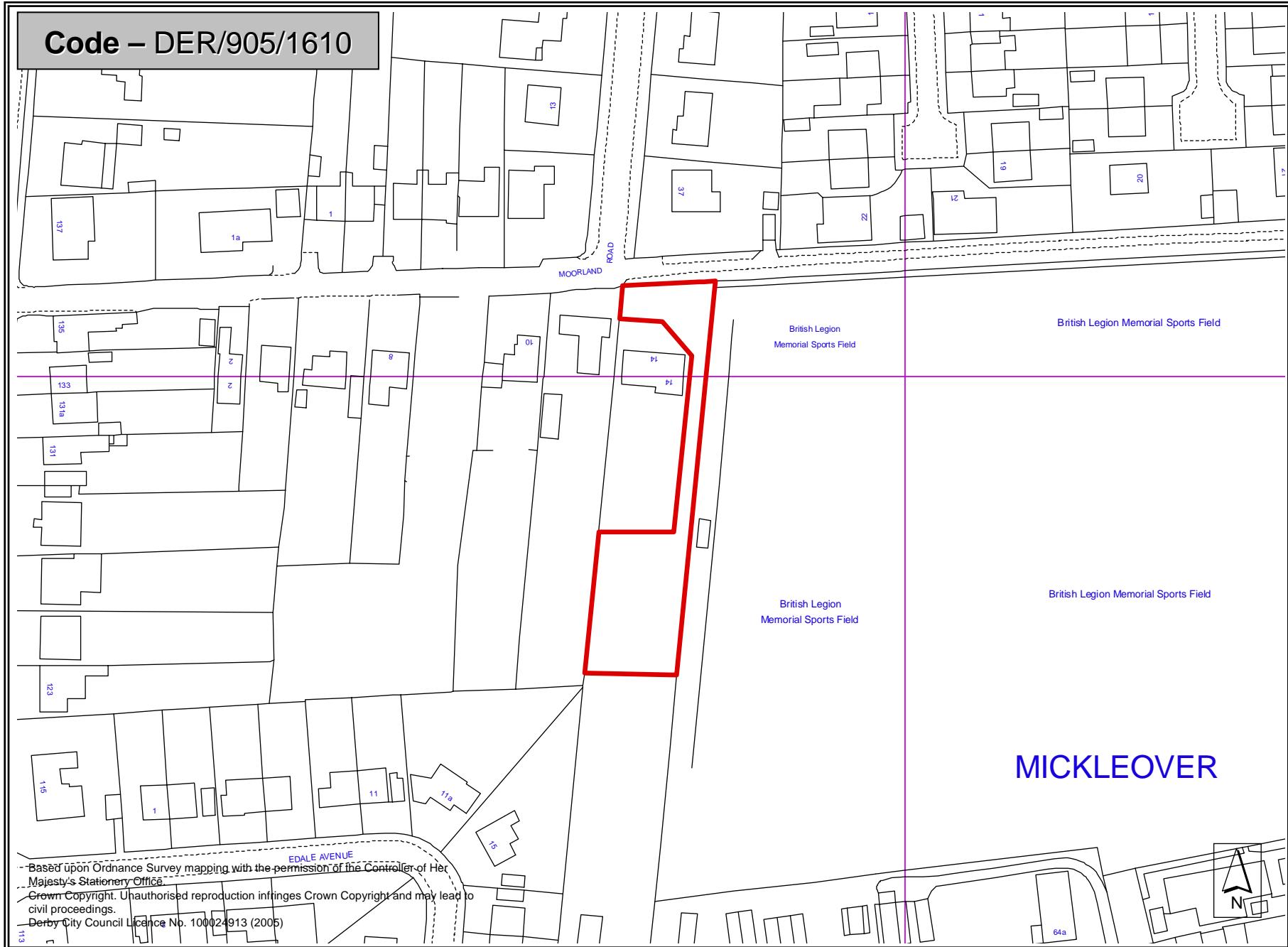
1. Standard reason E14 ... policy E31

B1 APPLICATIONS (cont'd)

4 Code No: DER/905/1610

2. Standard reason E18 ... policy H28
3. Standard reason E18 ... policy H28
4. In order to ensure the adequate protection of the established hedgerow and Horse Chestnut tree on the front boundary of the site... policy E11
5. To preserve the amenities of the adjacent residents...policy H28

Code – DER/905/1610



Based upon Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office

Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to civil proceedings.

Derby City Council Licence No. 100024913 (2005)

B1 APPLICATIONS (cont'd)

5 Code No: DER/905/1603

Type: Full

1. **Address:** 7 Thames Close
2. **Proposal:** Extension to dwelling house (kitchen, porch, utility room, study, conservatory, 2 bedrooms and garage)
3. **Description:** This application seeks permission for substantial extensions to this detached dwelling house on the north side of Thames Close. It is proposed to erect a single storey extension right across the back of the existing house, to provide a conservatory and a kitchen extension. The conservatory would extend back 6.1 m from the existing back wall of the house and the kitchen extension would extend back 3.8 m. Both the conservatory and the kitchen extension are of a pitched roof design. In addition, it is proposed to erect a two storey side extension that would extend back from the existing house 3.8 m, in line with the proposed single storey kitchen extension. This would provide a garage and utility area on the ground floor, with two bedrooms and an en-suite area at first floor level. A new porch is also proposed on the front elevation.

The application premises are situated at the end of a cul-de-sac. The adjacent property to the west, No. 5, is a bungalow and is set back slightly from No. 7 Thames Close. To the east, No. 12 is a bungalow in quite a large curtilage. The properties to the rear (north) in Prince Charles Avenue are bungalows at a substantially lower ground level than the application premises. The locality is predominantly residential in character.

4. **Relevant Planning History:** DER/705/1189 – Extensions to dwelling house (garage, kitchen, utility room, study, conservatory porch and two bedrooms – refused September 2005 – on grounds of overlooking into properties on Prince Charles Avenue.
5. **Implications of Proposal:**
 - 5.1 **Economic:** None.
 - 5.2 **Design and Community Safety:** I have no design or community safety objections to raise.
 - 5.3 **Highways:** No objections.
 - 5.4 **Disabled People's Access:** None.
 - 5.5 **Other Environmental:** None.
6. **Publicity:**

B1 APPLICATIONS (cont'd)

5 Code No: DER/905/1603

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

7. Representations: I have received five letters of objection, and these ... are reproduced. The main issues raised are:

- the proposed extensions are too large and dominant
- overlooking in respect of properties to the rear
- the property would be out of keeping with the area
- adverse effect on property values
- work has already commenced

Any further representations received will be reported at the meeting.

8. Consultations: -

9. Summary of policies most relevant: CDLP policies:

H27 – Domestic extensions.

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

10. Officer Opinion: This proposal involves extensive additions to this dwelling house, and the relevant considerations are the requirements of Local Plan policy H27, and the relationships to the existing surrounding properties. While the proposal does represent a major increase in the footprint and massing of the property, No. 7 Thames Close is situated within quite a large curtilage. I have no objections to raise in respect of the design of the proposal. It utilises a pitched roof design both on the ground floor and two-storey element, in keeping with the existing character of the house. I have looked at the proposal in relation to three aspects:

1. Relationship to No. 5 Thames Close

No. 5 Thames Close is a bungalow set back slightly from the frontage of No. 7. There is an existing flat roof garage alongside No. 5 adjacent to the site boundary. The proposed conservatory would extend slightly beyond the rear of the garage at No. 5 and would be at a slightly higher ground level. I have concluded that this relationship is an acceptable one, and that no unreasonable

B1 APPLICATIONS (cont'd)

5 Code No: DER/905/1603

loss of amenity would be caused. If erected in isolation, the conservatory would be 'permitted development', so it would be unreasonable to withhold permission for that part of the proposal.

It is proposed to insert an obscure glazed rooflight in the north-west side of the two-storey element to allow escape in the case of a fire. This rooflight would be at quite a high level above floor level, and would be 11 m from the boundary with No. 5. I have concluded that this relationship is a reasonable one.

2. Relationship to No. 12 Thames Close

No. 12 Thames Close is a bungalow, situated 16 m away from the boundary of the application site. The side of the two-storey element of the proposal would face the front elevation of No. 12. It is proposed to have a fixed light/obscure glazed high level window in the side of the extensions facing No. 12 but no other windows.

3. Relationship to Nos. 293 and 295 Prince Charles Avenue

These properties are bungalows, situated at a substantially lower ground level than the application site. The proposed extensions would be more than 24 m from the original rear walls of Nos 293 and 295 Prince Charles Avenue. I have no objections to raise to the single-storey element of the proposal given the distance away from the Prince Charles Avenue properties, notwithstanding the difference in ground levels. The situation with the proposed two-storey element is more complex. For that reason, an obscure glazed/fixed light window is proposed at first floor level, avoiding unreasonable overlooking to the north east, that is to Prince Charles Avenue. It is proposed to insert a further fixed light/obscure glazed high level window on the western side facing No. 5 Thames Close. The situation that this gives rise to is a bedroom and en-suite area served only by obscure-glazed windows. While this is not ideal, it is not contrary to any Local Plan policy or to the Building Regulations. Fire escape could be satisfactorily achieved through the proposed rooflight.

I have looked in detail at the points raised by the objectors, and at how the proposal relates to the requirements of policy H27. While there is a degree of opposition to this proposal, I have come to the following conclusions:

- it would be unreasonable to oppose an extension at ground floor level

B1 APPLICATIONS (cont'd)

5 Code No: DER/905/1603

- the use of obscure glazed windows with fixed lights, prevents unreasonable overlooking into Nos 5 and 12 Thames Close, or into 293 and 295 Prince Charles Avenue
- the degree of massing of the two-storey element has to be balanced against the distance of the building away from both No. 12 Thames Close and Nos. 293 and 295 Prince Charles Avenue. Even allowing for the differences of ground levels, I am satisfied that the requirements of Local Plan Policy H27 have been reasonably met. I certainly do not feel that a refusal of permission in this case could be reasonably sustained at appeal.

I therefore support the proposal in its amended form.

11. Recommended decision and summary of reasons:

11.1 To grant planning permission with conditions.

11.2 Summary of reasons: The proposal has been considered in relation to the provisions of the City of Derby Local Plan and all other material considerations as outlined in 9 above. The design of the proposal is acceptable and would have no unreasonable amenity effect on neighbouring properties.

11.3 Conditions

1. Standard condition 09A (amended plans 4 November and 8 November 2005)
2. Standard condition 27 (external materials)
3. The first floor windows in the rear and side elevations shall be fixed lights and obscure glazed at all times, unless otherwise agreed in writing by the Local Planning Authority, and no other first floor windows shall be inserted into these elevations without the prior approval of the Local Planning Authority.
4. The proposed roof light shall be obscure glazed at all times, unless otherwise agreed in writing by the Local Planning Authority.
5. This permission excludes the rooflight shown on the south east elevation on drawing No. 05/07/2005/01C.
6. Standard condition 13 (domestic use of garage)

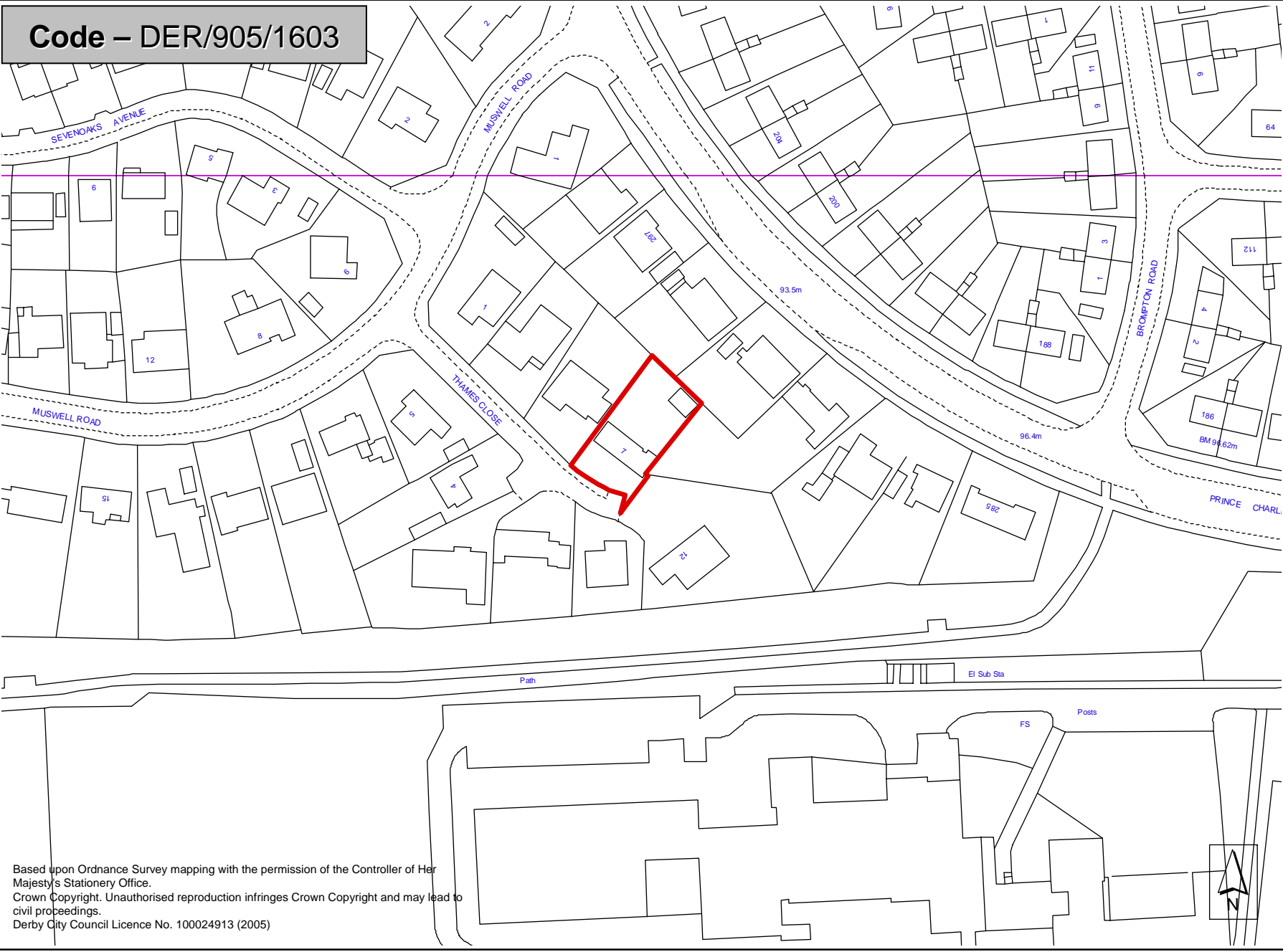
B1 APPLICATIONS (cont'd)

5 Code No: DER/905/1603

11.4 Reasons

1. Standard reason E04
2. Standard reason E14 ... policy H27
3. Standard reason E07 ... policy H27
4. Standard reason E07 ... policy H27
5. Standard reason E07 ... policy H27
6. Standard reason E07 ... policy H27

Code – DER/905/1603



Based upon Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office.
Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to civil proceedings.
Derby City Council Licence No. 100024913 (2005)

B1 APPLICATIONS (cont'd)

6 Code No: DER/805/1427

Type: Full

1. **Address:** 34 Chevin Road
2. **Proposal:** Extension to dwelling house (garage and enlargement of kitchen and lounge)
3. **Description:** The dwelling is a semi-detached 1930s house located within the Strutts Park Conservation Area. The property has a barn hipped roof and shared gable on the front. The majority of properties on the street have garages to the side or rear.
4. **Relevant Planning History:** DER/01/047/143 – Extensions to dwelling house (bedroom, en-suite, garage and enlargement of existing kitchen).
5. **Implications of Proposal:**
 - 5.1 **Economic:** -
 - 5.2 **Design and Community Safety:** The design of the extension should be in keeping with the existing dwelling and surrounding area which is a conservation area.
 - 5.3 **Highways:** -
 - 5.4 **Disabled People's Access:** -
 - 5.5 **Other Environmental:** -
6. **Publicity:**

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

7. **Representations:** -

8. **Consultations:**

CAAC – Object and recommend refusal on the grounds that the proposed side-extension to this semi-detached property would seriously diminish the visual gap between this and the adjacent property and would set a precedent for similar extensions to other properties in this row of semi-detached houses which are presently

B1 APPLICATIONS (cont'd)

6 Code No: DER/805/1427

Type: Full

regularly spaced as originally constructed. The regular spacing of these semi-detached properties is considered to be a distinctive part of the character of this part of the Conservation Area and, therefore, the proposal would fail to preserve and/or enhance the appearance and character of the Conservation Area.

9. Summary of policies most relevant:

E24 – Conservation Areas

H27 – House Extensions

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

10. Officer Opinion: The main issues with regard this proposal are the impact on the amenity of the neighbouring properties and the Conservation Area.

The proposal includes a single storey extension to the rear. There is a 1.8m fence on the southern boundary and the neighbouring property has a dining room window adjacent to the boundary. I do not consider overshadowing from this single storey extension to be materially adverse. The rear boundary is screened by a 2m fence with a 5m hedge over the boundary. The neighbouring property to the north has the front door and an obscure glazed landing window on the first floor side elevation. There is a 3m hedge on the boundary, therefore overshadowing is not considered significant. The neighbouring property to the north has also got a 0.5m higher land level. The impact on the amenity of neighbouring properties is considered to be minimal.

The single storey extension to the side would be flush with the front of the original dwelling. A previous application for a two storey side extension flush with the front of the dwelling was refused on the grounds that it would cause a loss of the separation with the adjacent pair of semis and be detrimental to the appearance of the dwelling and Conservation Area. The current single storey proposal would only be 3.5m in height at its highest point, adjacent to the 3m boundary hedge. There is also a land level change between the adjacent pair of semis. Whilst I acknowledge that the proposal will occupy the drive and change the existing situation, I consider that as the proposal is only single storey it would not appear dominant in the street. It is similar to numerous other single storey extensions, many of which are permitted development. I consider that the proposal is acceptable in this location and would not have a detrimental impact on the appearance of the dwelling or Conservation Area.

B1 APPLICATIONS (cont'd)

6 Code No: DER/805/1427

Type: Full

11. Recommended decision and summary of reasons:

11.1 To grant permission with conditions

11.2 Summary of reasons: The proposal has been considered in relation to the provisions of the City of Derby Local Plan and all other material considerations as indicated in 9 above. The proposal is acceptable as it is not considered to significantly impact upon the amenities of neighbouring residential properties and would not have a detrimental impact on the appearance of the dwelling or Conservation Area.

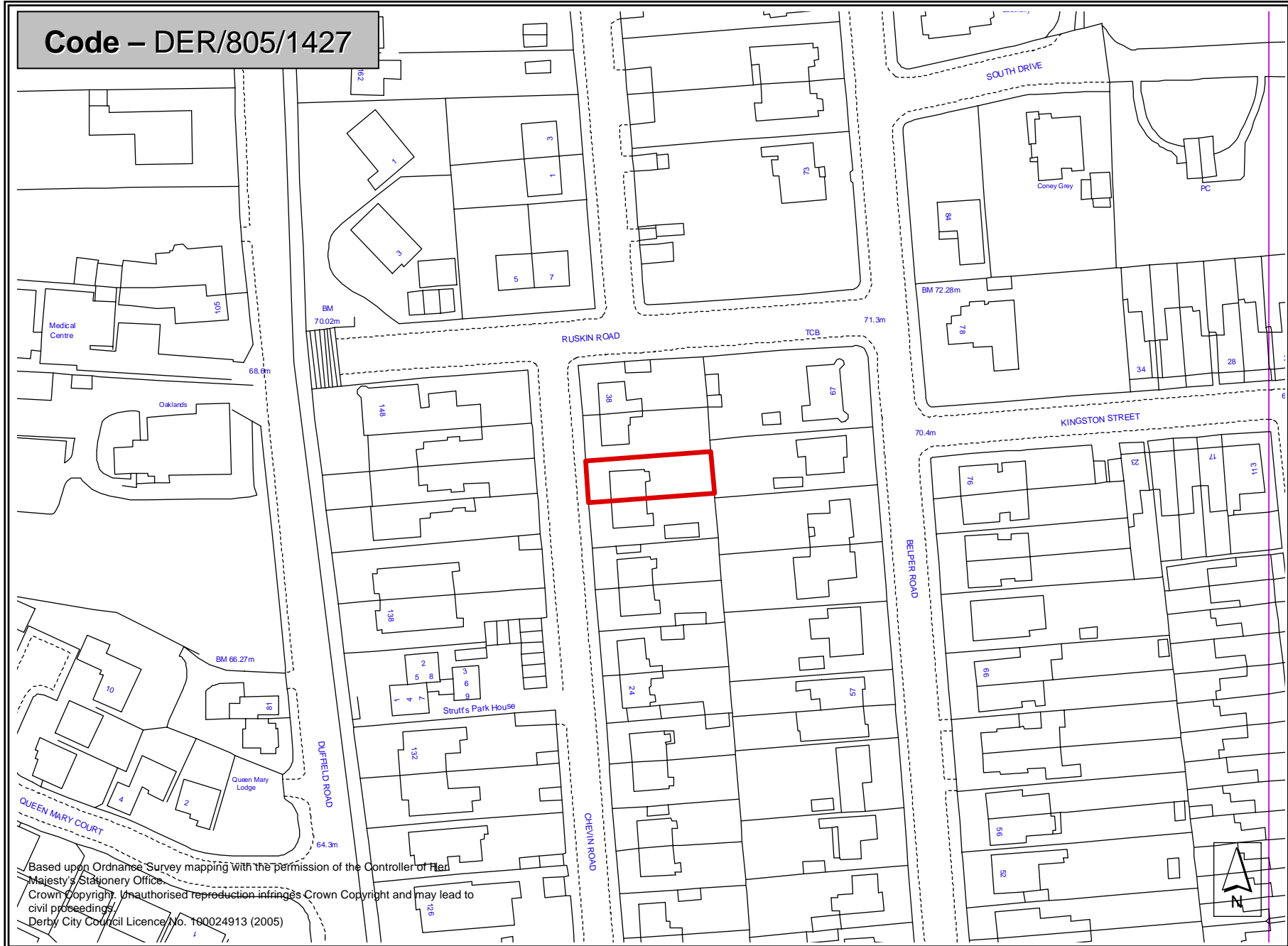
11.3 Conditions

Standard Condition 27 (Materials)

11.4 Reasons

Standard Reason E14 – in accordance with Policy H27

Code – DER/805/1427



Based upon Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office.
Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to civil proceedings.
Derby City Council Licence No. 100024913 (2005)

B1 APPLICATIONS (cont'd)

7 Code No: DER/705/1200

Type: Full

1. **Address:** Land at former Highfields, Broadway
2. **Proposal:** Erection of 126 dwellings, including 48 apartments, 56 townhouses, 3 detached houses and 19 affordable terraced dwellings, access roads and public open space.
3. **Description:**
4. **Relevant Planning History:**
5. **Implications of Proposal:**
 - 5.1 **Economic:**
 - 5.2 **Design and Community Safety:**
 - 5.3 **Highways:**
 - 5.4 **Disabled People's Access:**
 - 5.5 **Other Environmental:**
6. **Publicity:**

See previous report enclosed

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

7. **Representations:** } as previous report
8. **Consultations:** }
9. **Summary of policies most relevant:** -
10. **Officer Opinion:** The application was deferred at the Committee meeting on 29 September for discussion with applicant due to concerns about the over intensive nature of the development. Negotiations with the applicant have been undertaken, to seek a reduction in the number of residential units in the current proposal. The applicants have determined not to amend the development proposal and wish for the application to be decided by the Committee.

The recommendation is still to grant permission since the application is unaltered from the previous report. The proposed increase in the

B1 APPLICATIONS (cont'd)

7 Code No: DER/705/1200

number of dwellings and more intensive form of development would not have a significant adverse effect on the features of environmental importance on and around the site. The additional traffic generation would not be significant and could be accommodated by the approved road layout. There is not considered to be a requirement for additional public open space or affordable housing, since the existing Section 106 Agreement required a fixed amount of both, unrelated to the number of units. Other impacts on drainage, infrastructure and noise levels would not be significant or made any worse than under the approved scheme.

In policy terms, the proposed increase in the number of dwellings would still amount to a low density residential development over the whole site as defined by government planning guidance. The protected areas of woodland would not be more affected by this proposal, which was a specific consideration of the Local Plan policies and the development brief. I consider, that the current amended scheme fulfils the criteria in Policies H9 and H28 of the adopted Local Plan and in the Highfield Development Brief. As such there are believed to be insufficient planning and highway reasons to resist this proposal.

Overall, I am satisfied that this proposal would accord with the Local Plan policies and PPG3 (Housing) and should be granted permission.

11. Recommended decision and summary of reasons:

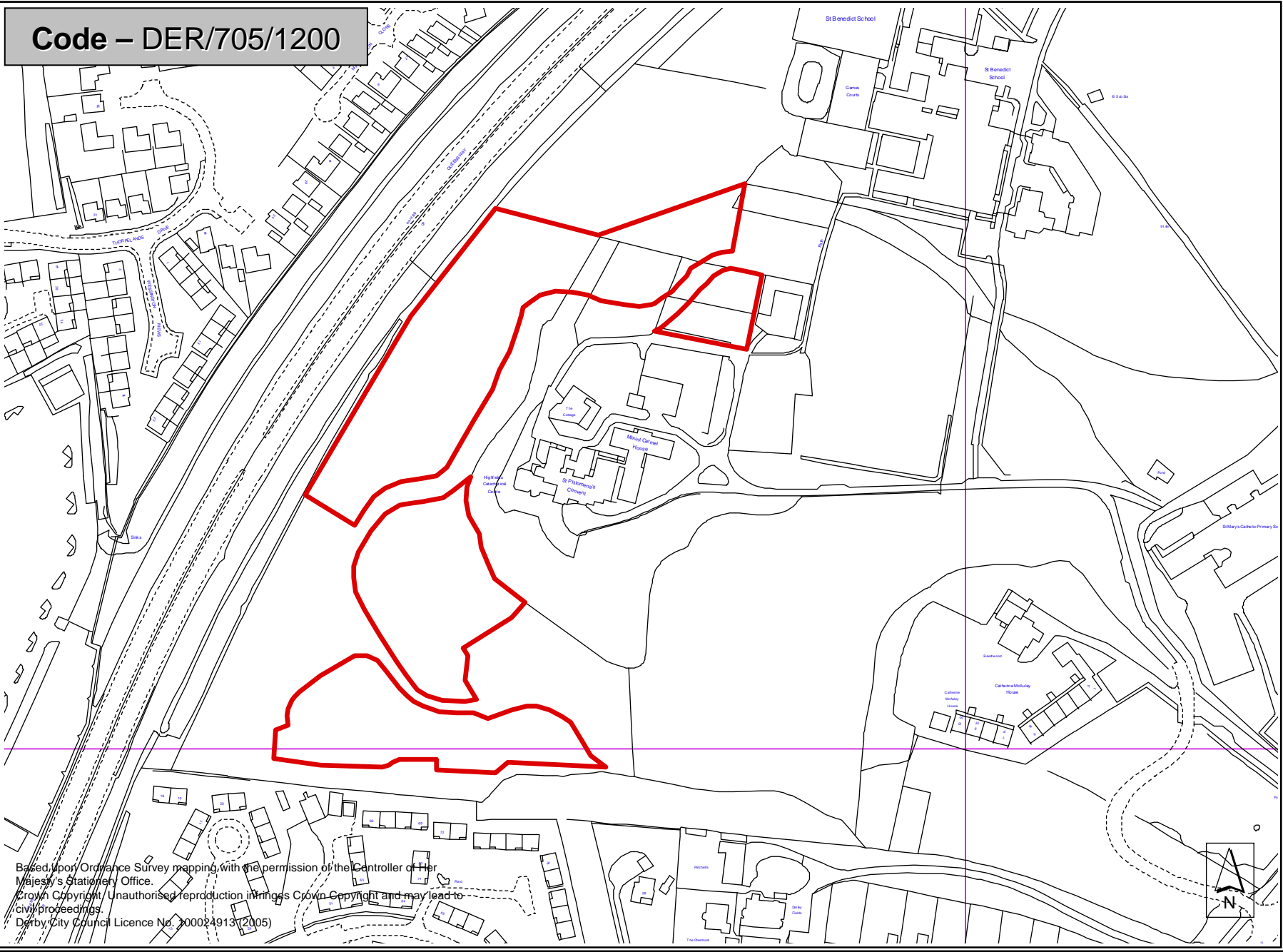
To grant permission with conditions in the previous report.

Code – DER/705/1200

Based upon Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office.
 Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to civil proceedings.
 Derby City Council Licence No. 100024913(2005)

Code – DER/705/1200

Based upon Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office.
 Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to civil proceedings.
 Derby City Council Licence No. 100024913(2005)



B1 APPLICATIONS (cont'd)

8 Code No: DER/1005/1718

Type: Outline (means of access applied for)

1. **Address:** Site of Richard C Hartley Limited, Parcel Terrace
2. **Proposal:** Residential development
3. **Description:** Outline planning permission is sought, including means of access, to redevelop this industrial site for residential purposes. The site currently accommodates buildings which are used for warehousing, trade sales and offices. Members may recall that the buildings on site were rebuilt following a major fire in 2003. The site covers an area of approximately 1.24 ha and it encloses a three storey office development that is not within the applicant's ownership. The west side of the site has a land level which is raised by approximately 1.5 – 2m and it accommodates a four storey trade warehouse. On the lower side of the site there are currently two vacant warehouse buildings. To the east of the site is located the "Buildabase" materials yard and to the west there are industrial units. The relatively new housing development on the south side of Slack Lane adjoins part of the north site boundary. Vehicle access to the site would be from Parcel Terrace.
4. **Relevant Planning History:** The applicant has undertaken a historical appraisal of the site and its surroundings. Historically, the eastern part of the site housed a chemical works, and traditional heavy industries such as a brick works and leather works bounded the site. The former railway occupied the northern part of the site before it was dismantled. The recent history of the site is of little relevance to this proposal save the previous outline application for residential development which was withdrawn
5. **Implications of Proposal:**
 - 5.1 **Economic:** Residential development of this site would involve the loss of 1.24 ha of business/industrial land. At present, the City Council does not have a thorough qualitative or quantitative appraisal of the supply of business/industrial land in the city. However, the total supply of business/industrial land in the city exceeds 300 ha. The loss of this site to residential development would, therefore, represent a very small percentage of that total. I am advised that the applicant employs a workforce of some 242 staff, with his customer base in Derby. This is a growing local business but, apparently, in the wrong building in the wrong location. The applicant intends to dispose of this site and move to another site in Derby to accommodate his expansion program.
 - 5.2 **Design and Community Safety:** Siting and design details are reserved for future approval, should outline planning permission be

B1 APPLICATIONS (cont'd)

8 Code No: DER/1005/1718

granted. Community safety issues would be considered as part of any detailed proposal.

- 5.3 Highways:** The application, for outline consent, seeks approval only for the means of access to the site. Negotiations have taken place with the applicant to address the issue of traffic generation and the impact of the proposal on the existing highway network. The applicant has submitted a revised Traffic Assessment in support of a development of 142 dwellings. The TA which has been accepted in respect of the methodology used, indicates that the development would have a material impact on the operation of the Parcel Terrace/Great Northern Road/Utttoxeter Road junction. The developer has offered to contribute towards potential improvements at this location and this will be incorporated in the Section 106 Agreement.

The number of units proposed for the site is critical to the highway assessment. The suggested 142 dwellings indicated by the applicant is the scale for which their assessment has allowed. Any increase in development numbers, perhaps at a later stage, would need to be the subject of a fresh assessment.

Although the applicant has submitted an indicative layout for the development this does not form part of the application and has not been assessed. I would wish to ensure that any subsequent reserved matters applications protect the line of the Mickleover – Mackworth Expressway which runs through the site, make parking provision on the basis of 1.5 spaces per unit and brings forward detailed proposals in respect of the highway layout, including proposals for adoptable areas.

- 5.4 Disabled People's Access:** The provision of mobility units in the proposed development would be addressed as part of any S106 Agreement to accompany the outline permission.

5.5 Other Environmental:

Flood Risk

The agent has prepared a full Hydrological Survey to accompany this application. The Bramble Brook, which is a tributary of the Markeaton Brook, runs in culvert to the north of the site. The Bramble Brook is heavily engineered along most of its length and runs through industrial and residential areas. The culverted watercourse meets the Markeaton Brook near Victoria Street before being discharged into the River Derwent. The agent has addressed the topography of the site and surroundings together with flood records for the area. The EA are

B1 APPLICATIONS (cont'd)

8 Code No: DER/1005/1718

considering the results of the survey and any comments will be reported orally.

Land Contamination

The Director of Corporate Services has no objections in principle to the proposed development. However, the site may be contaminated due to previous industrial uses. Therefore, a site investigation will be required followed by remediation, as necessary. It is recommended that careful consideration will also be needed for mitigation works to protect future residents from the impact of noise from the adjacent industrial units. A ground contamination study has also been undertaken and the results are being assessed by the EA. Any comments received will be reported orally.

6. Publicity:

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

7. Representations: -

8. Consultations:

DCorpS (Health) – no objections subject to a detailed contamination report being undertaken in advance of development.

Chief Execs Policy Directorate (Housing) – to be reported.

EA – to be reported

Cityscape – to be reported

STW – to be reported

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

- EMP16 - Existing Business and Industrial (other areas)
- EMP24 - Alternative Uses of Business and Industry Areas
- H18 - Affordable housing
- H20 - Mobility housing
- H22 - Residential development on unallocated land
- E15 - Sustainable development
- L3 - Public open space standards
- L4 - Provision of public open space within housing development

B1 APPLICATIONS (cont'd)

8 Code No: DER/1005/1718

T22 - Parking standards

CDLP Review Policy R3 – Land to the south of Slack Lane. 12.9 hectares of land are identified as a major mixed use regeneration opportunity to the south of Slack Lane. To the south of the line of the former railway line permission will be granted for business and industrial uses (B1 and B2) and for residential development (C3) and supporting uses provided that a satisfactory living environment can be provided.

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

- 10. Officer Opinion:** The issues associated with the proposed development are:

Policy

The site of the proposal is in an existing non-core business and industrial area. Policy EMP16 of the adopted CDLP allows for redevelopment for residential purposes, provided that remaining business activity in the area is not unduly inhibited, that a satisfactory living environment would be created and adequate supporting community facilities are provided. Policy EMP24 of the adopted CDLP allows for alternative uses of business and industry areas subject to a number of criteria that seek to protect the employment land supply.

Even though this is a large site, policy EMP16 allows for the principle of residential development and it would, therefore, be unreasonable to sustain a local plan objection on supply grounds. It is important to note that the 2004 official business/industry land supply in the adopted CDLP is approximately 300 ha and the later Revised Deposit version CDLP has identified a greater supply of over 330 ha. The application site is, therefore, less than 1% of the business/industry land supply included in the deposit version CDLP. In my opinion, it would be indefensible to resist this proposal on quantitative business/industry land supply grounds.

The site is central to the existing employment area so there is, arguably, the potential for residential use to restrict future or existing business/industry activity across part of the land allocation. The location of the proposal, and the fact that it represents a piecemeal rather than comprehensive redevelopment of the area, raises the question over whether a satisfactory living environment can be created – in accordance with policy H22 of the adopted CDLP. The Local Plan Review policy R3 allows for residential development south of the

B1 APPLICATIONS (cont'd)

8 Code No: DER/1005/1718

former railway provided that a satisfactory living environment can be provided. The policy acknowledges that the regeneration area offers substantial opportunities for mixed uses but the land north of the former railway is the preferred location for housing. The issue of whether or not a satisfactory living environment can be created within this mixed business/industry/residential context would, in my opinion, be largely down to the detailed components of any future scheme. Details such as the siting of buildings, building design, the location of habitable room windows and the layout of parking/landscaping areas will be important in determining the creation of a satisfactory living environment for future residents. These detailed considerations should also seek to create a development that safeguards the activity of existing business/industry in the area. The City Council would, therefore, ensure that any detailed scheme is to a high standard of layout and design in this location to address the needs of future residents and existing business/industry alike.

The adopted CDLP and the revised deposit CDLP Review clearly allow for residential use on this site and, in accordance with the plan-led approach, there are, in my opinion, no overriding policy reasons for resisting outline permission in this case.

Highway Details

Refer to section 5.3 above. Negotiations have been ongoing to address the traffic implications of the proposal and the agent has satisfied the concerns of the City Council with regard to traffic capacity and highway queuing and delay issues. I consider that there would be no overriding objections to the application on highway grounds.

11. Recommended decision and summary of reasons:

- 11.1 A. Subject to the receipt of satisfactory comments from the Environment Agency, **to authorise** the Assistant Director – Development to negotiate the terms of a Section 106 Agreement to achieve the objectives set out in 11.5 below and **to authorise** the Director of Corporate Services to enter into such an agreement.
- B. **To authorise** the Assistant Director – Development **to grant** outline planning permission on the conclusion of the above agreement, with conditions.
- C. If the applicant fails to sign the Section 106 Agreement by the expiry of the 13 week target period, consideration be given, in consultation with the Chair, to refusing the application.

B1 APPLICATIONS (cont'd)

8 Code No: DER/1005/1718

11.2 Summary of reasons: The proposal has been considered in relation to the provisions of the adopted City of Derby Local Plan and all other material considerations as indicated in 9. above and it is in accordance with policies EMP16, EMP24 and H22 of that Plan and policy R3 of the deposit CDLP and is an acceptable form of development in principle and highways terms in this location.

11.3 Conditions

1. Standard condition 01 (reserved matters – excluding (b) details of access arrangements)
2. Standard condition 02 (approval of reserved matters)
3. Standard condition 21 (landscaping within 12 months (condition 1c))
4. Standard condition 19 (means of enclosure)
5. Standard condition 99 (recycling)
6. Standard condition 39 (disposal of sewage)
7. Standard condition 100 (contamination)
8. This permission relates solely to the application as supplemented by the agent's detailed studies dated.
9. This approval is restricted to no more than 142 dwellings being accommodated on the site.
10. In any subsequent reserved matters submission, pursuant to condition 1 above, the line of the Mickleover – Mackworth Expressway, which runs through the site along the northern boundary, shall be protected from any development.

11.4 Reasons

1. Standard reason E01
2. Standard reason E02
3. Standard reason E09 (CDLP H22)
4. Standard reason E09 (CDLP H22)
5. Standard reason E48
6. Standard reason E21
7. Standard reason E49 (CDLP E18)
8. Standard reason E04
9. In accordance with the terms of the Traffic Assessment and in the interests of traffic safety (CDLP Policy H22).

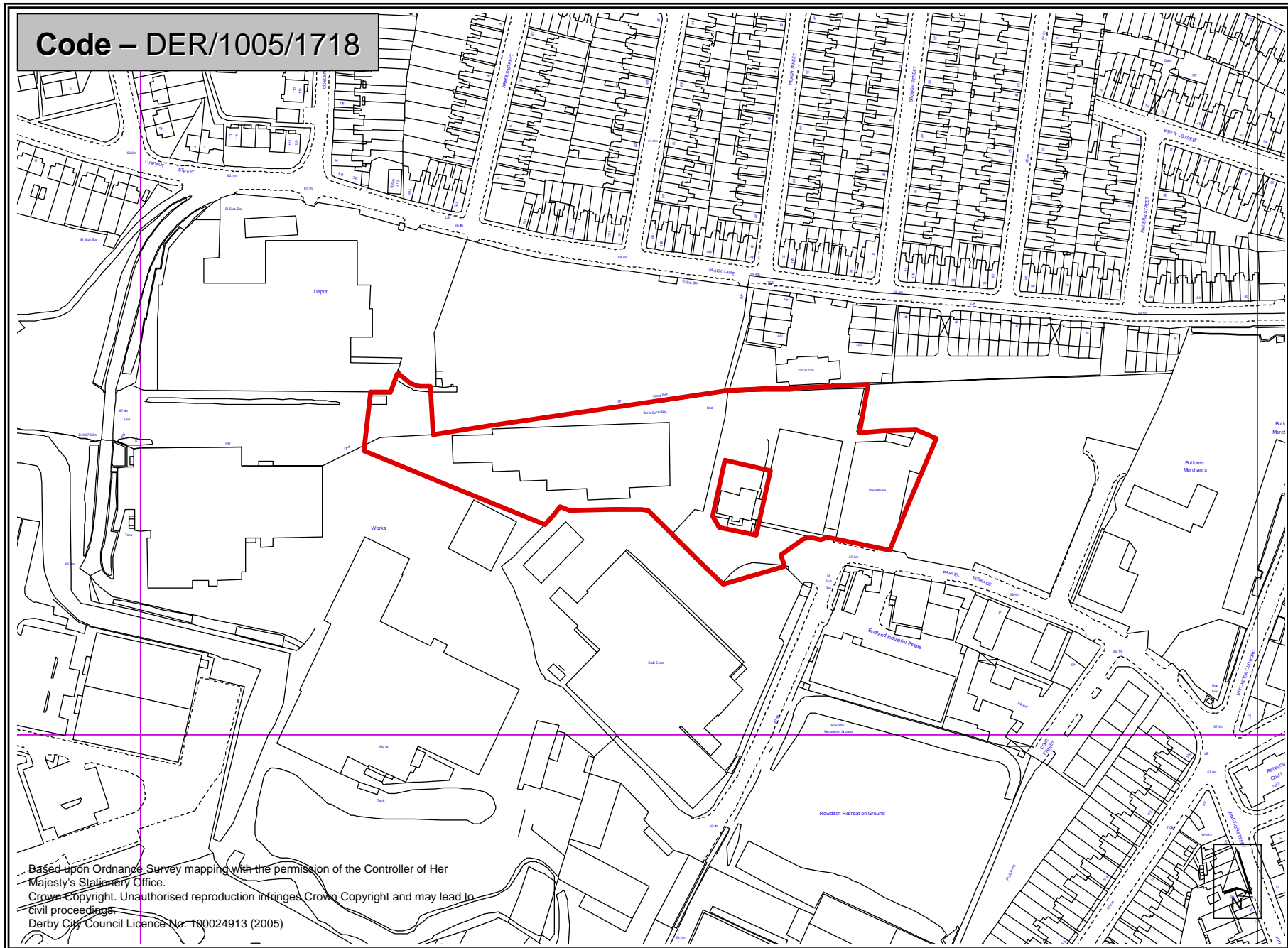
B1 APPLICATIONS (cont'd)

8 Code No: DER/1005/1718

10. For the avoidance of doubt and to ensure that a comprehensive form of development is undertaken that recognises the long term aspirations of the City of Derby Local Plan Review.

11.5 S106 requirements where appropriate: Affordable housing, mobility housing, education, highways and public open space provision.

Code – DER/1005/1718



Based upon Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office.
Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to civil proceedings.
Derby City Council Licence No. 160024913 (2005)

B1 APPLICATIONS (cont'd)

9 Code No: DER/805/1308

Type: Full

1. **Address:** 162 – 164 Derby Road, Chellaston
2. **Proposal:** Demolition of existing dwellings and erection of 12 flats with associated parking
3. **Description:** Located on the eastern side of Derby Road, the application site currently comprises two detached dwellings with their associated garden areas. Land levels on the site are elevated in relation to Derby Road but there are no significant level differences between the application site and neighbouring sites. There are currently two vehicle accesses to the site off Derby Road. They provide access to parking areas at the front of the detached dwellings which occupy a central position on the plot. Directly to the south of the site and on the opposite side of Derby Road are residential dwellings. The land to the north and east is a development site upon which 10 apartments and 14 houses are currently under construction. The access road to this adjacent development extends alongside the application sites northern boundary.

Planning permission is sought for residential development on this site. 9, two bed apartments and 3, one bed apartments are proposed to be accommodated within one 'L' shaped building, extending up to three storeys in height. The bulk of the building would extend north to south in a central position across the plot. It would front both Derby Road and the new access road to the north. There are proposed to be two access points to the site and both of these would be via this new access road to the north. 14 parking spaces are proposed and would be located to the front and rear of the apartment building. Provision has been made for covered cycle parking and a shared bin store, at the rear of the building.

4. **Relevant Planning History:** None.

5. **Implications of Proposal:**

- 5.1 **Economic:** None.

- 5.2 **Design and Community Safety:** The position and orientation of the apartment building would provide a strong frontage to the site and subject to the use of appropriate external materials, I have no objections to the design of this scheme. Parking areas would be open to surveillance from the apartments and the development is acceptable from a community safety point of view.

B1 APPLICATIONS (cont'd)

9 Code No: DER/805/1308

Highways: There are no objections to the formation of access onto this site from the new access road to the north and parking provision is considered adequate. Secure internal cycle parking should be provided.

5.4 Disabled People's Access: A Section 106 Agreement would secure one mobility unit on the ground floor of the apartment block.

5.5 Other Environmental: No trees are proposed to be felled as a result of this proposal.

6. Publicity:

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

7. Representations: Seven letters of representation have been received in response to this application from local residents and copies are in the Members Rooms. Councillor Tittley has also raised objections to the application. Any further representations received in response to amended proposals will be made available for member's consideration. Objections to the proposals and the main issues raised are as follows:

- combined with the development already under construction on the neighbouring site, the proposal would alter the streetscape and reduce the visual amenity of the area
- the three storey building will overlook neighbouring properties and reduce existing levels of privacy. Three storey buildings are also out of keeping with the area
- parking provision is inadequate and the proposal will result in parking on the road and land opposite the application site.
- the development would result in additional traffic on the A514 which is already overloaded
- the existing dwellings fit in with the pattern of development in the area and should not be demolished
- there is no need for any more low cost housing units in Chellaston

B1 APPLICATIONS (cont'd)

9 Code No: DER/805/1308

- development of this site has always been the intention of the developer of the adjacent site. The Developers have made what is one development look like it is two
- there is no affordable housing provision resulting from this and the adjoining development.

8. Consultations:

DCorpS (Health) – no objections raised.

9. Summary of policies most relevant: CDLP policies:

- H20 - Mobility Housing
- H22 - Residential development on unallocated land
- H28 - Layout and design of residential development
- E31 - Design
- E32 - Community safety and crime prevention
- L3 - Public open space standards
- L4 - Provision of public open space within housing development
- T22 - Parking standards

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

- 10. Officer Opinion:** The existing use of this site is for residential purposes and due to the residential nature of surrounding developments the proposal is an appropriate use of this site. The existing dwellings on the site are both quite different in character but are typical of this section of Derby Road which contains dwellings of various styles. The two dwellings are not listed and they don't have character or features special enough to warrant retention, therefore there are insufficient grounds on which to refuse permission for their demolition.

Objectors to this application raise concerns with regards to the development compromising existing levels of amenity for neighbouring residents. I have considered the proposed site layout and its relationship to existing neighbouring properties, including those currently under construction at the side and rear. In my assessment, I have considered the distances between properties and windows, the orientation of the proposal and the relationship of the development to private garden areas. Amendments have been sought to the proposal in order to ensure an adequate distance would be maintained between the principal windows in the side elevation of the development and the principal windows in the side elevation of the apartment block which

B1 APPLICATIONS (cont'd)

9 Code No: DER/805/1308

has been granted approval on the site to the north. Amendments to the design and siting of the building have achieved an increase in this distance to 16m. This distance is similar to the distances between principal windows of the new dwellings approved on the development to the north and west of the site. This sets a standard for this neighbouring site and I am satisfied that the layout is adequate and would ensure a satisfactory living environment is created within the development without comprising the amenities of those who live adjacent.

160 Derby Road sits to the south of the site and has principal windows in its side elevation which face the application site. They currently enjoy a view of the side elevation of one of the existing dwellings on the application site and would enjoy a similar view of the side elevation of the apartment block. Although the apartment building would be a storey higher than the existing dwelling, the building would sit approximately 2m from the common boundary and incorporate a hipped roof. For these reasons, I do not consider that the development would cause a significant loss of amenity for the residents of that dwelling from that which they currently enjoy. The only windows proposed in this elevation would be to bathrooms and therefore would be obscure glazed. The bulk of the apartment building would also sit in line with this neighbouring property and would not project beyond its front or rear elevations and I am satisfied that it would not have unreasonable massing or overshadowing implications.

The development's design and position within the existing street scene is an important consideration and one, which is of concern to objectors to this application. In my opinion, the character of this section of Derby Road is more defined by its large domestic properties set back from the highway on sizeable plots, than any uniformity of building style. I do consider this is a street scene that can accept the addition of new development without its character being compromised significantly given that it does contain buildings of various styles. The proposed development would be of a more contemporary design than neighbouring dwellings but would mirror in scale and design the apartment block which was granted planning permission in July 2004 and will sit to the north of the site. A three storey development has already been approved on this road frontage on the adjacent site and I do not consider that a three storey development on this site would be so out of character with the street context as to offer grounds for refusal of planning permission.

The provision on site of private amenity space for future occupiers is limited but satisfactory. A development of this size and type gives rise to a requirement for public open space and as this cannot be

B1 APPLICATIONS (cont'd)

9 Code No: DER/805/1308

accommodated on site, contributions would be secured through the Section 106 Agreement as would contributions to highway improvements. There are no highway objections to the scheme. Local residents have raised concerns with regards to increased traffic on Derby Road and its implications for highway safety. I accept that Derby Road is a busy thoroughfare but it is not considered that the increase in traffic generated by this development would be unreasonable. Secure cycle parking would be accommodated on site and although this is not proposed to be located within the building it is to be secure and located on a section of the site which is overlooked by the development. As land levels on the site are raised in relation to the highway, the parking spaces on the frontage would be clear in views from the street. This would mirror parking on the frontage on the development to the north and I am satisfied that through the use of conditions, adequate boundary treatments can be sought that will offer some screening of the parking areas and visually contain the site.

In terms of the Section 106 contributions the site needs to be viewed in isolation from the one under construction next door. There is no physical relationship between the two sites, they are being developed independently, albeit by the same developer. This site is not an addition to the first site, therefore there is no justification for contributions to affordable housing as this site is for only 12 dwellings.

To conclude, there are no policy objections to development of this site for residential purposes. I have given careful consideration to the concerns raised by objectors. However, I am satisfied that the design and layout of the development demonstrates that the site can provide a satisfactory living environment with sufficient parking provision, without detriment being caused to the amenity of neighbouring properties and the area generally. Subject to the conclusion of a Section 106 Agreement to secure mobility housing, highways contributions and contributions to public open space provision, I consider the scheme acceptable.

11. Recommended decision and summary of reasons:

- 11.1 A. **To authorise** the Assistant Director – Development to negotiate the terms of a Section 106 Agreement to achieve the objectives set out in 11.5 below and **to authorise** the Director of Corporate Services to enter into such an agreement.
- B. **To authorise** the Assistant Director – Director **to grant** planning permission on the conclusion of the above agreement, with conditions.

B1 APPLICATIONS (cont'd)

9 Code No: DER/805/1308

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

11.2 Summary of reasons: The proposal has been considered in relation to the provisions of the Development Plan and all other material considerations as indicated in 9. above. The development is considered acceptable as it provides an appropriate use of the site, and is acceptable in design, street scene and amenity terms.

11.3 Conditions

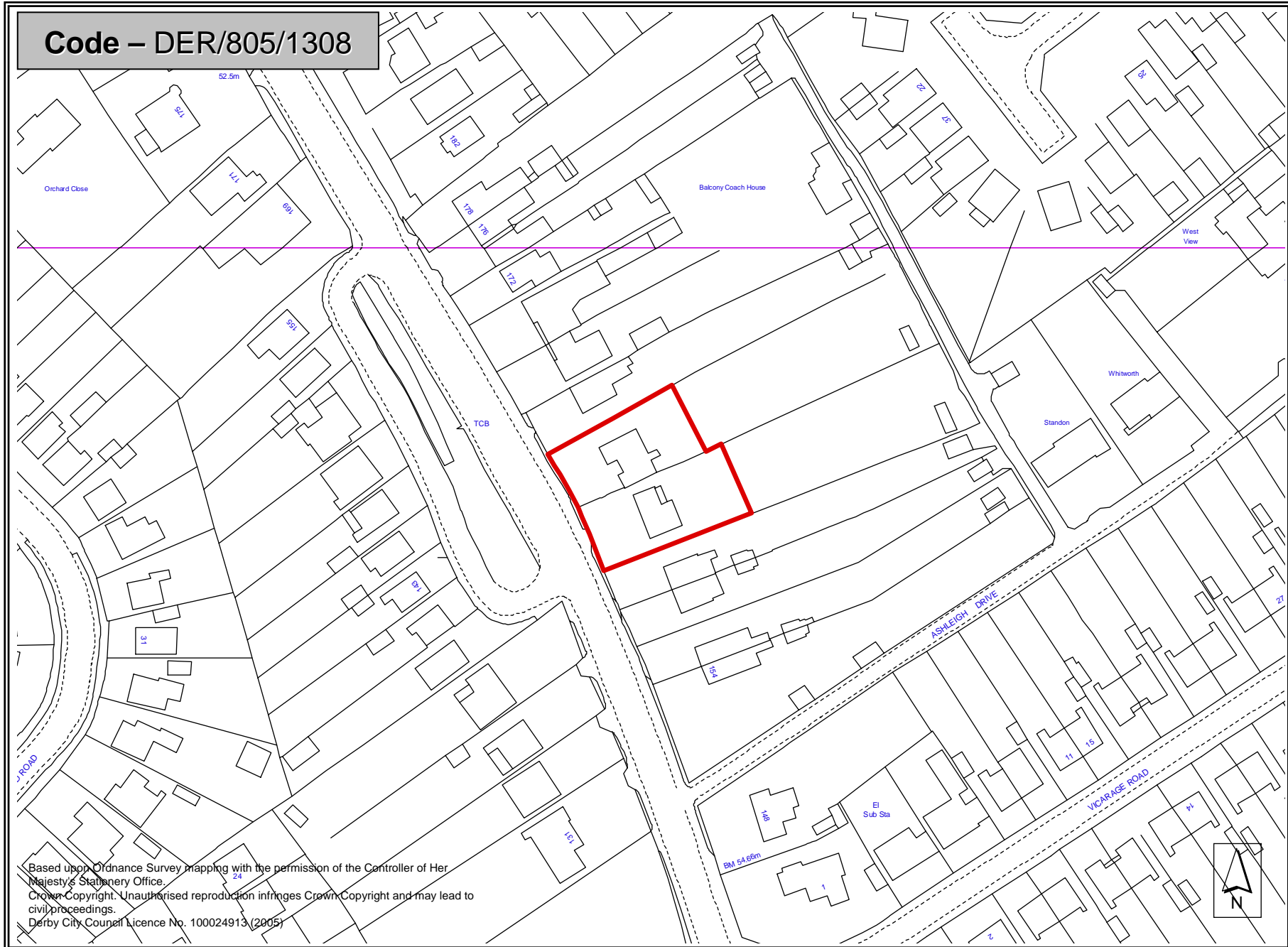
1. Standard condition 09A (revised plans date to be added)
2. Standard condition 27 (External materials)
3. Standard condition 19 (Means of enclosure)
4. Standard condition 30 (Hard surfacing)
5. Standard condition 31 (vehicle parking and manoeuvring)
6. Standard condition 20 (Landscaping scheme)
7. Standard condition 22 (Landscaping maintenance condition 6)
8. Standard condition 38 (drainage details)
9. The development shall not be occupied until the cycle parking has been provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
10. The development shall not be occupied until the bin store has been provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

11.4 Reasons

1. Standard reason E04
2. Standard reason E14...policy H28
3. Standard reason E18...policy H28
4. Standard reason E09...policy H28
5. Standard reason E17...policy T22
6. Standard reason E18...policy H28
7. Standard reason E18...policy H28
8. Standard reason E21
9. Standard reason E35...policy T22.
10. Standard reason E09...policy H28.

11.5 S106 requirements where appropriate: Mobility housing, public open space and highway contributions.

Code – DER/805/1308



Based upon Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office.
Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to civil proceedings.
Derby City Council Licence No. 100024913 (2005)

B1 APPLICATIONS (cont'd)

10 Code Nos: DER/905/1445 and DER/805/1419

Type: Full

1. Address: The building and site of 96 – 120 Pear Tree Road
2. Proposal: DER/805/1419 – Retention of Use as a Community Centre and extensions (WC, Lobby and enlargement of kitchen)

DER/905/1445 – Erection of a Hindu Temple with access road
3. Description: These are two separate but inter-related proposals within the same site.

The change of use to Hindu cultural and community centre and extensions

The application for the change of use relates to what appear to have been former shop units with residential accommodation above and stand fronting onto Pear Tree Road. The land to the side and rear, of which it forms part, was formerly a builder's yard and garage, this land has been cleared and has the benefit of outline planning permission for a Temple. The building itself is said to have been most recently used as offices and showrooms associated with the builder's yard. The premise has been in use for a little over 12 months as a community centre for the local Hindu community. This has been without the benefit of planning permission. The community centre is used by an over 60s club, a luncheon club, youth activities, teaching, committee use, and local meetings and extends to part of the first floor. The remaining part of the first floor is occupied as a flat under the control of the applicants. The neighbouring attached premises are an office with residential accommodation above.

Parking for the community centre currently takes place on the site proposed for the temple and will be incorporated into the temple car parking provision. Four disabled parking spaces are to be provided close to the community centre as part of the associated temple application. In addition to the change of use the proposal includes the erection of two single storey extensions at the rear to form male, female and disabled toilets and extensions to a kitchen.

The proposed temple application

The application site extends from Pear Tree Road through to Dover Street. The land is now vacant but incorporates land which was at one time split between a number of uses including a builder's yard, a commercial garage and houses with their gardens. The site therefore extends to Dover Street where it lies between remaining dwellings. To the south side of the site it adjoins dwelling houses and an existing Sikh temple, to the north it adjoins dwellings and commercial properties.

B1 APPLICATIONS (cont'd)

10 Code Nos: DER/905/1445 and DER/805/1419

The wider area has a number of community uses close by. They include the Sikh Temple on St James Road, the School on the corner of St James Road and Dover Street, the Indian Community Centre and Sikh Temple on Stanhope Street.

The site would have vehicular access taken off Pear Tree Road with internal access running from the Pear Tree Road frontage the full length of the site to a car parking area towards the Dover Street frontage sufficient to accommodate 22 cars. As originally submitted there was to have been a vehicular access onto Dover Street, said by the applicants to be for emergency access only. This has been deleted to prevent additional congestion on Dover Street.

The temple building itself would be of two stories in height with essentially a rectangular footprint measuring 38 metres by 14 metres. It would have a very shallow pitched roof rising to 8.5 metres which equates to about three stories compared to a conventional dwelling. There would be a pyramidal steeple type feature on the roof and a full width porch with decorative balustrades at the front of the building which faces towards Pear Tree Road. A second smaller rectangular block with a foot print of 8 metres by 6 metres would be attached to one side of the front elevation to contain a block of toilets. Amended drawings show this as a single storey building with a hipped roof. Height to the eaves of this would be about 2.3 metres and to the ridge it would be 4.6 metres.

The uses on the ground floor of the main building would be a large communal hall, entrance lobby, two store rooms, small male and female changing rooms and a kitchen. At first floor level would be the main prayer area, a sitting area, office and store room. A lift would be incorporated in the design.

I am informed that the congregation mainly live in the Sinfin, Normanton, Littleover and Mickleover areas of the city, so it would be within walking distance for certain members but others would no doubt have to rely on private cars or public transport.

Mid week use is expected to be in the region of 10 – 15 people during the day. Most of these will be local and walk or arrive on public transport. At weekends when there is a more formal function, the numbers of visitors are expected to be around 60 – 100. On occasions of greater celebration there may be 150 – 200 visitors.

The existing temple is in Normanton Road within the shopping centre and occupies a converted and extended house. I am advised that this use will cease if permission were to be granted for the current proposal.

B1 **APPLICATIONS** (cont'd)

10 **Code Nos:** DER/905/1445 and DER/805/1419

4. **Relevant Planning History:** Outline planning permission was granted for the erection of a Hindu Temple under application ref DER/700/882 in October 2000. That proposal reserved all matters for future approval but indicative plans were submitted showing a two storey proposal. The current proposal is for full planning permission as the application site now incorporates additional land on the Dover Street frontage, formerly occupied by dwellings that were demolished many years ago.

5. **Implications of Proposal:**

5.1 **Economic:** None.

5.2 **Design and Community Safety:** The proposed temple buildings would be of a simple design with few distinctive architectural features other than the steeple, front canopy and balustrades. The low pitched roof, which is to be covered with a sheet metal form of cladding, would give the impression of an almost flat roofed building with a commercial appearance on three elevations. However as it is set back from the highway frontage it will have little streetscene impact. The separate toilet block is somewhat out of keeping with the main building as it has a different roof form, but it is single storey and not objectionable and is unlikely to be seen from public areas.

5.3 **Highways:** The proposals are acceptable from the point of view of the impact of traffic generation on the surrounding highway network.

No objections are raised with regard to the levels of parking provision, or to the disposition of vehicle and pedestrian circulation routes throughout the site.

5.4 **Disabled People's Access:** The temple – Location of disabled people's parking bays are satisfactory. Building Accessibility is controllable under the building regulations.

The community centre – The inclusion of a disabled people's toilet is welcomed, level or ramped access should be provided.

5.5 **Other Environmental:** See Environmental Health comments.

6. **Publicity:**

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

B1 APPLICATIONS (cont'd)

10 Code Nos: DER/905/1445 and DER/805/1419

7. Representations: Fourteen letters of objection have been received to the proposed temple, copies will be made available in the Members' rooms. The objections are with regard to:

- worsening of existing on street parking problems
- noise and disturbance from sound leakage from the building, from cars, and from external activity
- the proposed Dover Street access will result in additional parking pressure for on street parking and the formation of a rat run
- proximity
- dislike of position of car park near to dwellings
- smells of food and incense.

No objections have been received with regard to the community centre and extensions.

8. Consultations:

Police ALO – Raised concerns over the proposed through access linking Pear Tree Road and Dover Street in view of existing parking congestion on Dover Street. Doubt is expressed as to the usability of some of the car parking spaces. The siting would preclude active or passive surveillance opportunities so the building would require good quality physical security standards.

DCorpS (Env Health) - The Temple -There are noise implications resulting from the use of the proposed development from services within the temple and from vehicles using the site. Therefore before the development proceeds a noise mitigation scheme should be agreed with the Council.

To the Community Centre - no objections have been raised.

9. Summary of policies most relevant: Adopted City of Derby Local Plan:

S10 - Normanton Road fringes shopping area allows for a variety of uses including class D1 community uses.

B1 APPLICATIONS (cont'd)

10 Code Nos: DER/905/1445 and DER/805/1419

C1 - Allows for places of worship and other local community facilities subject to tests in respect of amenity, access servicing, design and relationship to the population it is intended to serve.

T22 - Parking standards.

E31 - Design

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

- 10. Officer Opinion:** The two applications are being dealt with together as they form part of the scheme to develop the whole site in a comprehensive manner for uses associated with the Hindu Temple.

The principle

The principle of developing part of the site for a Hindu temple was established by the earlier planning permission granted in 2000.

Traffic generation/Parking provision

No objections have been raised on highway grounds to the proposal, the surrounding highway system is considered to be capable of accommodating the extra traffic generated without causing undue highway problems.

The addition of further land into the application site has allowed the proposal to incorporate surface car parking into the proposal rather than under ground parking that was previously suggested. I understand that underground parking provision would have proved prohibitively expensive for the Hindu Community to provide. The number of parking spaces capable of being provided for the two proposals is 26. This is considered to be acceptable for the scale of the proposed use. No further parking could be accommodated within the site without a reduction in the size of the temple building. It is clear that the car park will not be capable of accommodating all visitors' cars on days of special celebration with the temple having a potential capacity of 200, however it should be adequate to accommodate the daily parking of the 10 – 15 week day visitors or a significant proportion of the normal 60 – 100 visitors at weekends.

By comparison, the Mosque on Rose Hill Street with an internal floor area of 3700 sq meters (compared to the 1112 sq metres of the current proposal), was granted consent with the provision of 28 car parking spaces.

B1 APPLICATIONS (cont'd)

10 Code Nos: DER/905/1445 and DER/805/1419

The proposal was originally submitted showing an access out onto Dover Street, however in order to prevent a through access onto this cul de sac of terrace houses amended plans have been submitted sharing the site to be enclosed by a brick wall along the Dover Street frontage.

Design

The design of the main building is somewhat bland with an almost flat roofed appearance and with simple window detailing and pilasters along its long north- western facing elevation which, along with the front elevation is the one most likely to be seen from public areas. Amended plans have been received incorporating improvements to the appearance of its longer side elevation which will be seen from Pear Tree Road. The opposite elevation which backs onto the blank walls of the neighbouring Sikh Temple would be concealed from public view and accordingly is a blank elevation except for two emergency exits and fire escape stairs. The rear elevation facing the rear of dwellings on Dover Street has windows at ground floor level but its upper part would be blank reducing overlooking problems.

The front elevation facing Pear Tree Road has some interest with a porch and balustrades and a pyramidal steeple. Which will lift the level of the design sufficiently to add interest to the streetscene. As the proposal will be largely concealed behind existing buildings and will not form a prominent feature in the streetscene I consider the appearance would be acceptable.

The external materials are to be facing brickwork, with contrasting colour brickwork window cills and heads. Details of these would have to be agreed with the Council.

Residential amenity considerations

The application site is to the rear of the gardens of four dwelling houses on Dover Street. These gardens are some 14m in length. The proposal could have massing, daylight, noise and disturbance impacts and privacy impacts on the residents.

- Massing

The proposed temple will be the equivalent of 3 stories in height, at a distance of 4 metres from the rear boundaries of the Dover Street properties and some 19 metres from the closest part of the dwellings. Although there will be a massing impact I would point out that previous industrial buildings on the site were themselves two stories in height

B1 APPLICATIONS (cont'd)

10 Code Nos: DER/905/1445 and DER/805/1419

and built on the boundary with the houses so that the houses previously experience a two storey massing impact 4 metres closer than now proposed. Given the extra distance involved I don't consider that the additional height of the temple would result in an unacceptable increase in massing impact, neither do I consider that there would be a significant additional loss of daylight or sunlight to these properties.

- Noise

Noise will be generated both from the activities that take place within the building through sound leakage, and from the coming and going of cars and people. The proposal is on land which was formerly used for builders' yard and a commercial garage which would no doubt have generated quite a lot of vehicular trips to and from the site and noise and disturbance from movement of vehicles within the site – but this would have been buffered from the houses by the original building – now demolished. The proposed main car parking area is immediately between the flank elevations of two terraced houses, 23 and 31 Dover Street. This is likely to increase the levels of noise experienced by the occupants of the dwellings. I would suggest that the boundaries around the car park could be enclosed by brick wall to help reduce the sound intrusion into the dwellings and their gardens but it would not be possible to completely attenuate the effects of externally generated noise.

Sound insulation measures may be applied to the building to reduce internal noise leakage. These would have to be agreed with the Pollution Control section division prior to development being commenced.

- Privacy

Privacy of neighbouring residential properties could be affected by views from the first floor windows. This can be controlled by requiring obscure glazing and having fixed and none opening lights for those windows closest to the dwellings.

Conclusion

Although the proposal would generate traffic, much of this would already be attracted to this area as the existing temple lies not far away on Normanton Road in an area where no off street parking can be provided. The proposal does incorporate a level of parking provision which is considered to be appropriate for the use and the average numbers of visitors anticipated to use the temple on a regular basis. It

B1 APPLICATIONS (cont'd)

10 Code Nos: DER/905/1445 and DER/805/1419

is not possible, nor would it be desirable to attempt to secure parking provision for the maximum capacity of the temple.

Those items that would impact on residential amenity should be controllable to some extent and I consider that, subject to the adoption of measures to mitigate against the effects of noise generation and loss of privacy, planning permission should be granted for the erection of the Temple.

The Community Centre

The Hindu cultural and community centre use is in established buildings on the Pear Tree Road frontage of the site. It has been in use for over 12 months and as far as I am aware no complaints have been received as a result of this use. The use itself is considered to be acceptable in principle under policy S10 of the City of Derby Local Plan. A cultural and community centre will complement the use of the temple and I envisage that people visiting the community centre may visit the temple as part of the same trip thus cutting down on the overall number of traffic movements. I understand that the residential flat, will become the accommodation for a resident priest associated with the temple use. As such I don't consider there would be any significant conflict between the residential uses and the community use within the same building. If a resident priest remains on site this will also assist with its security.

The adjoining property has some living accommodation on part of the ground floor and first floor, buffered from communal areas by the applicants own flat and kitchen and proposed kitchen extension kitchen. Although there may be noise generation that could affect the amenity of neighbouring residents, no objections have been raised by those residents.

The proposed extensions are relatively minor and only single storey. Although there would be some sense of enclosure and massing to the neighbouring flat from the kitchen extension I don't consider this to be so significant as to warrant refusal. The toilet block extension on the community centre would not impact on the neighbouring occupiers at all as it will be concealed behind part of the existing building. I raise no objections to these extensions subject to matching materials being used in their construction and subject to a level or ramped access being created at the new rear entrance.

Parking provision on the site would be shared between the two uses. It seems unlikely that the two uses together will generate significantly

B1 APPLICATIONS (cont'd)

10 Code Nos: DER/905/1445 and DER/805/1419

more parking than either use individually, as the visitors would be drawn from the same limited community.

I therefore raise no objection to the change of use nor to the extensions.

11. Recommended decision and summary of reasons:

11.1 DER/905/1445 – Erection of Hindu Temple. **To grant** permission with conditions.

DER/805/1419 – Retention to use as a community centre and extensions (WC, block, and enlargement of kitchen) **to grant** permission.

11.2 Conditions

DER/905/1445 Erection of Hindu Temple.

1. Standard condition 09A (amended plans received 9 November 2005).
2. Before the Temple building is taken into use vehicle parking and manoeuvring facilities shall be provided within the site in accordance with the submitted and approved plans. The parking spaces shall be kept clear of all obstruction at all times to be available for the parking of vehicles.
3. The development shall not be taken into use until details of cycle and motor cycle parking provision for staff and visitors have been submitted to and agreed in writing by the Local Planning Authority and until such provision has been implemented. If such provision involves any form of extension/shelter, this shall be the subject of a separate formal planning application.
4. Detailed plans showing the design, location and materials to be used on all boundary walls/fences/screen walls and other means of enclosure shall be submitted to and approved in writing by the Local Planning Authority before development is commenced and the development shall be carried out in accordance with such detailed plans. These details shall include a solid brick wall to a minimum height of 2.5 metres above ground level along the full length of the boundaries of the site with the neighbouring residential properties on Dover Street and with the boundary with the highway unless otherwise agreed in writing with the Local

B1 APPLICATIONS (cont'd)

10 Code Nos: DER/905/1445 and DER/805/1419

Planning Authority. The details of such a wall shall be the subject of a separate formal planning application.

5. No vehicular or pedestrian access shall be permitted onto the Dover Street.
6. Development shall not commence until details of the provision for disabled people have been submitted to and agreed in writing by the Local Planning Authority. The agreed provision shall be implemented before any of the development is occupied. The details shall include level or ramped access at any principal entrances, minimum clear opening door widths of 800 mm and level or ramped access, between any principal entrance and any development car park or level or ramped access between any principal entrance and any public transport drop off/pickup point within the site. Disabled people's car parking spaces shall also be provided and clearly marked out in accordance with details which shall be agreed in writing with the Local Planning Authority. Provisions shall be designed in accordance with BS 8300:2001, "Design of buildings and their approaches to meet the needs of disabled people".
7. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, this permission shall relate solely to the use of the building as a place of public worship (D1(h)) and shall not extend to include any other purpose within the same class of that order or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that order.
8. The six windows at the western end of the first floor of the north facing elevation facing towards and overlooking the rear garden of 23 Dover Street, shall be obscure glazed and with fixed lights and shall be retained as such at all times. The degree of obscuration of the glass shall be submitted to and agreed in writing by the Local Planning Authority before development is commenced.
9. Standard condition 20 landscaping.
10. Standard condition 22 landscaping maintenance.
11. The vehicular access onto Pear Tree Road shall be formed by the use of dropped and tapered kerbs. Any redundant vehicular access shall be reinstated to footway in accordance with normal highway standard of construction.
12. The hours of operation of the premises as a religious building for sessions of worship, religious ceremony or other celebrations shall

B1 APPLICATIONS (cont'd)

10 Code Nos: DER/905/1445 and DER/805/1419

be restricted to between 6.00 am and 11.30 pm, everyday of the week including weekends and Bank Holidays.

13. Before the building is taken into use, full details shall be submitted to the Local Planning Authority of sound insulation measures to be installed within the building. Any such measures as may be agreed shall be installed before the building is taken into use.

14. Standard condition 27 (materials)

Reasons

DER/905/1445 Erection of Hindu Temple.

1. Standard reason E04.
2. To accommodate the parking and manoeuvring requirements of the development and to minimise the danger, obstruction and inconvenience to users of the site and the highway and in accordance with policy T22 of the adopted City of Derby Local Plan.
3. To meet the parking needs of the development, to encourage and provide for varied means of transport to the site and in the interests of environmental amenity and in accordance with policies C1 and T22 of the adopted City of Derby Local Plan.
4. To protect the amenities of nearby residential properties and in accordance with policy C1 of the adopted City of Derby Local Plan.
5. To discourage parking and additional vehicular activity in Dover Street, in the interests of residential amenity....policy C1 and T22.
6. To ensure that the building is accessible to disabled people and in accordance with policy C1 of the adopted City of Derby Local Plan.
7. To protect the residential amenity of nearby residents and in accordance with policy C1 of the adopted City of Derby Local Plan.
8. To protect the residential amenity of nearby residents and in accordance with policy C1 of the adopted City of Derby Local Plan.
9. Standard reason E10 ... policy C1 of the adopted City of Derby Local Plan.
10. Standard reason E10 ... policy C1 of the adopted City of Derby Local Plan.

B1 APPLICATIONS (cont'd)

10 Code Nos: DER/905/1445 and DER/805/1419

11. To improve pedestrian priority and usage of the footway....policy C1.
12. To protect the residential amenity of nearby residents and in accordance with policy C1 of the adopted City of Derby Local Plan.
13. To protect the amenity of nearby residents and in accordance with policy C1 of the adopted City of Derby Local Plan.
14. Standard reason E18....policy E31.

DER/805/1419 - The retention of use of the Hindu Community Centre and extensions to form WC block and extension to kitchen.

11.5 Conditions

1. The rear entrance to the community centre shall have a level or ramped access, and minimum clear opening door widths of 800 mm. Provisions shall be designed in accordance with BS 8300:2001, "Design of buildings and their approaches to meet the needs of disabled people".
2. Standard materials condition 27.

11.6 Reasons

1. To ensure that the building is accessible to disabled people and in accordance with policy C1 of the adopted City of Derby Local Plan.
2. Standard reason E18....policy E31

11.7 S106 Requirements where appropriate: None.

Code – DER/805/1419 & 905/1445

New Normanton Mills

Community
Centre

STANHOPE STREET

Dover Court

Dover Court
El Sub Sta

Hardwick
SchoolsHardwick
Schools

Sikh
Temple

Car Park

Based upon Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office.
Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to civil proceedings.
Derby City Council Licence No. 100024913 (2005)

Primary S



B1 APPLICATIONS (cont'd)

11 Code No: DER/805/1247

Type: Full

1. **Address:** Land at da Vinci Community College, St. Andrews View
2. **Proposal:** Erection of a 20 m high monopole with 6 antennae, 2 dishes, floodlighting and ancillary development
3. **Description:** This application relates to a site within the grounds of the da Vinci Community College. Having recently been renamed, the school is now currently undergoing a major redevelopment involving the demolition of existing buildings and construction of new premises within the same site. At present, there are two telecommunications antennae on the roof of the existing school buildings which are to be demolished. The lease allowing the existing telecommunications equipment has not yet expired and, as such, demolition of the buildings and thus removal of the existing telecommunications sites would have legal ramifications and could affect the redevelopment of the school. As such both operators are seeking alternative sites within the school grounds and this is the application of one of those operators.

The application is accompanied by supporting information that confirms that the installation would comply with the ICNIRP guidelines. The supporting information also explains how the operators have selected this site in accordance with the sequential site selection process set out in Planning Policy Guidance Note 8, (Telecommunications) and the Code of Best Practice. The information explains that, due to the school's development project, this new site is required somewhat unexpectedly. The existing site is just one within an area of network coverage that is currently clearly defined and without gaps. As such, the search area for a suitable site is limited in order to fit in with the existing coverage without causing a network overlap or gap which would then generate demand for another site. It should be noted that the drawings submitted show two masts. This application is just for one mast; the second shown on the drawings is indicative of the cumulative effect that would occur if the second operator with an existing installation on the site were to apply for planning permission for similar replacement apparatus. At the time of writing, I have not received an application for a second mast and this application should be judged on its own merits.

Planning permission is sought for the erection of a 20m high telecommunications monopole with associated antennae and base station equipment. The pole would replace existing antennae used on the 2G network as well as providing new 3G antennae. The monopole would also function as a floodlight for a tennis court and, as such, would also have two floodlights, attached at a height of 10m above ground. Separately from this application, an application will need to be submitted for the remaining floodlights around the tennis court.

B1 APPLICATIONS (cont'd)

3 Code No: DER/805/1247

4. **Relevant Planning History:** The current redevelopment of the school was granted permission under DER/504/889 and DER/1003/1828.

Various notifications for the installation of roof-mounted telecommunications equipment and alterations to the equipment have been submitted between 1996 and 2001. No objections were raised to these notifications.

Residential development of part of the school grounds was most recently granted under DER/200/145.

5. **Implications of Proposal:**

5.1 **Economic:** No comment

- 5.2 **Design and Community Safety:** The proposed monopole and associated antennae, equipment and floodlights would be visible from neighbouring properties as well as within the school grounds. It would be thicker and taller than a purpose-built flood lighting column and therefore more prominent. However, the site does contain some planting, trees and hedges that would help to obscure the lower parts of the apparatus and the base station. The nearest properties are at Ingledew Close, almost 60m away from the fencing surrounding the site. In my opinion, whilst the installation would have some visual impact, when compared to the impact of a floodlighting column that would otherwise be required, the impact would not be unacceptable and would not unreasonably affect amenities.

5.3 **Highways:** No comment

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

5.5 **Other Environmental:** -

6. **Publicity:**

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

7. **Representations:** I have received 11 letters of objection. One of these letters is written by the Principal of the school, on behalf of the

B1 APPLICATIONS (cont'd)

3 Code No: DER/805/1247

... Governing Body. The letter is a copy of that sent directly to the agents for the application and raises various queries regarding the technical specification of the equipment. The technical queries deal with information beyond that normally required in conjunction with a planning application and I would expect this information to be provided directly from the agent to the objectors.

The letter of objection also expresses concern about the impact of the installation upon health and states the Governors' preference for the equipment to be sited as far from the school building as possible.

There is also concern about how public access to the new equipment would be restricted.

I have also received a letter direct from the Governing Body which raises health issues and suggests that court cases have indicated that Local Planning Authorities can take health aspects into account in determining planning applications. This letter is reproduced for Members information together with the Principal's letter on their behalf.

Other letters express concern about the following:

- the fact that 2 monopoles are shown on the plans
- impact on wildlife and the environment
- health risks
- builders at the site are inconsiderate
- light pollution from floodlights
- visual impact
- Consultation with residents.

These letters will be available in the Members Rooms.

8. Consultations:

DCorpS (Health) – no comment

9. Summary of policies most relevant:

E38 – Telecommunications

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

Planning Policy Guidance Note 8 – Telecommunications.

B1 APPLICATIONS (cont'd)

3 Code No: DER/805/1247

10. **Officer Opinion:** This application is for a replacement site for existing apparatus. The principle of a mast in this area has been established under the previous installation. As such, the key issue for consideration is whether or not the proposed site is the most appropriate in terms of its impact upon amenities. Planning policy guidance and local plan policy set out the basis on which decisions must be made and both seek to encourage sensitive development of the telecommunications network.

In terms of design, as set out in section 5.2 of this report, I am of the opinion that the proposed site would be acceptable. I am satisfied that within the limited search area, there is no better alternative. The floodlighting column design provides a site that enables the telecommunications equipment to share a feature that would be required, regardless of the current application. Although it would be taller and bulkier than a purpose-built floodlight, it avoids the need for two separate poles. In the event that another application is received for a second floodlight/telecommunications pole, this would have to be judged on its own merits and the cumulative effect judged at that stage.

I note that concerns have been expressed about the health implications of this proposal, particularly given its location at a school. The application is supported by the relevant documentation stating that the installation would comply with the guidelines set out by ICNIRP. This is the measure that the Government uses to check that telecommunications installations meet current standards for health and safety.

The Governing Body has suggested that court cases allow the consideration of health in determining planning applications. There are also conflicting cases to this view and an Appeal Court decision where it was said that only in “exceptional circumstances” should the planning process consider “perceived health concerns”. Since the national guidance was published after the findings of the Stewart Report the position is clear for Local Planning Authorities.

PPG 8 states that *“Health considerations and public concern can in principle be material considerations in determining applications for planning permission and prior approval. Whether such matters are material is ultimately a matter for the courts. It is for the decision-maker (usually the Local Planning Authority) to determine what weight to attach to such considerations in any particular case”*. However the guidance goes on to state that *“it is the Government’s firm view that the planning system is not the place for determining health safeguards. It remains Central Government’s responsibility to decide what measures are necessary to protect public health. If a proposed mobile phone*

B1 APPLICATIONS (cont'd)

3 Code No: DER/805/1247

base station meets the ICNIRP guidelines for public exposure it should not be necessary for a local planning authority, in processing an application for planning permission to consider further the health aspects and concerns about them”

In accordance with the above, a consideration of case law shows that, in practice, perceived risk and health considerations alone are not sustainable reasons for refusal of a planning application.

With respect to the site location within a school, whilst there is national guidance regarding consultation for applications in educational sites, neither local nor national planning policy identifies these sites as unsuitable for mobile phone masts.

With respect to the specific location within the school, as stated above, I note the Governing Body's comment that the site should be as far from the new buildings as possible. Notwithstanding the above comments on health implications, if an alternative site within the school grounds could be found that benefited from a degree of screening by vegetation and offered the opportunity for combining a floodlighting column with the telecommunications equipment, this may well be an acceptable alternative.

What is being considered is not a completely new installation but a revised location from roof top of the school to location on flood lights.

In view of Government guidance and case law, I do not see any justification for refusing this application and accordingly, recommend that permission be granted.

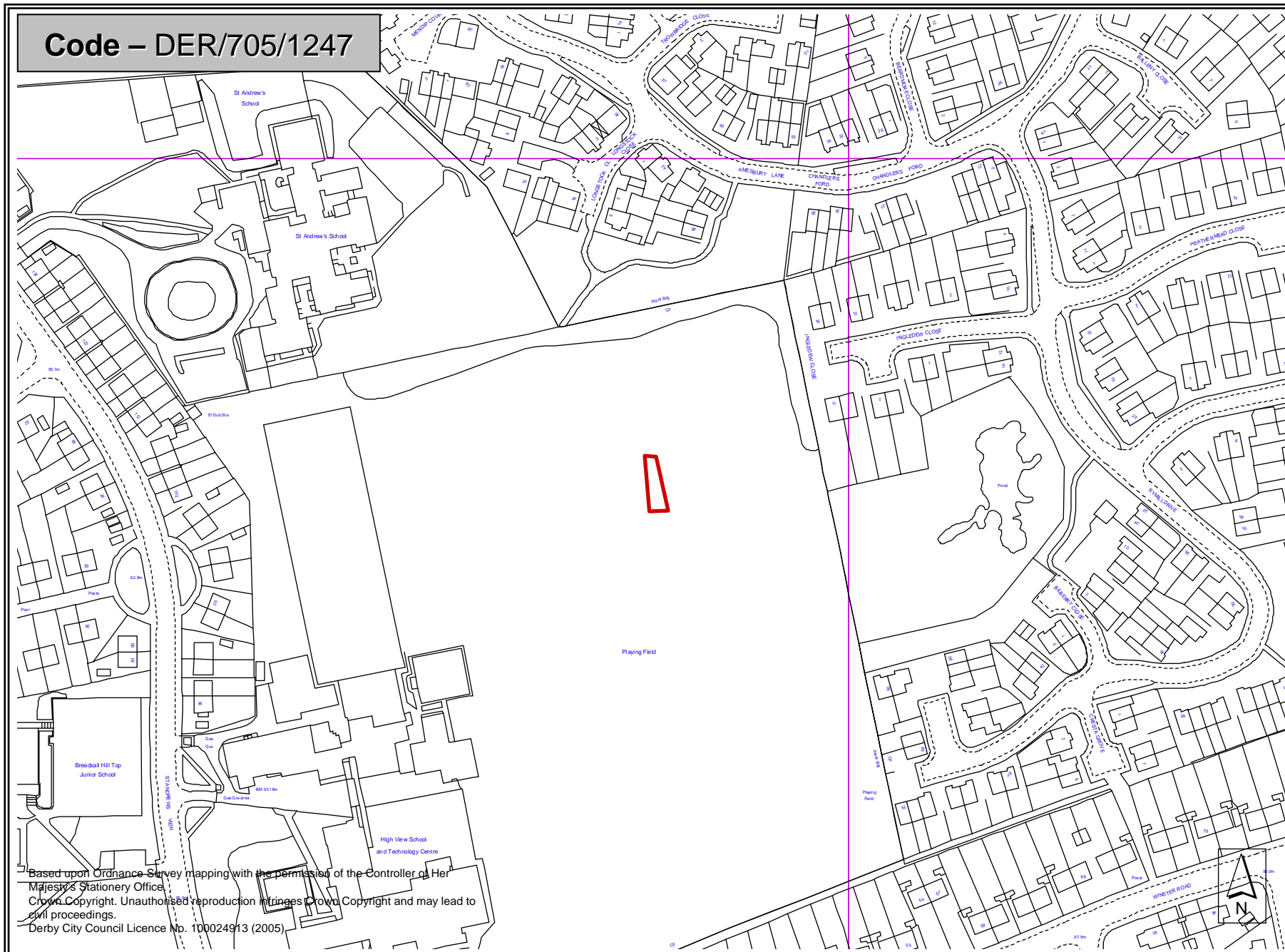
Any further information will be reported at the meeting.

11. Recommended decision and summary of reasons:

11.1 To grant permission.

11.2 Summary of reasons: The proposal has been considered in relation to the provisions of the City of Derby Local Plan and all other material considerations as indicated in 9 above. The proposal complies with criteria in policy E38 of the adopted local plan and national policy guidance contained in PPG8

Code – DER/705/1247



Based upon Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office.
 Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to civil proceedings.
 Derby City Council Licence No. 100024913 (2005)

D1 SPECIAL ITEMS

1 ENFORCEMENT

15 Cotswold Close, Littleover, Derby

At the meeting held on 27 October 2005, Members requested a written update on the enforcement situation at the above address.

Description: Cotswold Close is a short, residential cul-de-sac. The property in question is a detached bungalow located at the south-eastern end of Cotswold Close. The plot on which it is located is almost triangular in shape, being narrow along the frontage and widening out at the rear. The bungalow itself is located to the north of the plot with the side wall of the dwelling directly on the boundary with 13 Cotswold Close.

History of Breach: In January 2004 planning permission was granted, under code DER/1103/2036, for a single storey extension to the rear of the dwelling, with rooms in the roof space. This permission was implemented, however, during May-June 2004 an unauthorised dormer extension was added into the east facing roof slope of this extension.

On 15 July 2004, a planning application to retain the unauthorised dormer and erect a hobbies room, guest room, garage and shower/wc was received. Members may recall that at the Planning Control Committee meeting on 26 August 2004 planning permission was refused under code, DER/704/1392 and enforcement action was authorised against the unauthorised dormer extension.

On 26 November 2005, an appeal was lodged with the Secretary of State against the refusal of permission, DER/704/1392.

On 7 January 2005, an Enforcement Notice was served on both of the owners of the property and also on their son. The Notice had a compliance date of 2 months but its requirements were held in abeyance whilst the owners appeal was determined.

On 1 June 2005 the appeal in relation to the dormer extension was dismissed by the Secretary of State and the requirements of the Enforcement Notice came into force with a revised compliance date of 1 August 2005.

On 4 July 2005, a revised planning application was received to erect a garage/store and insert two smaller dormer windows in place of the larger one that is subject to the Enforcement Notice. Members may recall that at its meeting on 25 August 2005, planning permission was granted for the revised application, under code DER/705/1098.

D1 SPECIAL ITEMS (cont'd)

1 ENFORCEMENT

On 29 September 2005, an e-mail was received from the owner's son stating that a structural engineer had been employed to undertake calculations and produce plans for the revised dormers ahead of submitting an application for Building Regulations. The e-mail is reproduced for Members information.

On 31 October 2005, a letter was sent to the owner's son requesting he provides details of when the work to replace the large unauthorised dormer with the two smaller dormers approved under DER/705/1098 would take place.

On 12 November 2005, a second e-mail was received from the owner's son stating that he was in the process of obtaining quotations from two building companies with a view to commence the work during mid-January 2006 and complete the work within 2-4 weeks. The e-mail is reproduced for Members information.

By failing to comply with the requirements of the Enforcement Notice within the stated compliance period, the owners of the property have and are continuing to commit an offence.

However, the registered owners of 15 Cotswold Close are an elderly, retired couple. It is their son who has been primarily responsible for organising the unauthorised building work at the property, on behalf of his parents. The son was the applicant for both the first two planning applications, DER/1103/2036 and DER/704/1392. He also acted as the agent for his father during the appeal to the Secretary of State and again for the most recent planning application, DER/705/1098. In addition, the son is also currently responsible for organising the building work to replace the unauthorised dormer with the smaller, approved dormers.

Having regard to the time that has elapsed since the final date for compliance with the Enforcement Notice and the fact that no firm or specific dates have been received for commencement or completion of the required works, an Enforcement Officer is preparing all the necessary information to request authorisation from the Assistant Director (Development) to commence prosecution proceedings in relation to the non-compliance with the Enforcement Notice, subject to the Director of Corporate Services being satisfied with all the evidence.

Contact with both the Owners and their son will be maintained to seek full compliance with the requirements of the Enforcement Notice.

RECOMMENDATION: To note report.

B1 APPLICATIONS (cont'd)

12 Code No: DER/805/1292

Type: Full

1. **Address:** Eagle Centre Redevelopment Site, Eagle Centre
2. **Proposal:** Erection of multi-screen cinema and alteration to Burrows Walk entrance.
3. **Description:** Permission is sought for the erection of a multi-screen cinema and alterations to the Burrows Walk entrance to the Eagle Centre.

The Eagle Centre is currently undergoing a major redevelopment involving significant extensions and re-design. The proposals would be incorporated into this on-going work. The proposal would provide 8,400m² of floor space, 12 cinema screens with capacity for 2,600 seats.

Cinema Design

The proposed cinema would be located on the roof of the extended Eagle Centre, some 35m back from the London Road frontage of the centre and over 130m away from the Traffic Street frontage of the centre. It would be 3 storeys in height with the box office at the same level as the 3rd level of the approved Eagle Centre. The cinema screens would be located above. The table below sets out the various levels of the Eagle Centre and helps to position the cinema proposal with respect to the approved redevelopment scheme.

Level 0	-	basement – servicing
Level 1	-	Ground floor shops
Level 2	-	First floor shops and café court
Level 3	-	Upper level shops, car parking and cinema box office
Level 4	-	Car parking, shopping centre plant and six cinema screens
Level 5 & 6	-	Car parking and mezzanine for the cinema
Level 7	-	Top deck of car parking, and upper level of cinema screens
Level 8	-	Mezzanine level for cinema

Note: all aspects relating to the current cinema application are in bold.

The flat roof, rectangular building would rise some 13.5m above the highest part of the approved scheme. The Urban Design and Visual Assessment states that the proposal will continue the theme used on the Eagle Centre redevelopment, utilising a lightweight composite metal cladding panel, laid horizontally, with a recessed band near to the top. A blue cladding, gradually grading to a lighter shade at the top will

B1 APPLICATIONS (cont'd)

12 Code No: DER/805/1292

used. The roof has been designed so that plant works can be contained within a void area and would not be visible above the roof.

In order to assist understanding of the appearance of the cinema, the applicants have submitted a detailed study of views of the proposal from other parts of the city. I understand that this study follows an established technique for accurately modelling views.

Cinema access

The cinema would be accessed from the Eagle Shopping Centre development, both from the shops and car park. I am awaiting confirmation of details of access and exit outside of normal Eagle Centre opening hours.

Burrows Walk Entrance

The Burrows Walk entrance would be redesigned in conjunction with internal alterations to this part of the centre. The proposed entrance would be modern in design, and whilst submitted elevation drawings do not specify the precise materials for the new entrance, an artists impression shows the entrance in glazed panels. The new entrance would have a flat roof incorporating a large overhang. The changes would increase the prominence of this entrance to the Eagle Centre as well as allowing improvements to the internal layout as well as introduction of new escalators and a lift to provide access to upper levels of the centre. The internal changes do not require planning permission but detail is included here for the purposes of clarification of the proposal. The submitted drawings also show changes to the area directly outside of the Burrows Walk entrance. Whilst this area is not within the application site and therefore **any changes shown here would not be implemented as part of the application**, the purpose is to demonstrate the applicant's intention to raise the profile of the Burrows Walk entrance and the applicant's view that there is potential for improvements to this part of the public realm.

The proposal does not include any additional car parking.

4. **Relevant Planning History:** There are various applications relating to the Eagle Centre. Most recently, and of relevance to this application the following applications have been dealt with, and granted permission for redevelopment of the Eagle Centre.

DER/302/297 – Outline application for extension of the Eagle Centre.
DER/203/179 – Variation of condition to allow an additional 10,000 sqm of floorspace and an increase in height.

B1 APPLICATIONS (cont'd)

12 Code No: DER/805/1292

DER/403/643 – Amendment to the siting approved under the outline.

DER/404/713 – Reserved matters application.

5. Implications of Proposal:

5.1 Economic: A new cinema will have an impact on the city centre.

5.2 Design and Community Safety: The current proposal has been designed within the context of the approved redevelopment scheme for the Eagle Centre, rather than being designed as an integral part of the whole scheme. It is unfortunate, but remains the case that the cinema has therefore been designed as an add-on to the approved scheme and this situation obviously places constraints on the design. Notwithstanding this, the detailed view study that has been submitted does show that the cinema has been positioned to avoid it being overly dominant in the City's skyline. Views from around the city show that the cinema would be rarely viewed from within the City Centre. Existing buildings and land levels would both play a part in obscuring the cinema from view. The study acknowledges that the cinema would be clearly visible from certain positions, for example outside of the Council House and from the Pride Park flyover, but in my opinion these views would not have an unacceptable impact upon the visual appearance or character of the area and careful choice of materials would help to ensure that it is not out of place.

I am concerned that the artist's impression shows materials accentuating the width of extension to the detriment of its appearance. But with more detail of the materials, I believe this could be rectified. However, in considering the design of the cinema, it is important to remember that the site is within the City Centre where a mixture of good quality modern and older buildings can exist together to present a modern and vibrant City. As such, I do not feel that it would be sensible or practical, to try and completely hide the cinema. Rather it is appropriate to ensure that when visible it shows good design and well chosen materials and that it does not obscure any important and/or historic views of the City. In my opinion, subject to use of good materials, the current proposal does achieve this.

5.3 Highways: The proposal would have some impact upon the highway network and parking. The applicant's have submitted a study investigating this and conclude that the impact is minimal. I do not concur with this view. Whilst I do not think that the answer is more parking spaces or major highways works, I have engaged in discussions with the applicant seeking agreement on S106

B1 APPLICATIONS (cont'd)

12 Code No: DER/805/1292

contributions that would help mitigate the effects. See comments in officer opinion below. With regard to pedestrian access outside of normal shopping centre opening hours, I expect routes in and out of the cinema to be referred to in the section 106.

5.4 Disabled People's Access: Accessibility to, and within the proposed cinema appears satisfactory. Recommend that the Eagle Centre access statement be amended to include this proposal.

5.5 Other Environmental: -

6. Publicity:

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

7. Representations: I have received three letters in response to this application. Copies are included in the report.

An objection has been received from the Playhouse expressing concern about the impact of the proposal upon trade at the theatre. The Playhouse has commissioned an independent study into the potential impact. This study acknowledges that whilst the cinema will enhance the city centre and bring important economic benefits, it will have a serious and negative impact on the Playhouse causing a loss of income making failure and closure inevitable. The findings of this study are considered later in this report. The Playhouse requests the Council to either refuse permission or grant with certain provisions:

- invest in Theatre Walk and its external surroundings on Traffic Street and in the car park so that it links better with the new development and suffers less in comparison
- consider ways to create a better frontage for the Playhouse such as by acquiring one or two more shops
- increase subsidy to the Playhouse to mitigate loss of income from ticket sales
- look at the long term viability of a modern producing theatre in the shopping centre and consider more suitable sites
- provide prominent signage and free advertising spaces at all entrances to the Eagle Centre and within it and car parks

B1 **APPLICATIONS** (cont'd)

12 **Code No:** DER/805/1292

- public arts and architectural lighting provision on Theatre Walk and Traffic Street

... The Playhouse's three letters are reproduced.

One letter of support has been received from the Derby Chamber of Trade and one from the operator of the St Peters Street McDonalds.

8. **Consultations:**

Police - no comments received

Cityscape - Derby Cityscape supports the concept of a multiplex cinema contributing to a vital and viable city centre. On balance, it is considered that the positioning and massing of the development will be well contained within the footprint of the extended Eagle Centre and will not cause unacceptable harm to the appearance of the city centre subject to the following:

1. The elevation treatment and facing materials of the cinema should endeavour to make the structure disappear against the sky – as such a light grey colour would be appropriate
2. The proposed development will raise the status of The Spot as a node at the interface between the Eagle Centre cinema entrance and the city centre shopping streets. The public open space would benefit from an overhaul to make it a more coherent out-door meeting place. The Council is therefore encouraged to consider The Spot as an area for the investment of Section 106 obligation funds related to this application.

Theatres Trust - there are concerns that the proposal would not benefit the Playhouse Theatre and would in fact have an adverse effect upon footfall past the cinema with consequent effects upon its trade. Unless a more integrated approach is taken, there are concerns that the theatre could be left isolated on the periphery of this redevelopment and that this would put its future in jeopardy.

Severn Trent - no objections subject to a conditions regarding disposal of surface water and foul sewage.

9. **Summary of policies most relevant:** City of Derby Local Plan (Adopted 1998)

S1 - Retail Strategy Objectives

B1 APPLICATIONS (cont'd)

12 Code No: DER/805/1292

- S5 - City Centre Shopping Area
- L9 - Leisure and Entertainment Facilities
- E31 - Design
- E32 - Community Safety and Crime Prevention
- T22 - Parking Standards

City of Derby Local Plan Review (Revised Deposit Autumn 2002)

- R1 - Regeneration Priorities
- CC1 - City Centre Strategy
- CC2 - City Centre Shopping Area
- CC5 - Castlefields and Main Centre
- L9 - Leisure and Entertainment Facilities

Planning Policy Statement 6 - Town Centres

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

10. Officer Opinion: I consider that the key issues are as follows:

- Impact of the proposal upon the City Centre, in particular other leisure and entertainments venues in the City
- Impact of the proposal upon highways and parking
- Design of the proposal
- Access to the cinema outside of Eagle Centre opening hours.

Impact upon the City Centre

National, regional and local planning policy seek to support the role of City Centre's in providing a vital and viable shopping destination and increasingly, the role of leisure and entertainment is being recognised in supporting this. Sustainability arguments also support the City Centre as being an appropriate location for large scale leisure and entertainment venues. However, within the City Centre the position, design and form of a particular leisure venue can have an effect upon how existing venues function and how the City Centre functions as a whole. Whilst it is not the role of the Local Planning Authority to interfere with competition, it is important to ensure that development does not undermine the City's shopping hierarchy and therefore relevant to consider the impact of the proposal upon the function of City as a whole.

The applicant's have submitted a detailed statement investigating the impact upon the City Centre concluding that there would not be any significant adverse effects. They have also submitted correspondence

B1 APPLICATIONS (cont'd)

12 Code No: DER/805/1292

from the Managing Director of the Royal Centre, Nottingham and from the Leisure Services Marketing and Research Officer at Basingstoke and Deane Borough Council outlining their experience of no or positive impact following the introduction of a multiplex cinema in the Centre. This study has been independently assessed by Donaldsons and they found that the introduction of a major cinema proposal in the shopping core offers the following potential benefits:

- In general, the proposal enjoys significant in principle support at national, regional and local level.
- It would have the potential to assist with the ongoing regeneration and growth of the city by providing further variety to the existing range of uses in the city centre and in particular a major new attraction that could increase the numbers of people visiting the centre and particularly after normal working hours, thereby underpinning the current fledgling evening and night time economy.
- It could provide a major qualitative uplift in Derby's offer allowing Derby to compete more effectively.
- Expanded facilities should prompt the development market and retailers to improve further the offer in Central Derby.
- The role and importance of a new city centre multiplex has been identified by the city centre Masterplan and the Masterplan advises that the central area, particularly focussed along the River Derwent, will be the principal area of 'destination' activity throughout the day and into the evening in the city for those wanting to relax and enjoy themselves.

Donaldsons considered the issue of retail impact and in particular whether this mixed use scheme through providing additional critical mass would have greater internal impact on the city than that of a non-cinema scheme. They are however of the view that the impact of the cinema would not have a material impact. Indeed, they believe it is possible that a cinema would increase the overall attractiveness of the city centre resulting in increased visitation

However, Donaldsons are concerned that the potential positive implications may not transpire due to the precise location of the cinema and its poor linkages with other areas of the centre and in particular the regeneration areas to the north and east. It is their view that, left unmitigated, this may limit the potential to improve on shopper dwell time and encourage linked trips, which should be key planning objectives.

B1 APPLICATIONS (cont'd)

12 Code No: DER/805/1292

In particular, Donaldsons consider that the Eagle Centre cinema proposal will negatively impact on Riverlights which has already suffered from implementation delays and difficulties. The Eagle Centre will be the preferred location for a multiplex cinema operator in Derby city centre. Since Donaldsons prepared their report, MetroHolst, the developers of Riverlights, have confirmed that they are no longer pursuing a cinema in their scheme.

Donaldsons also consider that there may be some negative impact on Quad as a result of overlapping film offers.

Donaldsons make the following suggestions on how these impacts may potentially be mitigated:

- Review and potential redesign of cinema access arrangements to create desire lines towards Riverlights and riverside area generally
- Improve pedestrian linkages between the two locations. Also, increased onus on use of public transport and these routes may also need improvement.
- Restrict the D2 class use proposed to cinema only so that health and fitness and similar uses could not be provided at later date
- Clarify that any future applications for additional A3-A5 uses in the Eagle Centre extension would be resisted, i.e. maintain foodcourt emphasis and encourage linked trips to locations outside of the Eagle Centre.

Through consideration of the application, The Playhouse has raised concerns relating to the loss of passing trade both in terms of theatre tickets and the café/bar. This concern arises because the Playhouse fears that the cinema would further divert footfall away from the theatre making its location more peripheral with respect to the City Centre as a whole.

The Playhouse commissioned an independent report by ABL Cultural Consulting. They concluded that the Playhouse may benefit from a slight increase in footfall resulting in higher turnover of its ground floor café

However, they believe that the Playhouse could lose around 10-15% of its audiences to the new cinema making failure and closure inevitable. They believe the position would be recoverable if additional subsidy

B1 APPLICATIONS (cont'd)

12 Code No: DER/805/1292

could be found to cover the shortfall. They do not themselves have adequate reserves to insulate against any negative impacts

Donaldsons however found that a multiplex cinema will not offer any direct competition to the Playhouse and should be complementary.

The two reports are therefore contradictory. I do believe that the advice from Donaldsons should be followed and the uses should be seen as complementary. However, in my opinion the Playhouse may suffer to some extent and I therefore have negotiated measures in the Section 106 agreement which I believe will adequately address any impact.

I am satisfied that the general principle of a multiplex cinema in the proposed location would be acceptable and subject to appropriate mitigation of any negative effects, I am of the view that the cinema would help to support the role of the City Centre as a major shopping and leisure destination.

Impact of the proposal upon highways and parking

My view that the proposed cinema would have an impact upon highways and parking is outline in section 5.3 of this report. I do not concur with the applicant's conclusion that the impact would be negligible. However I do not think that the answer is to create bigger roads and more complex junctions, rather a far more appropriate solution would be to deal with the impact by negotiating S106 contributions to support suitable mitigation measures.

Section 106 mitigation measures

The Heads of Terms for a Section 106 agreement have been agreed with the applicants. I am satisfied that these measures will adequately mitigate the impacts identified in this report. The measures are as follows:

Playhouse

- Upgrading of Theatre Walk signing and lighting
- Pedestrian route to bus station along Theatre Walk to be available at night time when the Theatre is open to the public, at least until 11 pm
- Signage to be provided directing people to the Theatre from The Spot and Copecastle Square.

B1 APPLICATIONS (cont'd)

12 Code No: DER/805/1292

Transport/Highways

- A sum of money to encourage Public Transport, Park and Ride, improve the car park and links to the other car parks in the City.

Regeneration

- A sum of money to improve the links between Eagle Centre and other leisure facilities in the City, including area beneath the Cock Pitt car park.
- The foodcourt to be developed as a specific foodcourt/café court and no units in excess of 1,000 sqm are to be provided within the foodcourt area marked on the plan attached at Level 2 for a period of four years from the date the S106 is completed DCC to have absolute discretion.
- Cinema use only as a primary use for four years from the date the S106 is completed.

Public Realm

- A contribution towards city centre public realm works.

Employment Initiatives

- Westfield to submit an Employment Initiative Scheme (which should encourage employment in the development for those from areas of lower employment) before development starts on the cinema, and implement the agreed scheme.

Percent for Art

- Artwork and signage on the exterior of the Playhouse Theatre.

Design Impacts

My views on design have already been expressed in sections 5.2 of this report. In summary, subject to materials, I am satisfied that the extension would not have an unacceptable impact upon the character and appearance of the area.

Access

The cinema has no street frontage. In terms of access, it is therefore very important to ensure that it remains directly accessible at all times.

B1 APPLICATIONS (cont'd)

12 Code No: DER/805/1292

For those driving to the centre, the cinema would be easily and directly accessible from the Eagle Centre car park located on the upper floors of the shopping centre. However it is not clear from the submitted details how customers who come by other forms of transport, or chose to park in other City Centre car parks would access and exit the cinema once the Eagle Shopping Centre is closed. In my view, it would be inappropriate for the only access/exit to be via the attached car park as this would place a greater emphasis on travel by car, discouraging sustainable travel and making it difficult for pedestrians to access the cinema. In terms of disabled persons access, it is important that lifts are available at all times to ensure safe passage to street level.

11. Recommended decision and summary of reasons:

11.1 A. To authorise the Director of Corporate Services to enter into a Section 106 Agreement to secure the Heads of Terms outlined.

B. Subject to completion of the Agreement, **to authorise** the Assistant Director - Development, **to grant** planning permission with conditions.

11.2 Summary of reasons: The proposal has been considered in relation to the provisions of the City of Derby Local Plan and all other material considerations as indicated in 9 above. The proposal constitutes an appropriate City Centre use and with appropriate mitigation measures in the form of S106 contributions would help to support the City Centre's shopping hierarchy.

11.3 Conditions

1. This permission excludes the materials detailed in the submitted information and no development shall take place until details of materials have been submitted to and agreed in writing by the Local planning Authority. The details shall include the Views Study, updated to show materials.
2. The development shall not commence until the access statement agreed under DER/203/179 has been amended to include details relating to the cinema and submitted to, and agreed in writing by the Local Planning Authority.
3. No development shall take place until details of access and exit of the cinema, outside of the normal Eagle Centre opening hours, have been submitted to and agreed in writing with the Local Planning Authority. These details shall be implemented once the

B1 APPLICATIONS (cont'd)

12 Code No: DER/805/1292

cinema is open and shall not be varied without the prior written consent of the Local Planning Authority.

4. Details of parking provision for cycles and motorcycles in relation to the cinema use shall be submitted to and approved by the Local Planning Authority before use commences.

11.4 Reasons

1. The materials details in the planning application are not considered to be acceptable and in the interests of visual amenities....policy E31
2. Standard reason E34....policy S1
3. To ensure that the cinema is accessible to all members of the public outside of normal shopping centre opening hours....policy S1
4. To encourage and provide for varied means of transport to the site and in the interests of environmental amenity.....policy T22

11.5 S106 requirements where appropriate: Mitigation measures as indicated in officer opinion and summarised below:

Upgrading of routes and signposting to the Playhouse, improved links to the City, in particular to encourage travel to the city by modes of transport other than the private car. General improvements to linkages between the Eagle Centre and the rest of the City shopping area as well as other restrictions to protect the vitality of the City centre as a whole.

Employment initiatives, public realm improvements and public art provision.

Code – DER/805/1292

