

## B1 APPLICATIONS

1 Code No: DER/1204/2398 & DER/1204/2397

**Type:** Listed Building  
Consent and  
Full

1. Address: 4 North Parade

2. Proposal: Erection of garage and 2m high garden wall and installation of patio doors

3. Description: No. 4 North Parade is a Grade 2 listed building within Strutts Park Conservation Area. The proposed changes comprise the following:

- Removal of existing ground floor window on the rear elevation and replacement with patio doors
- Erection of 2 m high wall along the side boundaries of the rear garden area
- Erection of a pitched roof garage in the rear garden area.

The rear garden area of the property is accessed via a private road running along the rear of the North Parade properties and leading to a court of 15 garages. Neighbouring properties have garages built in the rear garden areas, fronting onto the private driveway. The garage would have a pitched roof.

The remnants of previous boundary walls exist along either side of the applicant's rear garden area. The proposed wall, finished with brick-on-edge, is similar to that at other neighbouring properties. Land levels slope downwards from the house.

The proposed patio door is similar to that found on other properties in the terrace and would be located in a similar position to the existing window.

4. Relevant Planning History: -

5. Implications of Proposal:

5.1 Economic: -

5.2 Design and Community Safety: Similar changes have already been carried out at neighbouring properties. I am satisfied that the proposed garage would be acceptable in position and design. Although I would prefer to see timber doors, I accept that other garages in the vicinity have 'up-and-over' roller doors and that this sets a precedent.

## B1 APPLICATIONS (cont'd)

### 1 Code No: DER/1204/2397&DER/1204/2397

I am satisfied that rebuilding of the boundary walls would be acceptable, subject to use of appropriate materials. I am concerned that the brick-on-edge finish to the wall is not in character with the listed buildings; however, I note that other boundary walls in the immediate vicinity have this finish.

I would prefer to see the existing ground floor casement window replaced with a sliding sash window; however, the agent has indicated that the applicants would prefer to pursue the proposed patio doors. Notwithstanding this, I note that neighbouring properties have already replaced the rear elevation ground floor window with patio doors and I do not consider that the current proposal would unreasonably harm the character and appearance of the listed building.

In summary, whilst I would prefer to see the proposal incorporate more traditional features, I am satisfied that the proposal would not so unreasonably affect the character and appearance of the area as to warrant refusal and I also note the precedent set at neighbouring dwellings. Details of materials and window joinery will be required.

**5.3 Highways:** No objections.

**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:** At the time of writing, I have not received any letters of objection.

### 8. Consultations:

CAAC – no objections in principle, subject to the following:

- the garage should not have a pitched roof; a simple parapetted wall incorporating garage door and pedestrian access would be suitable

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

### **1 Code No: DER/1204/2397&DER/1204/2397**

- the wall should be built to the contours of the sloping ground level, not stepped down in stages
- a replacement window would be preferable to the proposed patio door; however, should the applicant not be prepared to agree to this, details of the proposed joinery should be submitted.

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

E24 – Conservation Areas

E27 – Setting of Listed Buildings

*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 key issue for consideration in both the listed building and planning application is the impact of the proposal upon the character and appearance of the listed building and conservation area. My views on the design are expressed in section 5.2 of this report. In summary, whilst I would prefer to see the proposal incorporate more traditional features, I am satisfied that the proposal would not so unreasonably affect the character and appearance of the area as to warrant refusal and I also note the precedent set at neighbouring dwellings. Details of materials and window joinery will be required.

In view of the above, I am satisfied that there would be no justification for refusing either of these applications.

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

#### **11.1 DER/1204/2397 – To grant planning permission with conditions.**

#### **11.2 Conditions**

1. The boundary walls, hereby permitted, shall be built with a continuous height, to the contours of the sloping ground level and shall not involve creating any stepped or staggered levels.
2. Standard condition 27 (the details shall relate to the wall, garage and patio doors)
3. Standard condition 79 (further details of doors)
4. Further precise details of the garage window at a scale of 1:10 or 1:20 shall be submitted to and approved in writing by the Local Planning Authority before any work is carried out.

## **B1    APPLICATIONS    (cont'd)**

### **1    Code No:    DER/1204/2397&DER/1204/2397**

#### **11.3    Reasons**

1.    Standard reason E14 ... policy E27
2.    Standard reason E14 ... policy E27
3.    Standard reason E14 ... policy E27
4.    Standard reason E14 ... policy E27

**11.4    DER/1204/2398 – To grant** listed building consent with conditions.

#### **11.5    Conditions**

1.    The boundary walls, hereby permitted, shall be built with a continuous height, to the contours of the sloping ground level and shall not involve creating any stepped or staggered levels.
2.    Standard condition 27 (the details shall relate to the wall, garage and patio doors)
3.    Standard condition 79 (further details of doors)
4.    Further precise details of the garage window at a scale of 1:10 or 1:20 shall be submitted to and approved in writing by the Local Planning Authority before any work is carried out.

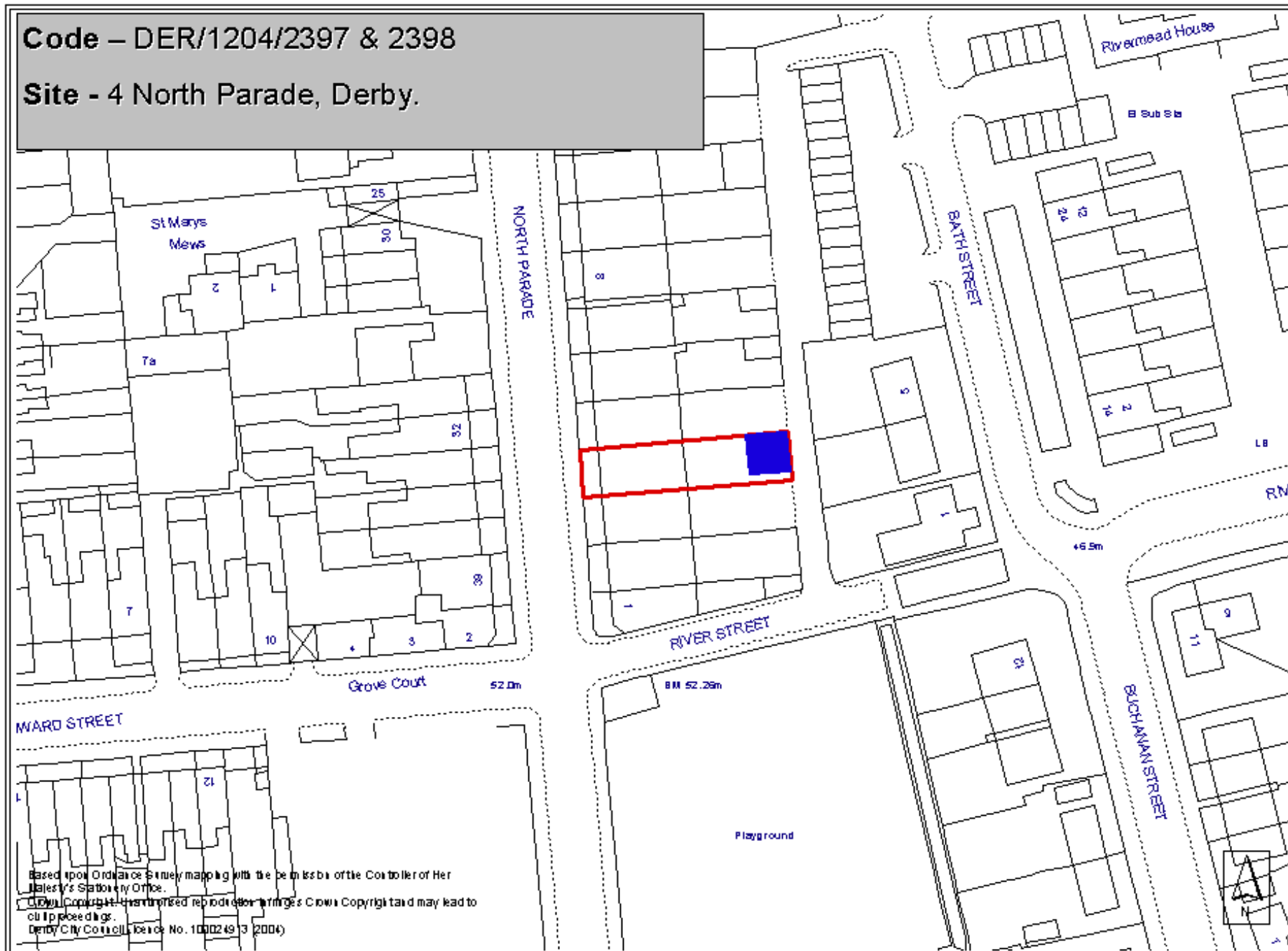
#### **11.6    Reasons**

1.    Standard reason E14 ... policy E26
2.    Standard reason E14 ... policy E26
3.    Standard reason E14 ... policy E26
4.    Standard reason E14 ... policy E26

**11.7    Summary of reasons:** The proposal has been considered against the policies of the adopted City of Derby Local Plan as summarised at 9 above and the proposed development is acceptable in terms of its impact upon the character and appearance of the conservation area and of the listed building.

**Code – DER/1204/2397 & 2398**

**Site - 4 North Parade, Derby.**



## **B1    APPLICATIONS    (cont'd)**

**2    Code No:** DER/1204/2323

**Type:** Full

1.    **Address:**    18-20 Wood Road, Chaddesden
2.    **Proposal:** Erection of four flats and seven maisonettes (amendments to previously approved scheme under code no. DER/803/1491.
3.    **Description:** This site is currently under construction for four flats and seven maisonettes, according to plans approved under DER/803/1491. The adjacent property, 18 Wood Road, a semi-detached house, has permission for division into two flats, with parking to the rear, but this has not yet been implemented.

The current application seeks to amend the plans for the apartments, as follows:

- to rearrange the car parking area to comply with recently revised disabled people's car parking regulations, specifically moving the disabled bay so that it can be larger
- extend one of the ground floor apartments to take in the area previously earmarked for the disabled parking bay
- internal layout changes (these do not require planning permission)
- changes to various windows and door details and positions
- introduction of new windows
- enlargement of the dormers on the front elevation.

Conditions attached to the previous application required various details. With respect to this, details of obscuration of windows and cycle parking have been included in this application.

The previous approval was subject to a S106 legal agreement requiring a commuted sum for open space and one mobility unit. I am advised that the open space requirement has already been fulfilled.

### **4.    Relevant Planning History:**

DER/803/1491 – Erection of four flats and seven maisonettes – granted.

DER/1103/2066 – Change of use to two flats at 28 Wood Road, adjacent to the site – granted.

## B1 APPLICATIONS (cont'd)

2 Code No: DER/1204/2323

### 5. Implications of Proposal:

#### 5.1 **Economic:** -

**5.2 Design and Community Safety:** The proposed amendments do not make a fundamental change to the design or appearance of the development. As such, I raise no objections on design grounds. Similarly, there is little, if any, change to the community safety implications of the scheme.

**5.3 Highways:** The proposed amendment involves only marginal changes to the parking layout, with 100% of parking levels retained, which is satisfactory. The vehicle access should be a dropped and taper kerb and all redundant vehicle crossings should be reinstated to footway specification at the cost of the applicant.

**5.4 Disabled People's Access:** Disabled persons parking is adequately provided. One ground floor dwelling should be a mobility unit.

#### 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:** The application has attracted one letter of objection, which is reproduced in this report. Concerns are expressed about the implications of the development upon privacy and security at neighbouring dwellings.

### 8. Consultations:

Police – no comments received.

### 9. Summary of policies most relevant:

- S2 - Shopping hierarchy
- S12 - Neighbourhood centres
- H22 - Unallocated land
- H28 - Layout and design
- L3 - Public open space provision

## B1 APPLICATIONS (cont'd)

### 2 Code No: DER/1204/2323

*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 principle and general form of residential development at this site is established. The current proposal is for relatively minor changes to the appearance of the building and for alterations to the car park layout. The application also has implications for the use and/or development at 18 Wood Road, a semi-detached property adjacent to the site and within the applicant's ownership.

The key issues for consideration are as follows:

- impact of amendments upon design and appearance
- impact of amendments upon residential amenities
- impact of amendments upon 18 Wood Road.

Impact of amendments upon design and appearance

Section 5.2 of this report sets out my views on the design, confirming that the proposal is acceptable.

Impact of amendments upon residential amenities

The current proposal does not, in my opinion, significantly alter the impact of the proposal. As such, I am satisfied that the proposal is acceptable with respect to this matter.

Impact of amendments upon 18 Wood Road

The current proposal would involve extending the size of the site allocated to the flats and maisonettes, in order to provide the required car parking. The "extra" land would be gained by moving the boundary between the site and the rear garden area of 18 Wood Road (also within the applicant's ownership). The site plan shows that the rear garden area of 18 Wood Road would be reduced to 2.3m in depth. This area would be used as garden if 18 Wood Road remains as one house or used as car parking if the permission to divide the property into two flats is implemented. When it was last occupied, 18 Wood Road did not have any private amenity space as the garden had been absorbed into the yard of the commercial properties at 20 Wood Road.

The previous approval to use 18 Wood Road as two flats required that the 7m deep garden would accommodate two parking spaces for the flats.



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

### **2 Code No: DER/1204/2323**

The current application notes that the developer has not yet decided what to do with 18 Wood Road. As such, it may remain as one house or be divided into two flats. In the event that it is divided into flats, the developer has indicated that one parking space would be provided to the rear of the building and one at the front. This would result in there being no amenity space available for the flats. In the event that 18 Wood Road remains as a single dwelling, the area behind the house would be used for parking for the house.

If this application is approved and implemented, a fresh application would be required to change 18 Wood Road into two flats as the approved scheme cannot be implemented. However, no further planning permission would be required to leave it as a single dwelling house (without any amenity space – as most recently occupied) and as such, it would be impossible to insist that the house cannot be occupied without provision of amenity space.

In view of the above, although I am concerned that this proposal could result in 18 Wood Road being occupied as a dwelling house without any private amenity space, since this could be done without requiring planning permission, I do not think that it would be reasonable to refuse permission on this basis. I am also satisfied that the proposal would not significantly affect amenities at the adjoining semi compared to the previous use of the area concerned as a commercial/industrial yard area.

In summary, I see no justification for refusing the application.

Although this type of proposal would normally require a legal agreement, since, in this case, the scheme has been implemented and the open space requirement met, it is not felt expedient to require a fresh S106 agreement to require one mobility unit.

#### **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 does not raise any matters of overriding concern compared to the permission granted under code ref. DER/803/1419.

##### **11.3 Conditions**

1. Standard condition 09A (amended plans 28 February 2005)

**B1    APPLICATIONS    (cont'd)**

**2    Code No:    DER/1204/2323**

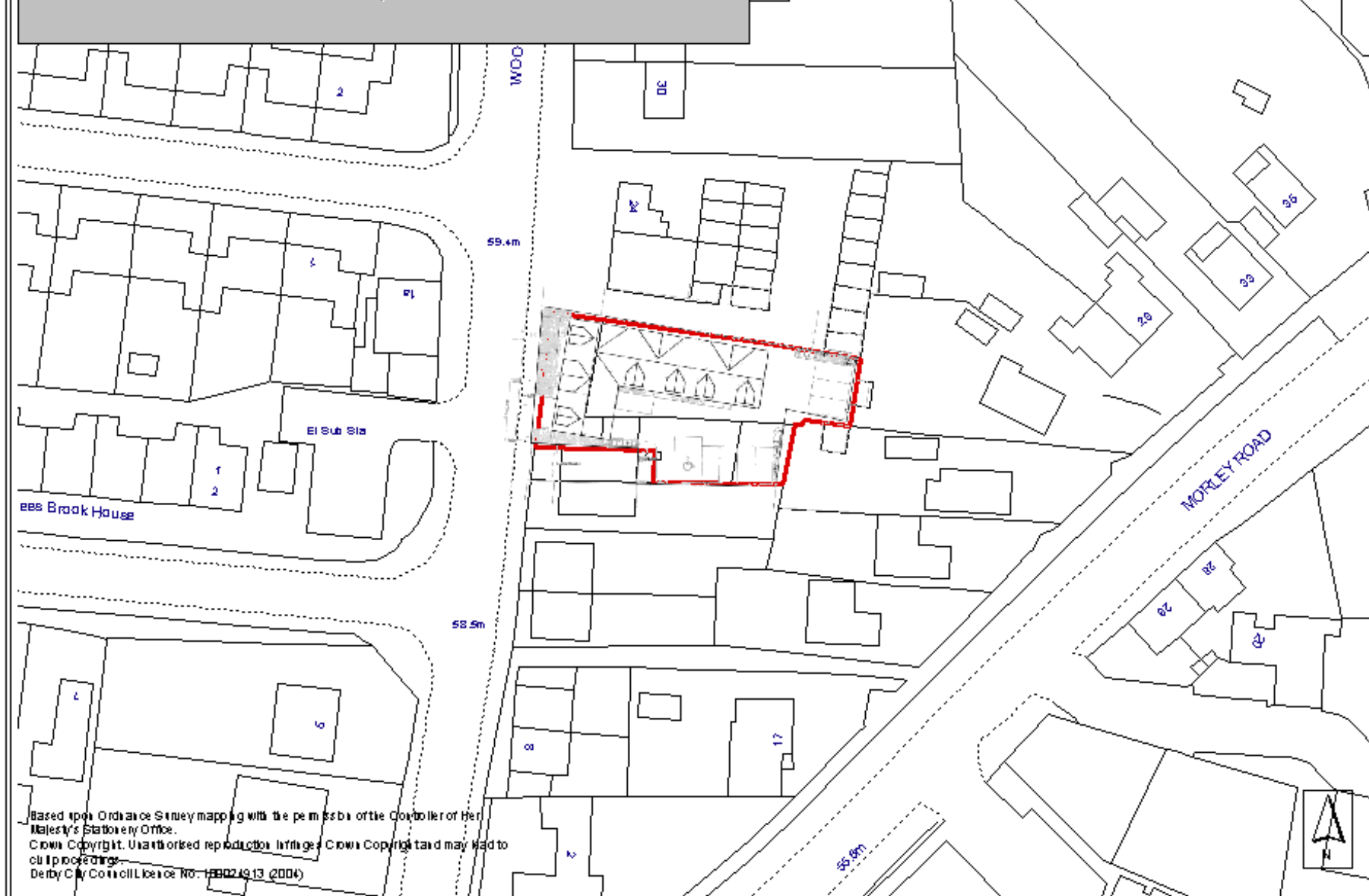
2. Standard condition 27 (materials)
3. Standard condition 19 (means of enclosure)
4. Standard condition 20 (landscaping)
5. Standard condition 22 (landscaping maintenance – refer to 4)
  
6. The new vehicle access shall be constructed with taper and drop kerbs according to details to be agreed in writing with the Local Planning Authority before the development is occupied. The footway shall be reinstated to the satisfaction of the Local Planning Authority.
  
7. Those windows shown as being obscure glazed on drawing Nos., PO6D and PO7G shall be permanently retained as obscure glazed.

**11.4    Reasons**

1. Standard reason E04
2. Standard reason....policy H22
3. In the interests of visual and residential amenity....policy H22
4. Standard reason E14....policy H22
5. Standard reason E14....policy H22
6. Standard reason E17....policy H22
7. Standard reason E07....policy H22

**Code – DER/1204/2323**

**Site - 18-20 Wood Road, Chaddesden.**



## **B1    APPLICATIONS    (cont'd)**

**3    Code No:** DER/1104/2121

**Type:** Full

1.    **Address:** Part of 99 -102 Friar Gate and car park to rear of 4-10 Stafford Street
2.    **Proposal:** Change of use of ground floor and basement to licenced restaurant including disabled access and erection of gate and railings.
3.    **Description:** Planning permission is sought for comprehensive development of the group of buildings on the corner of Friar Gate and Stafford Street. The change of use of the ground floor and basement of 99-102 Friar Gate to a licenced restaurant is proposed. The current use of the buildings is offices and the first floor would remain in this use.

External alterations to the non-listed building are relatively minor, including replacement railings on the frontage alongside Friar Gate and a new doorway opening to provide disabled access off Stafford Street. Parking facilities for the proposal would be accommodated to the rear of 4-10 Stafford Street.

These buildings are listed in the following respects; part of 99 is Grade II\*, the remainder is Grade II (no. 100) with a locally listed building at 101-102 next door. The proposal involves the change of use of the ground floor and basement of 102, 100 and 99 Friar Gate to licenced restaurant including function room, bottle and barrel store.

The proposed use horizontally crosscuts the listed and non-listed buildings, instead of confining the use/function to one actual building, in the following manner:

### **Basement**

There are limited alterations proposed in the basement to 101 Friar Gate. It is proposed to remove an existing window and enlarge the opening to accommodate a new kitchen in the basement of 100 Friar Gate (grade II listed building).

### **Ground Floor**

The proposal is to 'form an opening' through an internal wall to allow access through to 100 Friar Gate where an existing room is to be subdivided with partition walls to create new toilets

The site is located within the Friar Gate Conservation Area.

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

### 3 **Code No:** DER/1104/2121

4. **Relevant Planning History:** DER/99/298 Listed Building Consent alterations in connection with change of use from student accommodation to offices 100 Friar Gate - granted conditionally.

DER/604/543 Change of use of ground floor and basement to create bar/restaurant, including glazed roof to external void fronting Friar Gate, raising paved area for disabled access, new railings and gate across steps refused for the following reason:

'The proposed use would be seriously detrimental to the character and appearance of these buildings and in particular the character of this part of the Friar Gate Conservation Area, contrary to policies E24, E27 and E28 of the adopted City of Derby Local Plan, to the objectives of the Planning (Listed Building and Conservation Areas) Act 1990, and to the guidance of PPG15 (Planning and the Historic Environment).'

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

#### 5.1 **Economic:** -

- 5.2 **Design and Community Safety:** In terms of the proposed use, in my view the change to A3 use could potentially have a detrimental impact on the character and appearance of the conservation area if it is not strictly controlled. Currently the main focus of restaurants along Friar Gate is to the east of the Stafford Street junction rather than to the west, which is predominantly in office and residential use. With this change of use there is likely to be a range of items/clutter that will be needed in association with this use, for example, signage etc. All these items can have a detrimental impact on the conservation area and the applicant will need to look at sensitive signage for any use of the building.

- 5.3 **Highways:** In raising no objections I note that no parking is provided but this is usual for City Centre locations. Servicing arrangements are unclear.

- 5.4 **Disabled People's Access:** I remain unconvinced that the proposed disabled access arrangements actually work. Any further comments following meeting the applicant will be reported orally.

- 5.5 **Other Environmental:** -

## B1 APPLICATIONS (cont'd)

3 Code No: DER/1104/2121

### 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 one letter of objection, which is reproduced, concerned about the effect of car-based traffic on air quality.

### 8. Consultations:

CAAC – has no objections, subject to appropriate conditions relating to details, particularly of the railings.

DCorpS (Health) - both odour and noise nuisance from the restaurant are likely to affect residents in the development. Suitable ventilation must be provided to the kitchens.

The Police - advise that adequate security provision is needed, including CCTV cameras.

EA – comments on the submitted Flood Risk Assessment and has no objections to raise.

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

- EMP 19 - Friar Gate Business Area
- EMP 24 - Alternative uses of Business and Industry Areas
- S20 - Food and Drink
- E20 - Flood protection
- E24 - Conservation Areas
- E27 - Protection of Listed Buildings
- E28 - Flexibility towards Important Buildings
- E31 - Design
- E32 - Community Safety and Crime Prevention
- T17 - Access for Disabled People
- T22 - Parking Standards

Relevant Revised Deposit CDLP Review Policies:

- S14 - Financial and Professional Services and Food and Drink Uses.

## **B1    APPLICATIONS    (cont'd)**

### **3    Code No:    DER/1104/2121**

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

- 10.    Officer Opinion:** This application builds upon the earlier refusal and has followed considerable officer time in meetings. The previous concern was the impact on the character and appearance of these buildings and the impact on the conservation area generally.

The site of the proposal is within the Friar Gate Business Area and Conservation Area.

In considering the previous proposal, the Committee accepted the use as an alternative use of a site in a designated business area, when seen against Policy EMP24. In addition, it was felt that Ford Street/ Stafford Street does not create such a 'barrier' (physically or psychologically) that the area over this road cannot be considered 'edge-of-centre'. There is little material difference between the part of Friar Gate leading from the city centre to the junction (where A3 use is prevalent and has been actively encouraged) and just over the road. Pedestrian linkages are also quite good, as is evidenced by the number of pedestrians using this junction every day.

Importantly, Committee considered this site edge-of-centre in terms of A3 uses, but this does not mean that A1 would necessarily be acceptable. Therefore, it is important that, if permission is granted, a condition restricting change of use to A1 should be imposed (S20, criterion ii).

The key issue from the previous refusal is the impact of the proposal on the Conservation Area. E24 indicates that changes of use will only be permitted where the proposal will preserve or enhance the special character of the area and will encourage the physical and economic revitalisation of the Conservation Area. The impact on the character of the area should take into account both design issues (considered alongside policy E31) and the potential 'impacts' resulting from the A3 use itself on the character or nature of the Conservation Area. As well as the proposed alterations, there will be a range of other alterations needed, should the A3 use be granted permission. These could potentially have a damaging effect on the special interest of the buildings such as signage, fire protection measures, sound insulation, steel flues and noise and smells and disturbance to the area generally.

The application also contains alterations to the fabric of the building. Policy E24 applies. Nos. 99 and 100 Friar Gate are both listed buildings and I now do not have concerns about the internal alterations

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

### **3 Code No: DER/1104/2121**

proposed in 100 Friar Gate that are proposed in relation to this change of use.

The application is for planning permission for a change of use of ground floor and basement to restaurant, which I feel is in line with policy and those previous elements that were of concern to the Council have been removed (the introduction of the glazed roof to the external void fronting Friar Gate, the raised paved area together with the many insensitive internal alterations to the Listed Building)

In view of these alterations to the scheme I would recommend approval.

#### **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 adopted City of Derby Local Plan and all other material considerations as indicated at 9. above. The proposal is acceptable in land use terms and in terms of its impact on the character and appearance of the Listed Buildings and Conservation Area generally.

#### **11.3 Conditions**

1. Standard Condition 09a (revised plans received on 9 November 2004)
2. Standard Condition 27 (external materials)
3. The development shall not be brought into use until the details for the proposed railings have been submitted to and approved in writing by the Local Planning Authority. Such approved details shall be implemented in their entirety before the use commences.
4. Before the development is brought into use, those parts of the site to be hard-surfaced or used by vehicles shall be properly laid out, drained and surfaced in a manner to be approved by the Local Planning Authority and such areas shall not thereafter be used for any other purpose.
5. Standard Condition 47 (details of fume extraction)



## **B1    APPLICATIONS   (cont'd)**

### **3    Code No:   DER/1104/2121**

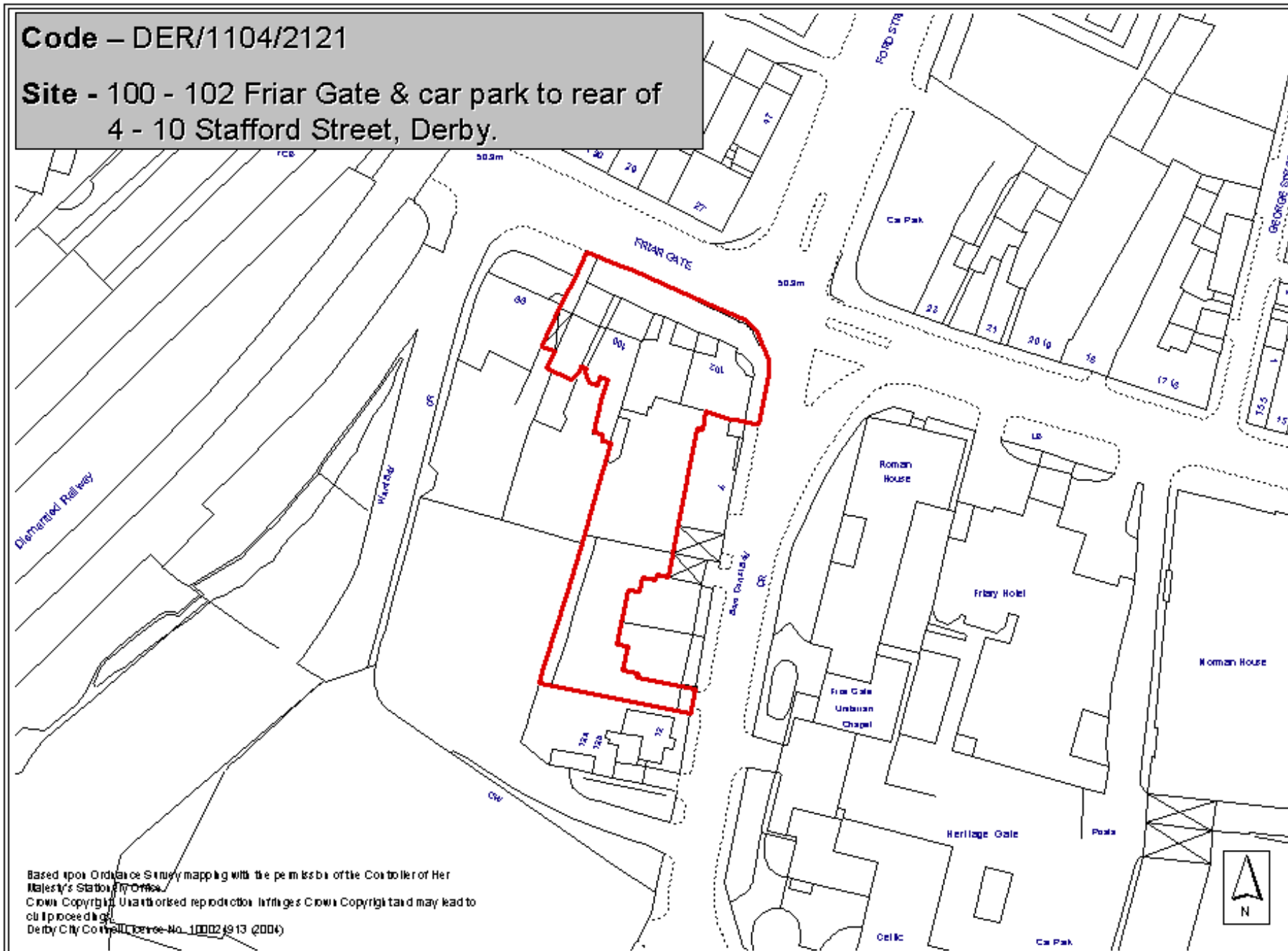
6. Standard Condition 49 (sound insulation) (.substitute 'residential' for 'office')
7. Before the development is brought into use details of the proposed servicing arrangements for the premises shall be submitted to and agreed in writing by the Local Planning Authority. Such details shall provide for servicing clear of the public highway and those areas agreed for servicing provision shall be kept clear for that approved use at all times.
8. The recommendations of the Flood Risk Assessment shall be pursued in their entirety.
9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended)(or any Order revoking and re-enacting that Order) the premises shall be used as a licenced restaurant only and for no other purpose inferred by the above Order.
10. The existing vehicular access shall be returned to footway specification in accordance with a scheme to be agreed with the Highway Authority. The agreed scheme shall be implemented in its entirety within six months of the development, hereby approved, being commenced.

### **11.4   Reasons**

1. Standard reason E04
2. Standard reason E14....policy E31
3. Standard reason E18....policies E24 and E31
4. Standard reason E21....policies T22 and E24
5. Standard reason E25....policies S20, E24, E27, E28 and E31
6. Standard reason E27....policy S20
7. Standard reason E19....policy T22
8. In accordance with the terms of the application and to mitigate the Flood Risk effects of the development...policy E20.
9. In order to prevent an otherwise permitted change of use to A1 retail shop use which would be contrary to the City Council's shopping policies.
10. To minimise danger for pedestrians, in the interest of traffic safety....policy S20.

**Code** – DER/1104/2121

**Site** - 100 - 102 Friar Gate & car park to rear of  
4 - 10 Stafford Street, Derby.



## **B1    APPLICATIONS    (cont'd)**

**4    Code No:** DER/1204/2319

**Type:** Full

1.    **Address:** 25 South Street
2.    **Proposal:** Conversion from single dwelling into two apartments, (including bedroom and bathroom extension) and erection of two apartments.
3.    **Description:** Planning permission is sought to erect a side and rear extension to this existing semi-detached dwelling to create two self-contained apartments with basement garages and utility rooms. Planning permission is also sought to convert the existing semi-detached dwelling house into two self-contained apartments.

The site is located on South Street adjacent to the junction with Ponsonby Terrace. The existing dwellings on this south-west side of South Street are elevated above street level. The design of the existing dwellings includes conventional pitched roofs with flat-fronted elevations incorporating front, ground level, bay windows.

The application to extend the building is required as the proposed footprint of the extension is marginally greater than the two storey extension that was granted planning permission last year, under code no. DER/304/499. That application was reported through the Chair's delegation procedure and it was determined under my delegated powers. The proposed front elevation of the extension would be flush with the front elevation of no. 25 and it would have a front elevation breadth of approximately 6.3m. This current application also includes a rear two storey extension to no. 25 and that part of the scheme includes an angled footprint, nearest to the side boundary with no. 26, to accommodate the Council's 45° guideline. The proposed rear extension would have a pitched roof that would be at 90° to the existing roof ridge.

4.    **Relevant Planning History:** The relevant site history is as follows:

DER/304/499 – Demolition of single storey outbuildings and erection of two apartments – permission granted with conditions 5 July 2004.

DER/803/1525 – Extensions to dwelling house (kitchen, utility room, conservatory and two bedrooms) – permission granted with conditions 24 September 2003.

5.    **Implications of Proposal:**

- 5.1    **Economic:** -

## B1 APPLICATIONS (cont'd)

### 4 Code No: DER/1204/2319

**5.2 Design and Community Safety:** I raise no overriding objections to the scale and design of the proposed extension. I have requested small changes to the design of the proposed front elevation windows to improve the overall appearance of the proposal in street-scene terms. I expect an amended drawing to be submitted before the meeting.

**5.3 Highways:** I raise no objections to the proposed development in highways terms subject to the inclusion of a site layout amendment to provide greater vehicle reversing space. I expect an amended plan to be submitted before the meeting.

**5.4 Disabled People's Access:** The application includes the provision of external stairs to serve ambulant disabled people adjacent to the side elevation of the proposed extension.

**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:** A single letter of objection has been received from the resident of no. 26 South Street and is reproduced. Concerns are expressed about the potential detrimental impact of the development in noise, disturbance and traffic generation terms. Concerns are also expressed about the siting of the proposed extension and its impact on their privacy. The application has been reported to the Ward Members and Chair through the delegation procedure and Councillor Gerrard has objected to the proposal on highways grounds. The Chair and Councillor Baxter have raised no objections to the application.

**8. Consultations:** -

### 9. Summary of policies most relevant:

H22 - Conversions and changes of use  
H27 - House extensions  
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.*

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

### **4 Code No: DER/1204/2319**

- 10. Officer Opinion:** The principle of this style of development, together with the acceptability of the proposed siting, mass and scale of the proposed extension has been established by the last planning permission, under code no. DER/304/499. This application includes a slightly larger extension beyond the existing rear elevation, by approximately 0.4m from the extant permission, and the breadth would be increased by approximately 2.5m across the rear elevation of no. 25.

I raise no objections to the proposed sub-division of no. 25 in this wholly residential area. I consider that the proposed sub-division would not be unduly detrimental to surrounding residential amenities with regard to general activity and increased pedestrian and traffic movements to the site.

From my calculations, the siting of the enlarged rear extension would accord with the Council's 45° guideline that is used to gauge the acceptable depth of rear first floor and two storey extensions at dwellings. I would, however, recommend that a condition be attached to any permission restricting the future installation of side facing windows at first floor level, principally to prevent overlooking into no. 26. Adjustments to the proposed front elevation design and layout of the proposed on-site car parking are required and I have sought those amendments from the agent.

I have fully considered the comments raised by the objector in this case. I am, however, satisfied that the proposed development is an acceptable form of development in this residential context and consider that permission could not be reasonably refused.

### **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 adopted City of Derby Local Plan and all other material considerations as indicated in 9 above. The proposed conversion and extension is considered to be an acceptable form of development in siting, design, street-scene and residential amenity terms in this location.

#### **11.3 Conditions**

1. Standard condition 27 (external materials)
2. Standard condition 30 (hard surfacing)
3. Standard condition 83 (amended drawing No. )

**B1    APPLICATIONS    (cont'd)**

**4    Code No:    DER/1204/2319**

4. No windows shall be installed at first floor level in the side elevations of the proposed extension, unless otherwise agreed in writing by the Local Planning Authority.

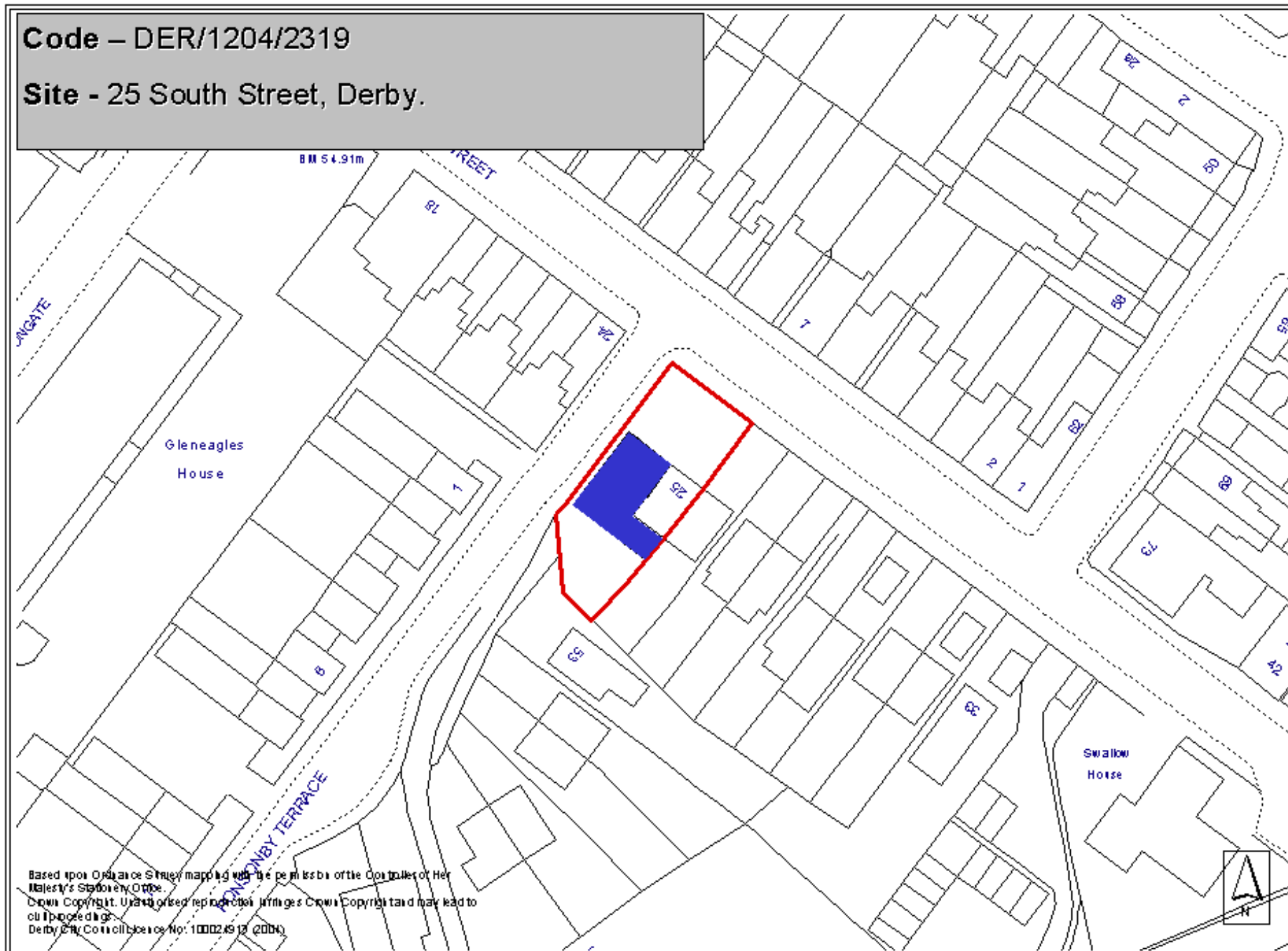
**11.4    Reasons**

1. Standard reason E14 and in accordance with policy H27
2. Standard reason E14
3. Standard reason E04
4. Standard reason E14 and in accordance with policy H27

**11.5    S106 requirements where appropriate: -**

**Code – DER/1204/2319**

**Site - 25 South Street, Derby.**



## **B1    APPLICATIONS    (cont'd)**

**5    Code No:** DER/105/56

**Type:** Outline

1.    **Address:**    14A – 16 West Avenue
2.    **Proposal:** Residential development
3.    **Description:** This outline application, with all matters reserved, seeks permission for residential development on a site on the south side of West Avenue. At present the site is occupied by a photographic studio and associated offices. The surroundings are predominantly residential in character, consisting mainly of terraced two-storey dwelling houses. Similar uses exist to the rear of the site in Kedleston Street. The application is purely in outline at this stage, with no details submitted of the proposed form of development or form of access from West Avenue itself.

The quite intensive nature of the surrounding residential area is reflected in the high levels of on-street parking on West Avenue and Kedleston Street. The application site is close to regular bus services along Kedleston Road and Duffield Road. West Avenue is a one-way street, east to west. The buildings that would be demolished, apart from No. 16 West Avenue itself, are single storey in character.

4.    **Relevant Planning History:** None relevant.
5.    **Implications of Proposal:** -
  - 5.1    **Economic:** -
  - 5.2    **Design and Community Safety:** These would be resolved at reserved matters stage.
  - 5.3    **Highways:** Concern is expressed over the current on-street parking situation in West Avenue and Kedleston Street. I would wish to see adequate on-site parking provision contained within the reserved matters details. The applicant has been advised that submitted details will need to cater for residents' parking and a reasonable degree of visitor parking.
  - 5.4    **Disabled People's Access:** At reserved matters stage, the proposed dwellings will be accessible under the Building Regulations.
  - 5.5    **Other Environmental:** -



## B1 APPLICATIONS (cont'd)

5 Code No: DER/105/56

### 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 seven letters of objection, and  
... these have been deposited in the Members Rooms. The main points raised by the objectors are:

- current major parking problems on West Avenue
- streetscene implications
- impact on properties to rear in Kedleston Street
- loss of privacy to nearby properties
- properties will decline in value

... A letter from the applicant's agent is also reproduced.

### 8. Consultations:

DCorpS (Health) – no objections in principle.

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

- H22 - Residential development on unallocated land  
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.*

9. Officer Opinion: The application site lies in a predominantly residential locality consisting of two storey dwelling houses. The relevant policy guidance is contained in policy H22, which allows for residential development on unallocated land subject to certain criteria. I am satisfied that this is an acceptable location for a small infill site for residential purposes, and that the requirements of policy H22 can be reasonably met, subject to an acceptable design being submitted at reserved matters stage. I would wish to make the applicants aware of some initial requirements for a reserved matters submission that have arisen from discussion of the issues involved at this stage.

I would wish to see buildings of no greater height than two storeys, and particular regard given to the appearance in the streetscene in relation to the existing properties in West Avenue and to those to the south in

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

### **5 Code No: DER/105/56**

Kedleston Street. These latter properties are also at a lower ground level. Similarly, in view of the particularly difficult parking situation in West Avenue, parking will be needed for both residents and visitors within the curtilage of the site. It is not indicated at this stage as to the retention of No. 16 West Street, or its demolition but, again, that would be resolved at reserved matters stage.

I see no reason at this stage to withhold outline permission, but most of the objectors' concerns do relate to the finished built form rather than the principle of a residential use on the site. In my view, a residential use is preferable on this site to a commercial one, but the design of the reserved matters submission will require careful treatment in order to be accommodated on this site.

#### **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 adopted City of Derby Local Plan and all other material considerations as indicated in 9 above. The proposed use of the site for residential purposes is acceptable in principle and represents development of a brownfield site in accordance with Central Government guidance.

##### **11.3 Conditions**

1. Standard condition 01 (outline)
2. Standard condition 02 (time limit)
3. The reserved matters details shall include the provision of car parking for both residents and visitors, at a level to be agreed with the Local Planning Authority.
4. This permission shall be for no more than nine dwellings.

##### **11.4 Reasons**

1. Standard reason E01 and in accordance with policy H22
2. Standard reason E02
3. In order to preserve the amenities of nearby residents, in the context of the high demand for on-street car parking in West Avenue and Kedleston Street and in accordance with policy T22.

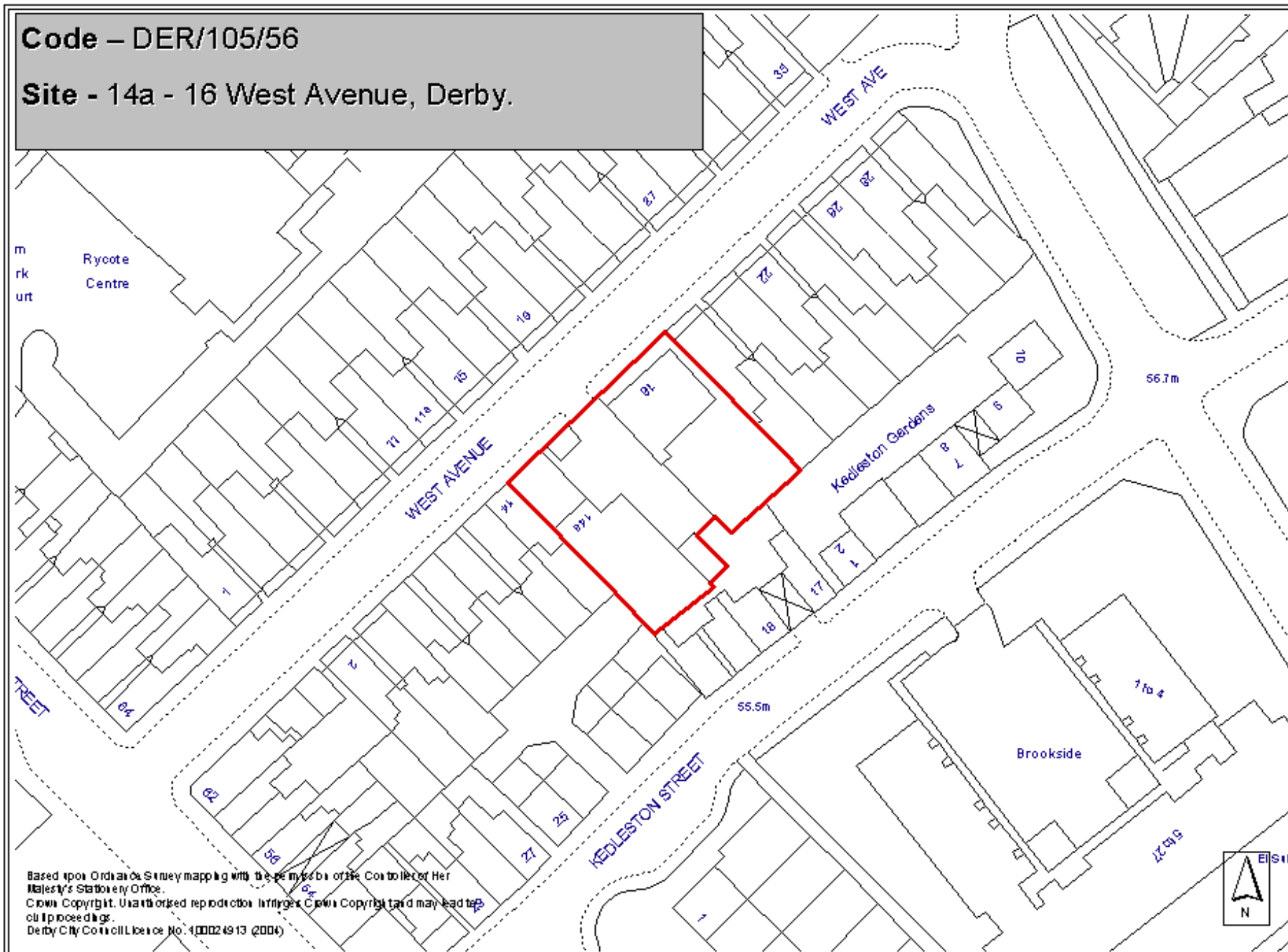
**B1    APPLICATIONS    (cont'd)**

**5    Code No:    DER/105/56**

4. This restriction does not imply the approval to any specific number, but beyond nine the development would need to make provision for facilities such as open space, mobility and affordable housing, transport and education, all in accordance with the policies of the Adopted City of Derby Local Plan.

**Code – DER/105/56**

**Site - 14a - 16 West Avenue, Derby.**



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

6 **Code No:** DER/1104/2223

**Type:** Listed Building Consent

1. **Address:** No 100 and east wing of 99 Friar Gate
2. **Proposal:** Change of use of ground floor and basement to licenced restaurant including disabled access and erection of gate and railings and change of use to second floor to create one apartment.
3. **Description:** Listed building consent is sought as part of the comprehensive development of the group of buildings on the corner of Friar Gate and Stafford Street. The change of use of the ground floor and basement of 99-102 Friar Gate to a licenced restaurant is considered elsewhere in this agenda. This application is in respect of the changes to the parts of the buildings that are statutorily listed.

The buildings are listed in the following respects; part of 99 is Grade II\*, No. 100 is Grade II (with a locally listed building at 101-102 next door). The proposal involves the change of use of the ground floor and basement of 102, 100 and 99 Friar Gate to a licenced restaurant including function room, bottle and barrel store.

The proposed use horizontally crosscuts the listed and non-listed buildings, instead of confining the use/function to one actual building, in the following manner:

### Ground Floor

- an internal door adjacent to the hall is to be removed
- an opening is to be formed through an internal wall to allow access through to 100 Friar Gate where an existing room is to be subdivided with partition walls to create new toilets.

### First and Second Floor

- partitioning off of a staircase.

The site is located within the Friar Gate Conservation Area.

4. **Relevant Planning History:** DER/399/298 Listed Building Consent alterations in connection with change of use from student accommodation to offices 100 Friar Gate – granted conditionally.

DER/604/1149 Change of use of ground floor and basement to bar/restaurant, including removal of part of the chimney stack on ground and second floor, partitioning off existing staircase on second floor, blocking up opening and creating opening between 100 and 102

## **B1    APPLICATIONS    (cont'd)**

### **6    Code No:    DER/1104/2223**

and alterations to second floor of building to create two apartments – refused for the following reason:

“The proposed alterations would be detrimental to the character and appearance of the listed building and would, therefore, fail to preserve its character contrary to policy E26 of the adopted City of Derby Local Plan, to the objectives of the Planning (Listed Building and Conservation Areas) Act 1990, and to the guidance of PPG15 (Planning and the Historic Environment).”

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

#### **5.1    Economic:    -**

**5.2    Design and Community Safety:** There are concerns about the proposed use cross-cutting horizontally a number of listed and non-listed buildings instead of confining the use/function to individual buildings vertically. With this change of use there is likely to be a range of items/clutter that will be needed in association with this use, for example, signage, fire protection measures, sound insulation, flues. All these items could have a detrimental impact on the conservation area and the applicant will need to look sensitively at these issues for any use of the building. With regard to the proposed works itemised above I have the following observations:

#### **Ground Floor**

- If the internal door adjacent to the hall that is to be removed is a historic door then it should remain in situ as there is no justification for its removal.
- The opening through an internal wall to allow access through to 100 Friar Gate is unfortunate but I understand that it is necessary to allow the basement kitchens direct access to the first floor kitchen store and toilet.

#### **First and Second Floor**

- Partitioning off of a staircase is regrettable but at the very least should be undertaken in a reversible way with plasterboard.

#### **5.3    Highways:    -**

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

**B1 APPLICATIONS (cont'd)**

**6 Code No:** DER/1104/2223

**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 one letter of objection, which is reproduced, concerned about the effect of car-based traffic on air quality.

**8. Consultations:**

CAAC – has no objections, subject to appropriate conditions relating to details, particularly of the railings. The Committee regretted the level of the internal demolition at no. 100 (Grade II) and nos. 101/102 (locally listed).

EH – do not wish to make any representations, recommending that the case should be determined in accordance with government guidance, development plan policies and with the benefit of conservation advice locally.

Council for British Archaeology – are pleased to see the changes that have been made that include the retention of all chimneys and flues, and the staircases retained, and find the application improved and less damaging.

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

E24 – Conservation Areas  
E26 – Protection of Listed Buildings  
E31 – Design

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

**10. Officer Opinion:** This application builds upon the earlier refusal and has followed considerable officer time in meetings. The previous concern was the insensitive impact on the character and appearance of the listed buildings.

## **B1    APPLICATIONS    (cont'd)**

### **6    Code No:    DER/1104/2223**

The application also contains alterations to the fabric of the building. Policies E24 and E26 apply. Nos. 99 and 100 Friar Gate are both listed buildings and overall I now do not have concerns about the internal alterations proposed in 100 Friar Gate that are proposed in relation to this change of use.

The application for planning permission for a change of use of ground floor and basement to restaurant is reported elsewhere on this agenda and if that is approved then I consider that the improvements made to this scheme are sufficient to overcome the previous objection. Those previous elements that have been removed are the introduction of the glazed roof to the external void fronting Friar Gate, the raised paved area together with the many insensitive internal alterations to the Listed Building.

In view of these alterations to the scheme I would recommend Listed Building Consent be granted.

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

#### **11.1    To grant listed building consent with conditions.**

**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 at 9. above. The proposal is acceptable in terms of its impact on the character and appearance of the Listed Buildings and Conservation Area generally.

#### **11.3    Conditions**

1. No work shall begin until drawings, at an appropriate scale, to indicate fully the detailed design and materials specification of all alterations to the listed building, have been submitted to and approved in writing by the Local Planning Authority.
2. The development shall not be brought into use until the details of the proposed railings have been submitted to and approved in writing by the Local Planning Authority. Such approved details shall be implemented in their entirety before the use commences.
3. Standard condition 47 (details of fume extraction)
4. Before the development commences, precise details of the materials used to partition off the staircase shall be submitted to and approved in writing by the Local Planning Authority.



**B1    APPLICATIONS    (cont'd)**

**6    Code No:    DER/1104/2223**

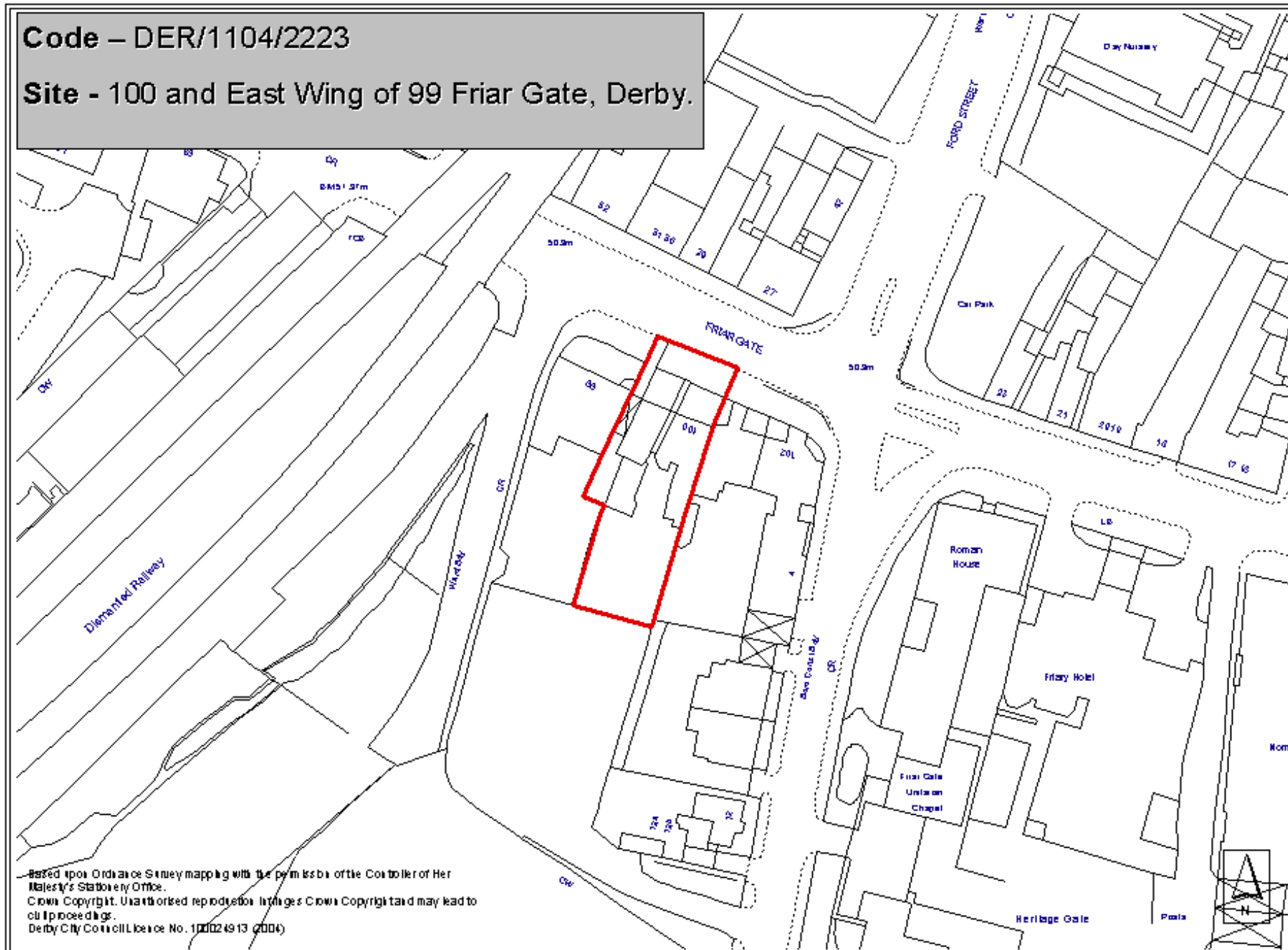
5. No work shall begin until detailed drawings of any fire protection measures have been submitted to and approved in writing by the Local Planning Authority.

**11.4    Reasons**

1. In the interests of visual amenity and to safeguard the appearance of the listed building....policies E26 and E31
2. Standard reason E18....policies E24 and E31
3. Standard reason E25....policies E24, E26 and E31
4. Standard reason E40....policies E26
5. In the interests of visual and environmental amenity and to safeguard the appearance of the listed building....policy E26

**Code – DER/1104/2223**

**Site - 100 and East Wing of 99 Friar Gate, Derby.**



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## **B1    APPLICATIONS    (cont'd)**

**7    Code No:** DER/1104/2130

**Type:** Listed Building Consent

1.    **Address:**    Part of 99 Friar Gate
2.    **Proposal:**    Construction of fire resistant partition to rear of two ground floor doors in connection with change of use of ground floor to licenced restaurant.
3.    **Description:**    No. 100 Friar Gate is a Grade II listed building with an adjoining wing that is attached to 99 Friar Gate and referred to in the official list as Grade II; it must therefore be treated as Grade II.

Listed building consent is sought for the construction of fire resistant protection to the rear of two doors on the ground floor at 100 Friar Gate. The internal doors and frames are to be retained but covered over with fire-resistant protection to provide a secure means of escape for the first floor offices.

4.    **Relevant Planning History:**

DER/99/298 and 99/297 – Change of use from student accommodation to offices – granted June 1999 (100 Friar Gate).

DER/74/909 – Change of use from living accommodation and dentists surgery to offices – granted December 1974 (100 Friar Gate).

DER/604/1167 – (same proposal as this) refused:

“There is no justification for the proposal in isolation, and in the absence of an approved scheme for the redevelopment of the premises for a bar/restaurant use it would be premature to approve a proposal which would unnecessarily add development to this Grade II\* listed building. Accordingly the proposal would be contrary to policies E26 and E28 of the adopted City of Derby Local Plan.”

5.    **Implications of Proposal:**

- 5.1    **Economic:** I have no objections to the proposal on economic grounds.
- 5.2    **Design and Community Safety:** I have no design or community safety objections to raise. The proposal involves the retention of the door and frames; and actual method of construction should be in a reversible way, for example plaster board.
- 5.3    **Highways:** -
- 5.4    **Disabled People's Access:** -

**B1 APPLICATIONS (cont'd)**

**7 Code No:** DER/1104/2130

**5.5 Other Environmental:** No objections to this scheme in isolation **but** it must be viewed in relation to the overall scheme.

**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 – has no objections, subject to appropriate conditions relating to details.

English Heritage – any comments will be reported orally.

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

E26 – Protection of Listed Buildings

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:** This proposal is necessary to ensure a safe route to/from the first floor offices. The works are cosmetic, requiring Listed Building Consent, but retain the existing doors and frames. I have no objections to raise to this proposal. For Members' information there are two other points of access to the first floor offices. We could approve this in isolation **but** should look at it in the round in relation to the applications for the licenced restaurant. If the latter are approved then this application should also be approved.

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

**11.1 A. To refer** the application Code DER/1104/2130 to the Secretary of State as it includes works to the interior of a Grade II\* listed building with a letter of support from the Council.

**B1    APPLICATIONS    (cont'd)**

**7    Code No:    DER/1104/2130**

**B.**        Subject to confirmation that the above works are acceptable to the Secretary of State, **to grant** listed building consent with a condition.

**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 materials considerations as indicated at 9 above. The proposal is acceptable in terms of its impact on the character and appearance of the Listed Buildings.

**11.3    Condition**

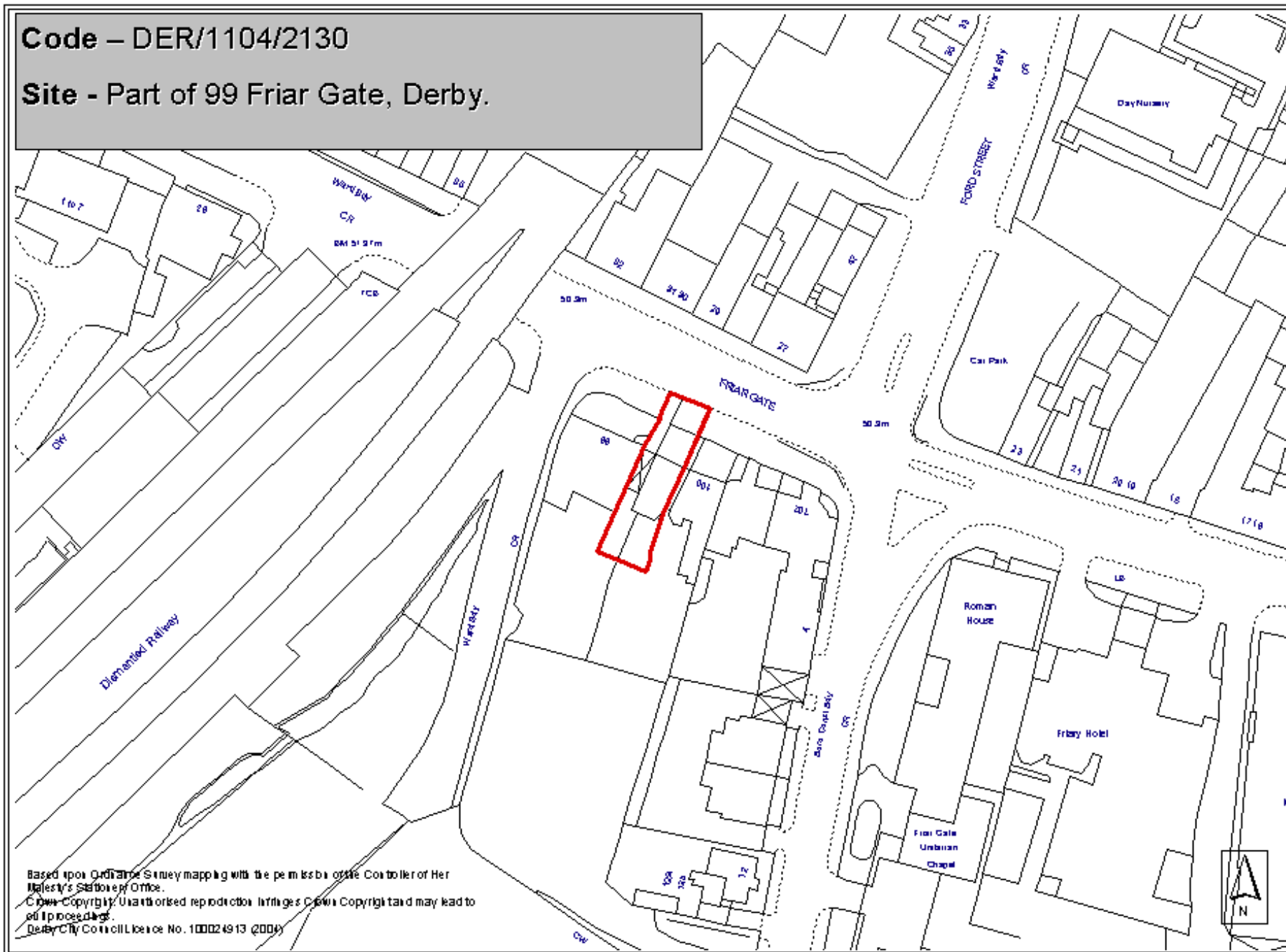
Before the development commences, precise details of the materials to be used to construct the fire resistant partition to the rear of the two ground floor doors shall be submitted to and agreed in writing by the Local Planning Authority.

**11.4    Reason**

Standard reason E40....policy E26

**Code – DER/1104/2130**

**Site - Part of 99 Friar Gate, Derby.**



## **B1    APPLICATIONS    (cont'd)**

**8    Code No:** DER/1204/2402

**Type:** Full

1.    **Address:**    The former Blue Wave Jeans, Princes Street
2.    **Proposal:**    Change of use from industrial building to a place of worship
3.    **Description:**    Planning permission is sought for the change of use from a factory to Sikh Temple for a premises fronting onto Princes Street.

The application premises was built as an industrial unit following the grant of planning permission in 1992, for an extensive redevelopment of a wider site for industrial purposes. The Blue Wave site was given consent for general industrial purposes within class B2 of the Use Classes Order. The other parts of that redevelopment have not been built and it now seems unlikely that they ever will. The remaining parts of that site are shown by the applicants as being within their area of control.

The building and associated land are currently not owned by the applicants but I understand that they have an option to buy it should this planning application be approved.

The Blue Wave factory is currently under-utilised and with few workers. It has two storeys; each measuring about 1,100 sq metres floor area. The ground floor is part-occupied by a clothing manufacturing company dealing in Rams football wear. The first floor is occupied by a separate clothing manufacturer but, when inspected, there was only a handful of workers. It is proposed to change the use of the whole of the premises from industrial use to a Sikh Gurdwara Temple. However, if permission were to be granted, the part of the ground floor used by the Rams clothing manufacturer would possibly remain in that use temporarily.

The associated land to the north is currently occupied by a number of old and worn out industrial buildings, including a massive former steel construction works and a number of other smaller industrial uses. The smaller units remain in industrial uses. A large area of land is currently occupied by mainly derelict cars that seem to be associated with one of the industrial units nearby.

To the immediate west the area becomes residential in nature, with houses that surround Pear Tree Crescent and backing onto the site, the nearest of which is about 8 metres from the application site. To the south and east are industrial buildings, including S&A Foods and Smartwear, a further clothing manufacturer.

## **B1    APPLICATIONS    (cont'd)**

### **8    Code No:    DER/1204/2402**

Seventy metres to the north is the Sherwin indoor football centre that is at times used as a venue for parties and celebrations and 100 metres to the north is the Pakinstani Community Centre on Harrington Street, also used for community gatherings. To the west are a number of dwellings on Coronation Street, surrounded by neighbouring industrial uses.

The ground floor of the proposed temple would contain kitchens and a dining area, the preparation and consumption of food being an integral part of the Sikh ceremonial. The first floor would be used as the main religious service and worship area, including staff offices and living accommodation for one live-in member of the staff. An existing internal lift would facilitate disabled access to the first floor.

The attending congregation of the temple is said to be about 80 people.

Parking spaces for 34 cars would be available at the front of the building, with an area for loading and unloading of 12m x 5m.

... The temple would be used for all services associated with the Sikh faith including weddings. The applicants have submitted a letter ( a copy of which is reproduced) stating that their particular group, being small in numbers , only has weddings which are small occasions averaging 140 or so guests, 70 or so of which would travel in from the groom's side. Furthermore, the main celebrations following weddings would not be held within the Gurdwara, which does not permit entertainment or alcohol within the place of worship, but would use a nearby wedding centre already in existence.

#### **4.    Relevant Planning History:**

DER/692/ 683 - Erection of 13 industrial units and a crèche.

DER/494/449 - Erection of an industrial unit.

DER/302/411 -Use of first floor as a wedding centre. Refused for the following reasons:

"The proposal would be likely to result in an unacceptable loss of amenity for nearby residents by virtue of additional vehicular and pedestrian traffic, noise and general disturbance during the evening, when occupiers of nearby residential properties would reasonably expect to benefit from the peaceful enjoyment of their homes. The proposal would, therefore, be contrary to Policy C1 of the adopted City of Derby Local Plan."



## B1 APPLICATIONS (cont'd)

### 8 Code No: DER/1204/2402

DER/1003/1981 - Residential development for 10 flats, 8 houses, 12 Live work units and B1 Studio/Offices - withdrawn.

DER/205/1151- Residential development for 10 flats, 8 houses, 12 Live work units and B1 Studio/Offices - still pending.

### 5. Implications of Proposal:

**5.1 Economic:** The proposal would remove the potential of employment uses from this site.

**5.2 Design and Community Safety:** No operational development is proposed as part of this proposal although, if adjoining land were to be required for car parking, this could result in the removal of a number of worn-out and semi-derelict buildings which could be laid out to car parking and landscaped

**5.3 Highways:** No objection in principle, but more details are required on the frequency of weddings and how parking will be managed, especially visiting coaches with guests: the application plan does not show parking provision for coaches.  
I think therefore we need the applicant to submit a Travel Plan before the application is determined to ensure we are satisfied with parking levels. I hope to receive one before Committee.

**5.4 Disabled People's Access:** There is a lift in the building which should assist with disabled access.

### 5.5 Other Environmental:

**6. Publicity:** Neighbour notification and site notice.

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

**7. Representations:** Two petitions have been submitted, one objecting ... to the proposal, the other supporting it. They are reproduced.

The petition objecting to the proposal contains 33 signatures. It refers to the proposal as a Sikh Temple and Wedding facility, although the application form simply requests a change of use to a place of worship. I will discuss this point in "Officer Opinion."

## **B1    APPLICATIONS    (cont'd)**

### **8    Code No:    DER/1204/2402**

In summary, the objections are to noise, traffic generation and parking problems, particularly if the nearby Pakistani Centre, the Kohinoor Banqueting Suite, and the proposed temple all hold major celebration events at the same time.

The petition draws attention to the other nearby traffic generators.

The petition in support was sent in via the applicants, and contained 5 signatures from nearby residents

### **8.    Consultations:**

DCorpS (Pollution Control) - there are no objections in principle to this application, but the close proximity of residential dwellings in Pear Tree Street means there is potential for noise nuisance. Likely sources of noise are from people entering and leaving the premises and /or congregating outside the building; noise transmission through window openings and noise transmission through the roof structure. This potential for noise transmission could be dealt with through various remedial measures that could be required by planning condition.

Police - raise no objections in principle to the proposal but highlight concerns over potential traffic generation or highway congestion depending on the numbers of cars likely to be visiting the site.

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

EMP24        -    Alternative uses of business and industry areas.

C1             -    Community facilities

T17            -    Access for disabled people.

T22            -    Parking standards.

H26            -    Conversions and changes of use.

The site is not allocated for any particular use in the CDLP.

EMP24        -    allows for alternative uses on existing business and industrial sites, provided that the proposal would not have an adverse effect on existing or future industrial uses.

**B1    APPLICATIONS    (cont'd)**

**8    Code No:    DER/1204/2402**

Policy C1 - requires that proposals for new community facilities, including places of worship, meet a number of criteria; these are that the proposal:

- a. would not have an adverse effect on the amenity of adjoining properties and the surrounding area
- b. allows for adequate access and servicing facilities and does not create unacceptable traffic problems
- c. takes proper account, in design terms, of the character of its location and makes adequate provision for access for disabled people
- d. is well related to the population it is intended to serve.

There are no policy objections to the proposal.

*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:** It is unfortunate that the scheme approved in 1992 for erection of 13 industrial units was never fully implemented to improve the visual appearance of the locality and generate the jobs that were hoped for at that time. The current owner advises, however, that the business occupying the Blue Wave factory, which was the only part of that scheme implemented, is itself struggling to survive with only a skeleton workforce and he has been unable to find anyone interested in taking the factory over for industrial purposes.

The proposal is to use the premises to relocate an existing religious community who currently occupy a building as a temple at 30-34 Pear Tree Street. Longer serving Committee Members may remember granting planning permission for the conversion of a former factory in Pear Tree Street to a Sikh Temple in September 2001. That temple has now been in use for about 3 ½ years. The existing congregation number 80 or so attending members.

The current proposal is for a place of worship, for Sri Guru Singh Sabha Gudwara but the agent's letter in support of the application refers to:

" weddings, wedding meals always taking place on the ground floor of the temple, and that the only noises would be from motor vehicles and crowds congregating outside after a wedding." He also says that Sikh

**B1    APPLICATIONS    (cont'd)**

**8    Code No:    DER/1204/2402**

(religious) services are quiet, mainly prayer, book reading and meditation."

Many people have however construed these comments to mean that the premises will have frequent wedding ceremonies. Sikh weddings can be quite grand occasions with large numbers of guests, numbering into the hundreds. It is principally this element of the use that is generating concern over this proposal because of the potential for the use to generate large amounts of traffic, with the attendant parking and highway congestion and noise generated by large numbers of cars entering via some residential streets and disturbing residents. The noise of people entering and leaving the building and standing in the car parking area at the front of the building, particularly after special celebrations, is also a reason for objections being raised. However, I must emphasise that the application is not for a wedding centre but for a temple where the major use will be unlikely to generate significant amounts of noise or traffic.

There is an understandable degree of concern about the proposal from some local residents in view of the number of noise and traffic generating uses that already exist in quite close proximity to their homes; the proposal is seen as simply adding to this. These include the S&A foods factory, the Sherwin Club, the Kohinoor Banqueting Suite and the Pakistani Community Centre. The Shaftesbury Street Industrial Estate is also nearby and is accessed by motor cars, through the surrounding residential streets, adding to the noise and traffic experience by nearby residents. In recognition of the disturbance that large commercial vehicles could have on the residential amenity of the area, the means of access to the Industrial Estate is already controlled by a physical width restriction between the residential area and industrial parts of Pear Tree Crescent. This should also prevent large coaches approaching from this direction through the residential area.

The cumulative impact that would result if all of the community-type uses were to have major events at the same time could, indeed, generate large amounts of traffic in this area that could impact on nearby residents. However, the residential area is in a transitional area between residential and industrial uses and there are bound to be some compromises made between residential amenity and industrial and commercial activity on the interface between the two.

I would point out that the Blue Wave Factory is in a general industrial Use Class (Class B2 of the Use Classes Order) and could potentially house any number of alternative industrial uses, far more damaging to residential amenity than the proposed use, without the need to apply for planning permission. Furthermore, with no restriction on working hours,

**B1    APPLICATIONS (cont'd)**

**8    Code No:   DER/1204/2402**

it could potentially operate 24 hours a day, 7 days a week. The effects on residential amenity resulting from the proposed place of worship have, therefore, to be compared with the potential harm to residential amenity that could possibly result if the factory stayed in general industrial uses. At present, in its underused condition, the factory does not generate any significant level of traffic or noise, but that could easily change.

We also have to bear in mind that the site is on one of the approaches to the Shaftsbury Street Industrial Park, including S&A foods, so works traffic will already be passing through the residential streets as people commute to and from home to their places of work. I do not consider that the day-to-day level of attendance at the temple should impact greatly on the amount of traffic already passing through the area. Compared to the location of other major religious establishments, for example in Rose Hill Street and on Stanhope Street, this proposal is likely to have far less impact on residents than either of these other two establishments.

I think that we have to look at how the temple at Pear Tree Street, which is currently occupied by the applicants, has been used over the last 2 or 3 years as this will be an honest test of the level of noise and disturbance and traffic generation that can be anticipated if the same congregation were to be allowed to move to the Blue Wave site.

I have obtained information from the Department's traffic engineers that no complaints have been received with regard to traffic generation or parking congestion over the period that the temple has been operated. I have also received information from the Director of Corporate Services that the last complaint we had was in January 2003, about the premises being used until 3.30am one weekend and causing noise and traffic problems. This turned out to be a 'one-off'. Otherwise, there are no other problems to report.

As the Pear Tree Street temple is only about 250 metres from the application site, it is reasonable to assume that the volumes of traffic and the directions of its approach to it, will be the same as those to its existing site. There is no reason to assume that the impact of the day-to-day temple-related traffic will be any greater than that already experienced. It is also pertinent to note that the existing temple is located in an almost wholly residential area with narrow streets and where all traffic has to pass unbroken terraces of houses, whereas the current proposal is in an industrial area on the periphery of a residential area. At least a proportion of the traffic will approach the proposal site along roads through mixed-use and industrial streets, reducing the

**B1    APPLICATIONS   (cont'd)**

**8    Code No:   DER/1204/2402**

number of dwellings directly affected by the traffic generated by the temple use.

I am awaiting further information from the applicants with regard to the operation of the temple to ascertain likely daily attendance levels, hours of operation, and the numbers of motor vehicles likely to be attending on a regular basis. I also anticipate information on the number of special services such as weddings that are likely to be held on an annual basis, to assess if they are likely to be significant.

CDLP Policy T22 regarding parking provision for D1 uses such as that applied for, suggests a minimum of one space for setting down and picking up of visitors, one car space for every two members of staff normally on duty and visitors spaces being calculated on individual assessment, the latter being usually in the order of one space for every three visitors. With an average attendance of 80 people this equates to 30 car parking spaces or thereabouts. There would be space for 33 parking spaces on the site, with an area reserved for loading and unloading. This should normally prove to be adequate, except when special celebrations would increase the numbers of visitors, or if the normal congregation were to grow.

The applicants have indicated that they would have control of the adjoining industrial land to the north of the application site that could be used for overspill parking when necessary. However, the applicants' future intentions for the adjoining land and industrial buildings is not clear and, until they are, I would have to advise that this land would probably continue to be required as the operational space for the industrial uses and, consequently, be unavailable for parking at present.

The applicants propose to allow a business use to continue to operate from the ground floor temporarily and I am seeking further details of this. This seems to be somewhat unusual but presumably with such a large building the applicants believe the two could continue to co-exist without interfering with each other; however, it would have implications for the level of parking provision required.

It is also intended that a temple official will live on the premises to supervise the building. I have no objections to such occupation provided it is strictly limited to a defined area within the building. However, in this case it may be necessary to require the applicants to apply separately for this use, which has not been declared as part of the current application.

## **B1    APPLICATIONS    (cont'd)**

### **8    Code No:    DER/1204/2402**

The comments raised by the Director of Corporate Services with regard to sound generation from activities both inside and outside the buildings, suggest that these may be controlled by remedial measures that can be required by condition on any planning permission that may be granted. Similarly, any cooking fumes that may be generated from the kitchen could be controlled by the installation of an extraction flue with suitable filtration to remove unpleasant smells. However, in view of the close proximity of the S&A factory, cooking smells are part of the normal background ambience in the locality.

In my opinion, the proposal operating with the relatively small numbers stated, as being the normal attending congregation, should not result in any significant loss of amenity to neighbouring residents. Members may, however, note the size of the building and adjoining land and extrapolate on the potential for them to accommodate a far larger number of people than the current congregation. If permission were to be granted for this proposal, it would be difficult to prevent the expansion of numbers of the congregation or even the possibility that a different and larger community may at some time in the future acquire the premises, with an inevitable increase in usage and the attendant traffic and noise generation. Even so, from the point of view of the impact on residential amenity, in my view, the locality is still significantly better than the places of worship located on Rose Hill Street and Stanhope Street. I believe that, subject to an acceptable travel plan being submitted to permit an assessment of the likely level of traffic generation and how this would be controlled, that planning permission should be granted.

#### **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 consideration as indicated at 9 above. The proposal is considered to be acceptable as it would not impact significantly on the amenities of nearby residential properties nor would it unreasonably restrict the operation of nearby industrial and commercial uses

##### **11.3    Conditions**

1. Vehicle parking and manoeuvring facilities shall be provided within the curtilage of the site in accordance with the Council's current standards before the development is brought into use.
2. The development shall not be taken into use until details of cycle and motor cycle parking provision for staff and visitors have been

## **B1    APPLICATIONS    (cont'd)**

### **8    Code No:    DER/1204/2402**

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 external shelter, this shall be the subject of a separate formal planning application.

3. 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 western boundary of the site with the neighbouring residential properties on Pear Tree Crescent. Such a wall shall be the subject of a separate formal planning application.
4. 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.
5. Development shall not start 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".
6. The use shall not commence until details of a fume extraction/ventilation system, with silencer and carbon filtration, have been submitted to and approved in writing by the Local Planning Authority and such equipment has been brought into use. The have shall not be operated unless the approved system is working satisfactorily. The details shall include the location and design of any external vent or flue.
7. Standard condition 17 (D1(h)).



## **B1    APPLICATIONS    (cont'd)**

### **8    Code No:    DER/1204/2402**

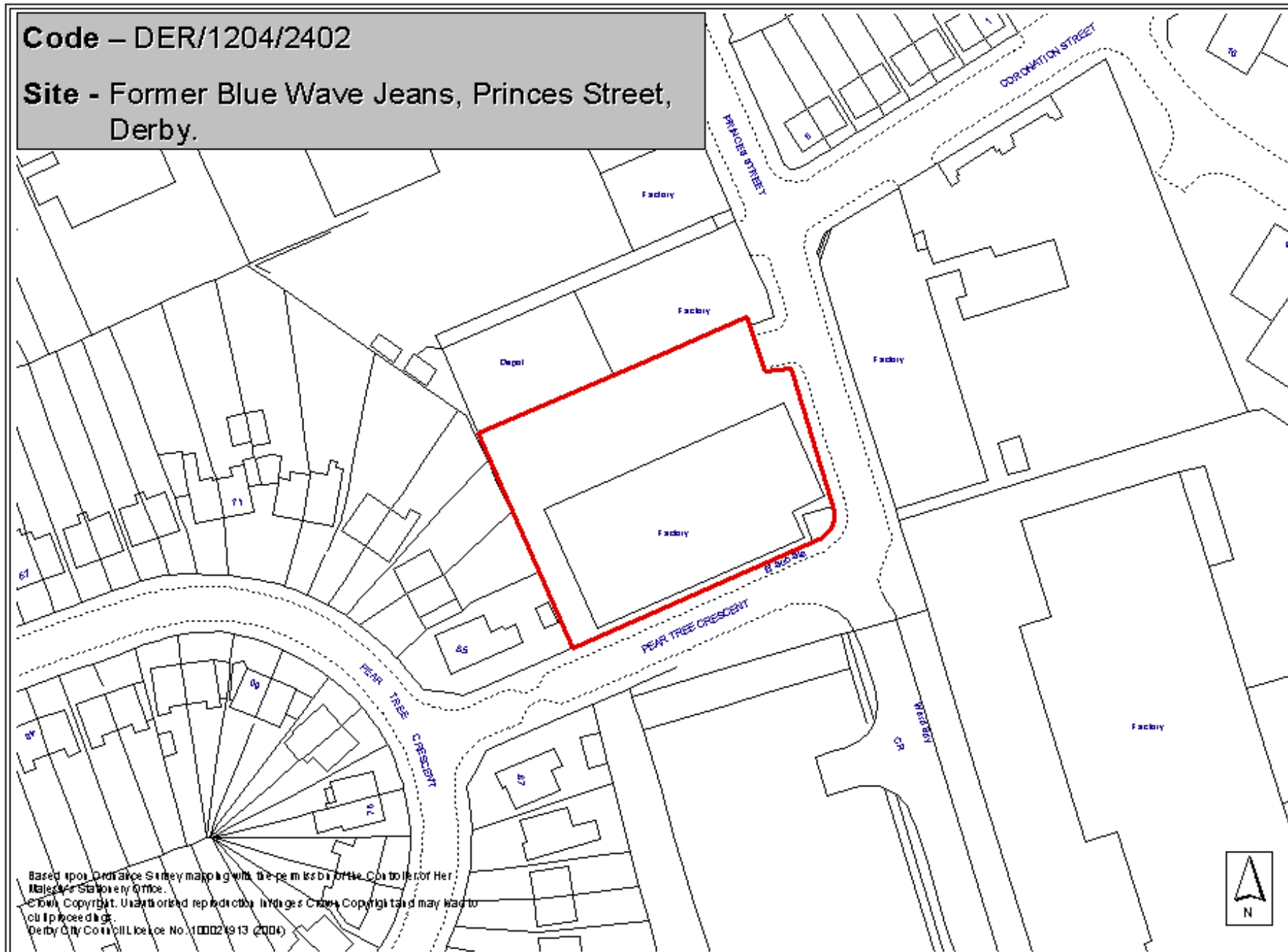
8. Within 12 months of the commencement of the use of the premises for religious purposes, the applicants shall carry out a study of the travel patterns of the congregation and other visitors to and from the premises, and develop a commuter plan and submit these details to the Local Planning Authority. The terms and extent of the study and plan shall be agreed in writing with the Local Planning Authority but shall generally include home locations (by district or post code) of members of the congregation, their current mode of travel, factors influencing this action taken or planned to be taken by the applicant to encourage car sharing and modes of transport other than the private car.
9. Before the use is commenced full details of any living accommodation to be incorporated within the proposal, shall be submitted to and approved in writing by the Local Planning Authority.

### **11.4    Reasons**

1. Standard reason E16.
2. Standard reason E35 - 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...policy C1 and T22.
3. Standard reason E28 - To protect the amenities of nearby residential properties...policy C1.
4. Standard reason E28 - To protect the amenities of nearby residential properties...policy C1.
5. To ensure that the building is accessible to disabled people...policy C1.
6. Standard reason E28 - To protect the amenities of nearby residential properties...policy C1.
7. Standard reason E28 – to protect the amenities of nearby residential properties...policy C1.
8. Standard reason E47.
9. To enable the Local Planning Authority to exercise control of the uses within the premises which are not generally considered appropriate for residential occupation...policy H26.

**Code** – DER/1204/2402

**Site** - Former Blue Wave Jeans, Princes Street,  
Derby.



## **B1    APPLICATIONS    (cont'd)**

**9    Code No:** DER/305/381

**Type:** TPO Consent

1.    **Address:**    Land at Highfields, Broadway
2.    **Proposal:**    Various pruning works to trees and felling of Norway Maple and Sycamore
3.    **Description:**    This is a revised application following refusal of the previous scheme for various works to protected trees on the Highfields development site at Broadway.    The current proposals for works to trees are more limited than before and only relate to the belt of trees along the southern boundary of the site and to an Ash tree adjacent to the emergency access route to the west of Catherine Macauley House.    This is a different Ash to that which formed the basis for refusal previously.

Some pruning works included in the previous application are to be undertaken under the approval of reserved matters, granted in November 2004.    This comprises those works required to implement the development and any trees which are dying, dead and dangerous which can also be removed without further consent.

The current proposals would involve the crown lifting to 5 metres and the cutting back of branches of trees along the southern boundary of the site.    In the same group, a Norway Maple and Sycamore would be felled and an Ash tree would have a large branch removed.    An Ash tree adjacent to the emergency access route would also be pruned to provide greater clearance over the proposed road.

**4.    Relevant Planning History:**

DER/1204/2409 – Felling of Ash, Sycamore and Deodar Cedar trees and various pruning of trees – refused February 2005.

DER/404/774 – Approval of reserved matters for erection of 155 dwellings – granted November 2004.

DER/799/814 – Outline application for residential development – granted August 2001.

**5.    Implications of Proposal:**

**5.1    Economic:** -

**5.2    Design and Community Safety:** -

**5.3    Highways:** -

**B1 APPLICATIONS (cont'd)**

**9 Code No:** DER/305/381

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

**5.5 Other Environmental:** The south east corner of the development site has a dense woodland canopy around Catherine Macauley House and a tree belt along the Broadway frontage. Most of these trees and woodland would be retained, although removal of a number was approved under the reserved matters application.

**6. Publicity:**

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

**7. Representations:** No representations have been received to date. Any letters will be reported at the meeting, though the publicity period will not have expired by then.

**8. Consultations:**

DCommS (Arboricultural) – to be reported.

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

**10. Officer Opinion:** This revised application for TPO Consent relates to a reduced group of trees on the eastern part of the development site, adjacent to Broadway. Following refusal of the previous scheme, and consultation with the Arboricultural Officer the applicant will be undertaking some works to trees under the approval of reserved matters, which are directly necessary to allow construction of the highways, dwellings, permanent boundary treatment and scaffolding. This includes pruning of trees to the front of the site and around Catherine Macauley House, which are required to construct the access road and erect boundary fencing around the site. Works can also be undertaken without consent to trees which are dead, dying or dangerous. The Cedar and Sycamore to be felled in the southern belt of trees are partially uprooted and unstable. They are considered by the Arboricultural Officer to fall into this category and, as such, can be felled without consent. The Ash tree which was to be felled under the previous application would be left alone whilst further investigation is carried out to assess the impact of the new access road and ways of implementing the footpath whilst still retaining the tree's good health

## B1 APPLICATIONS (cont'd)

### 9 Code No: DER/305/381

The works which are included in the current application are proposed, to provide greater but still reasonable clearance over access roads and new gardens. They would affect trees in the southern woodland belt and an Ash tree close to the emergency access route. The works proposed are considered to be minor in nature and they would not be detrimental to the overall quality and density of tree cover in the local area. The Maple and Sycamore which are proposed to be removed are on the southern boundary and appear to be in a poor condition; it is accepted there is arboricultural justification for the felling of these trees. Their removal is required to provide adequate clearance over the gardens of new dwellings and to minimise risk of partial collapse.

The woodland character and quality of the site would overall be maintained by the current proposals and the works are considered to be appropriate. They would enable a satisfactory relationship to be maintained between the trees and the new residential properties. It is, therefore, recommended that consent is granted.

The publicity period will not have expired by the time of the meeting and my recommendation is framed accordingly.

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

11.1 A. Subject to completion of the publicity period, **to authorise** the Assistant Director – Development **to grant** consent with conditions.

B. **To consult** the Chair and Vice Chair in the event of adverse representations being received.

### 11.2 **Conditions**

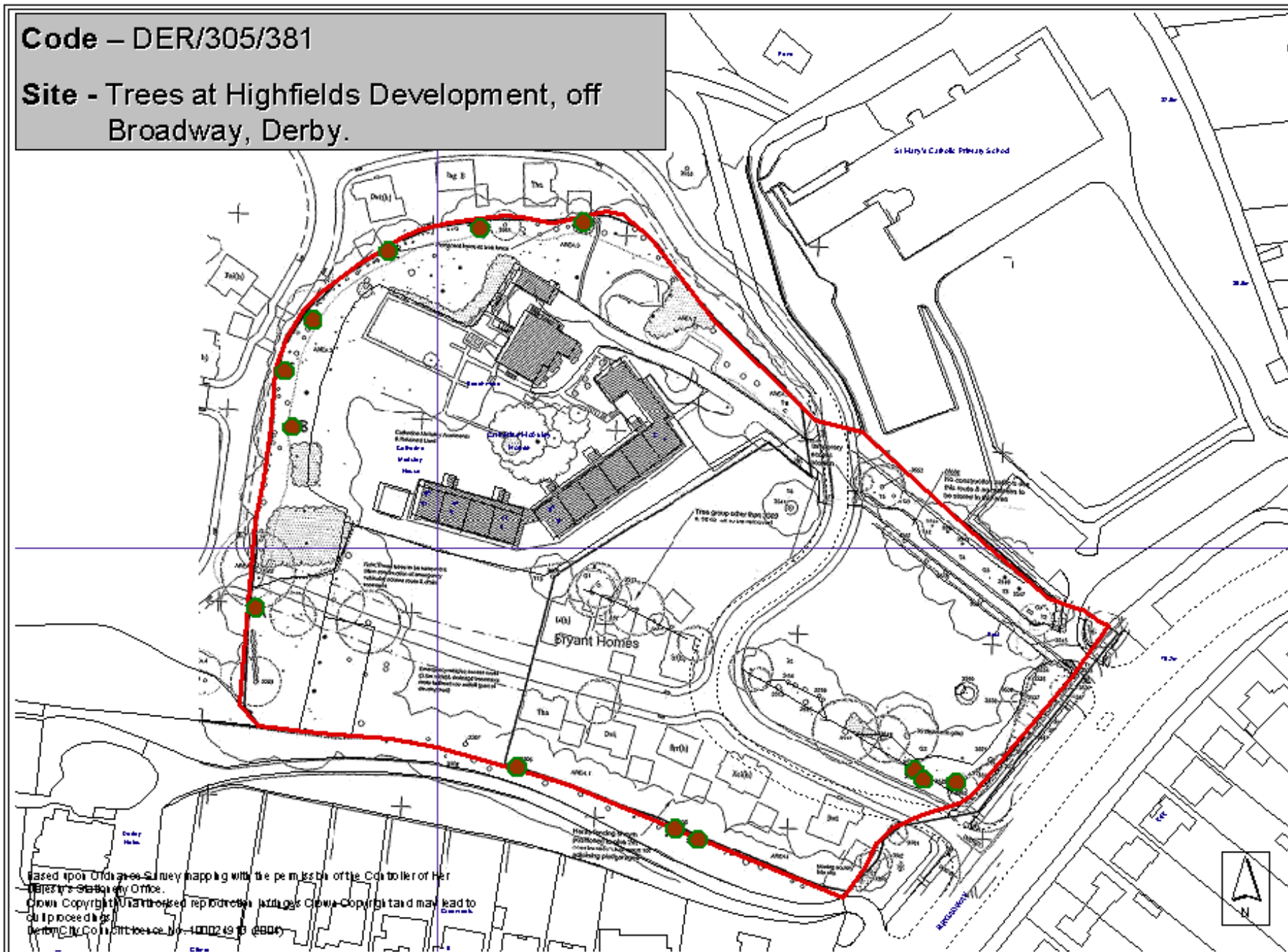
1. Standard condition 59 (bough removal)
2. Standard condition 65 (time limit)

### 11.3 **Reasons**

1. Standard reason E32
2. Standard reason E33

**Code – DER/305/381**

**Site - Trees at Highfields Development, off  
Broadway, Derby.**



## **B1    APPLICATIONS    (cont'd)**

**10    Code No:** DER/1104/2203

**Type:** Full

1.    **Address:**    Site of 4-6 and car park to rear of 4-10 Stafford Street
2.    **Proposal:**    Erection of four storey apartment block comprising 16 units.
3.    **Description:**    This application seeks planning permission for the erection of a four storey apartment block on the site of 4-6 Stafford Street. Under Code DER/1104/2204 the demolition of the existing building is considered. The new building would comprise 13 x 2 bed apartments and 3 x 1 bed apartments with car parking to the rear accessed via an archway in the building and adjacent to Stafford House to the south. The upper, fourth floor is set back by a maximum of 2.8m to create a roof terrace.

The site is close to the junction of Stafford Street with Friar Gate and adjoins 102 Friar Gate, which is a locally listed building. The site lies on the edge of the Friar Gate Conservation Area.

The building would adjoin Stafford House and 102 Friar Gate, both of traditional design and individual character and three storey in height.

**4.    Relevant Planning History:**

DER/1187/1367 – Extension to form bridge link and additional offices – granted January 1988.

DER/304/541 – Similar proposal withdrawn.

DER/604/1151 - Erection of four storey block comprising 16 units – refused for the following reasons:

1.    In the opinion of the Local Planning Authority, the design and detailing of the proposed four storey apartment block would be out of character with the Conservation Area. The proposal neither preserves or enhances the character or appearance of the Conservation Area and is accordingly contrary to policy E24 and E31 of the adopted City of Derby Local Plan.
2.    The site adjoins the Friar Gate and Stafford Street junction. Noise levels from traffic on these streets has been demonstrated in the application to exceed those levels normally considered acceptable for residential development. In accordance with the conclusion of that assessment and the noise exposure categories expressed in PPG24 (Noise) “planning permission should not normally be granted” due to the detrimental effects upon residential amenity likely from exposure to the road noise. The proposal would

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

### 10 **Code No:** DER/1104/2203

accordingly be contrary to PPG24 (Noise) and adopted City of Derby Local Plan Policy H22.

3. The proposed development fails to provide satisfactory provision of public open space or provision of mobility units on the site. Accordingly the proposal is contrary to policies H20 and L4 of the adopted City of Derby Local Plan."

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

##### 5.1 **Economic:** -

**5.2 Design and Community Safety:** The proposed new apartment block is of a size, scale and height similar to the adjacent buildings – but these are all three storey, whereas the proposed block is four storey. There is a rhythm of window openings along Stafford Street and the new building tries to follow this rhythm, albeit the floor to ceiling heights are not as great and therefore the rhythm is not strictly adhered to. The design of the roof is not characteristic of the adjacent buildings and the absence of chimney stacks in the design loses something in the appearance of the skyline of the building.

**5.3 Highways:** Parking provision is less than one per unit but I consider this acceptable in this location. Total traffic generation will be similar to the existing use; pedestrian access is generally good and is not solely from the car park. Cycle and motorcycle parking provision should be increased and made more secure.

**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 one letter of objection, which is reproduced, concerned about the effect of car-based traffic on air quality and more people exposed to poor air quality in an Air Quality Management Area.

#### 8. **Consultations:**



**B1    APPLICATIONS (cont'd)**

**10    Code No: DER/1104/2203**

CAAC – in noting the changes to the application since the previous refusal, the Committee remained concerned over the unsatisfactory form of the roof, set back to accommodate the fourth storey behind the parapet. The development should be limited to three storeys in height to avoid the design issues at roof level. It was therefore recommended that the application be refused on the grounds that the design of the proposal, particularly at roof level, is inappropriate to the character of the conservation area.

County Archaeologist - is satisfied that the majority of most of the archaeologically interesting parts of the site will be unaffected by the development. A 'watching brief' condition should apply to the development.

Derby Cityscape – have no objections in principle, noting that it is the control over the detailed design that is crucial. Suggestions have been made to the applicant to improve the 4<sup>th</sup> floor level frontage.

English Heritage – have no comments to make.

DCorpS (Health) – notes the presence of the Air Quality and Noise Assessments. The Air Quality is based on traffic predictions on the existing road layout and in that context the assessment and conclusions are acceptable. The Noise Assessment shows that the site's noise exposure category is category C as defined in PPG 24 (Noise). In accordance with this assessment the PPG advises that Planning Permission should not normally be granted. Where it is considered that permission should be given, for example because there are no alternative quieter sites available, conditions should be imposed to ensure a commensurate level of protection against noise. This approach was taken in respect of the conversion of the adjacent building to residential use.

Police - car parking security, CCTV, low level planting, good quality car park lighting needed

EA – has no objections to the development on the basis of the submitted flood risk assessment.

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

The following CDLP policies apply:

EMP19 - Friar Gate Business Area  
EMP24 - Alternative Uses of Business and Industry Areas  
H20    - Mobility Housing

## **B1    APPLICATIONS    (cont'd)**

### **10    Code No:    DER/1104/2203**

- H22    - Residential Development on Unallocated Land
- H28    - Layout and Design of Residential Development
- E20    - Flood protection
- E23    - Landscaping Schemes
- E24    - Conservation Areas
- E29    - Archaeology
- 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
- PPG24 - Noise

- 10.    Officer Opinion:**    The site of the proposal is in the Friar Gate Conservation Area and Friar Gate Business Area. Policy EMP 19 seeks to restrict the use of existing buildings within the Friar Gate Business Area to offices within the B1 Use Class. The reasoning behind this is to protect the character of the area in that the nature of the historic buildings was considered unlikely to be suitable for other uses, and goods traffic generated by other uses could be detrimental to the environment and amenity of the Conservation Area. This policy has not, however, been carried forward in the CDLP Review. Policy EMP19 was formulated many years ago when the character of this part of Friar Gate was much more defined by office uses. It also preceded current national guidance regarding urban living and residential development in central locations. Its main aim was to prevent forms of development that would be detrimental to the character of the Conservation Area. It is, in fact, derived from a similar policy in the old Friar Gate Local Plan which sought to distinguish, within the B1 Use Class, between offices and other uses in that class. However, circumstances have changed since the adopted Local Plan; it has not been carried forward in the Local Plan Review and, as there have been no objections to its omission, I must conclude that little weight should be given to Policy EMP19.

The proposal, as an alternative use of a site in a designated business area, needs to be considered under Policy EMP 24. As a residential development on a relatively small site within a B1 use area, it is unlikely that the proposal would conflict with any of the criteria of EMP24. Policy H22 allows for residential development on sites not allocated for residential use. The site is within the built-up area and the design of the development should relate well to the existing built development and the character of the surrounding area. Policy E24 seeks to ensure that development preserves or enhances the special character of the Conservation Area. The design of the proposal has been modified and I acknowledge the observations of Derby Cityscape

**B1     APPLICATIONS (cont'd)**

**10     Code No: DER/1104/2203**

who do not object to the proposal. Although CAAC have reservations regarding a 4 storey building, I am satisfied that the scale and detailing is appropriate for this conservation area location.

Residential development close to the City Centre is normally supported. To overcome the significant shortfalls with the previous application - noise levels, the design of the building and lack of public open space-considerable officer time has been spent in negotiating a section 106 agreement in lieu of public open space provision on-site, and in improving the design by:

- amending the fenestration to be sympathetic to the adjoining buildings
- rainwater and soil vent pipes shown
- materials amended and simplified
- railings indicated
- levels altered.

There has also been a recognition that, whilst the site might be in a noisy location, noise measures, such as those to make the proposal compliant with the requirements of BS8233, "Sound Insulation and Noise Reduction for Buildings" can be employed. In the approved conversion of the adjoining Stafford House, acoustic trickle vents are to be installed to exceed these requirements. The applicant makes the point that there are other City Centre sites in similar situations adjacent to busy, noisy roads, where people demanding "city living" will be aware of the traffic noise and associated air quality that is part of the way of city life. The suggested noise mitigation measures also involve standard and heavier double-glazing.

Residential development close to the City Centre is normally supported, and the significant shortfalls with the previous application in terms of the site's exposure to unacceptably excessive noise levels have, I feel, been adequately addressed by the current proposal. The advice contained in PPG24 notes that it will be hard to reconcile some land-uses, such as housing, with other activities which generate high levels of noise, but the planning system should ensure that, wherever practicable, a commensurate level of protection against noise should be achieved.

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

**B1    APPLICATIONS (cont'd)**

**10    Code No: DER/1104/2203**

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

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

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

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

**11.3    Conditions**

1. Standard condition 27 (external materials)
2. Standard condition 20 (approval of landscaping scheme)
3. Standard condition 22 (landscaping scheme) (condition 2)
4. Standard condition 89 (landscaping management plan)
5. Standard condition 69 (cycle/motorcycle parking)
6. Standard condition 19 (means of enclosure)
7. Standard condition 30 (surfaces to be drained)
  
8. The development shall not be brought into use until details of the proposed railings have been submitted to and approved in writing by the Local Planning Authority. Such approved details shall be implemented in their entirety before occupation of the apartments.
  
9. The development shall not be brought into use until details of an acoustic and sound insulation scheme have been submitted to, and approved by, the Local Planning Authority, and the approved scheme shall be implemented in its entirety before the units are occupied.
  
10. The recommendations of the Flood Risk Assessment shall be pursued in their entirety.
  
11. Provision shall be made for an archaeological watching brief to monitor all earth-moving and excavations, the watching brief to be undertaken by a suitably qualified archaeological contractor. The

**B1    APPLICATIONS (cont'd)**

**10    Code No: DER/1104/2203**

appointed contractor shall submit to the Local Planning Authority a written fieldwork specification for approval before any development commences.

**11.4    Reasons**

1. Standard reason E14.....policy E31
2. Standard reason E10.....policy E23
3. Standard reason E10.....policy E23
4. Standard reason E09 ....policy E 23
5. Standard reason E35.....policy T22
6. Standard reason E08.....policy E24
7. Standard reason E21.....policy T22 and E24
8. Standard reason E18.....policy E24 and E31
9. Standard reason E2.....policy H22

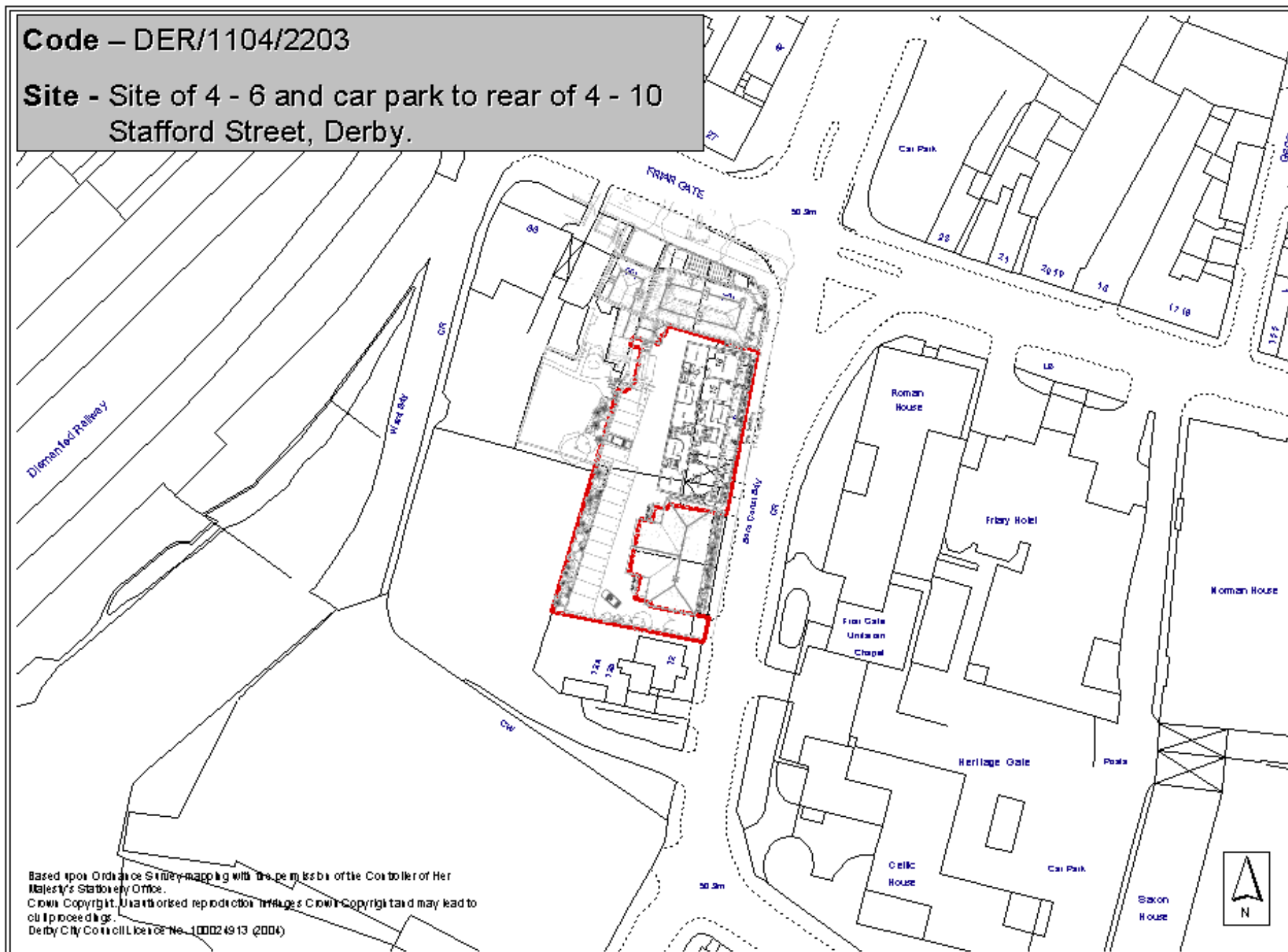
10. In accordance with the terms of the application and to mitigate the flood risk effects of the development...policy E20.

11. To determine the location, extent and survival of any remains of historic interest and enable the preparation of a strategy to mitigate the effects of the development on such remains and in accordance with policy E29 of the adopted City of Derby Local Plan.

**11.5    S106 requirements where appropriate: Contribution to off-site public open space and mobility housing.**

**Code** – DER/1104/2203

**Site** - Site of 4 - 6 and car park to rear of 4 - 10  
Stafford Street, Derby.



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## **B1    APPLICATIONS    (cont'd)**

**11    Code No:** DER/804/1663

**Type:** Full

1.    **Address:**    Rolls Royce, Sinfin D Site, Wilmore Road
2.    **Proposal:**    Erection of offices and construction of car park
3.    **Description:**    The overall site, comprising some 16.04 ha, is surrounded by other industrial units and, to the south and south west of the existing vehicular access to the site off Wilmore Road are houses that front Thackeray Street. The houses are some 60m from the existing vehicular access. This access is approved to be widened to accommodate separate in and out movements together with a new right turn lane in Wilmore Road.

This application is for the erection of a three storey office building attached to a previously approved new building that accommodates compression facilities; this previously approved building has an eaves height of some 12.2m, a curved roof rising to 17.6m and 26,345 square metres floor space which replaces the business activities currently carried out in the main works facility on Nightingale Road. The new office building subject of this application has a floor space of some 3,400 sqm and rises through three floors to an eaves height of some 11.5m. The business activity is the manufacture of components for gas turbines. 500 people would be employed on a 24 hour, seven day a week operation in the larger building with an additional 350 personnel in the proposed office building. The design of the new office building reflects the design of the factory behind and is of a modern appearance.

The previously approved buildings are set in a 1500 car parking space and landscaped setting. The proposal seeks to add a further 307 spaces on areas that were previously shown as vacant.

4.    **Relevant Planning History:**    There have been several applications for extensions to the existing buildings on site.

DER/98/247 – Construction of 1050 space car park. This was approved but conditional upon the implementation of a Green Travel Plan and for the laying out of only 291 spaces unless a need was justified for further extension.

DER/98/115 and DER/00/1142 – Temporary planning permission to use land as car park. This temporary permission expired in November 2001 (and only relates to part of the present application site).

DER/1203/2201 – Erection of two new manufacturing facilities with associated car parking – granted June 2004.

**B1 APPLICATIONS (cont'd)**

**11 Code No:** DER/804/1663

**5. Implications of Proposal:**

**5.1 Economic:** I welcome this proposal on economic grounds as it presents significant investment at the core Rolls Royce site employing a further 350 people at this site.

**5.2 Design and Community Safety:** This is a large building, set against a backdrop of industrial buildings that would not be out of place. I welcome the landscaped setting when viewed from Wilmore Road, and note that the new building would not be readily visible from Wilmore Road, being behind existing industrial buildings.

**5.3 Highways:** A Traffic Impact Assessment has been undertaken. A travel plan will be necessary and the applicants have confirmed that work will continue to encourage more environmentally-friendly trips. In relation to the floor area the parking provision appears very high. The new CDLP would require only 85 spaces but 307 are proposed and 350 staff indicated. The proposed number of parking spaces is several times in excess of the maximum parking standards of the CDLP and recommended by PPG13 and therefore requires fully justifying. The applicants have not been able to satisfy this and, as a consequence, I consider that the parking provision should only be allowed in accordance with the adopted standard and that those in excess of 85 be deleted by condition. As a result of the TIA, mitigating measures will be required particularly on the signalised junctions in the vicinity of the site via a Section 106 Agreement. Included in the Agreement should be a requirement for a Travel Plan Coordinator with an assigned budget and an annual statement submitted to the Council. It has been apparent that a condition requiring an operational travel plan is also required.

**5.4 Disabled People's Access:** Disabled parking bays adjacent to the building's entrance have already been approved.

**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:** -



**B1    APPLICATIONS (cont'd)**

**11    Code No: DER/804/1663**

**8.    Consultations: -**

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

- EMP15 - Existing Business and Industrial (Core Areas)
- EMP23 - Development with Potential Off-Site Effects
- T22 - Parking standards
- T16 - Rights of way and routes for cyclists, pedestrians and horse riders
- T17 - Access for Disabled People
- E17 - Pollution
- E18 - Development on contaminated land
- E23 - Landscaping
- E31 - Design
- E32 - Community safety and crime prevention

**10.   Officer Opinion:** The site of the proposal is designated in the CDLP a 'core' existing business and industrial area. Within such a designation, EMP15 allows for the expansion or redevelopment for business and industrial purposes, provided that the amenity of nearby properties would not be adversely affected. EMP23 seeks to protect the amenity of nearby residents, employees or others in the area. Subject to measures to protect amenity, the principle of the proposal conforms to CDLP policy.

In terms of previously approved car parking provision, the 1500 spaces could appear excessive, but when taking into account the requirement of 785 spaces for the buildings plus the 600 displaced spaces for existing neighbouring buildings, together with the need to have sufficient spaces to allow change-over during the 24 hour shift pattern and for visitors to the premises, the approved parking provision was justified. However, I am concerned that this proposal seeks to add a further 307 spaces to accommodate a further 350 staff. There certainly is space to accommodate the car parking but to provide car parking in excess of the CDLP standard and contrary to PPG13 is not acceptable. To move matters forward, I suggest that permission is granted for the proposed office space but that only 85 additional spaces are provided, the remainder being deleted by condition which, in association with the Travel Plan package referred to at 5.3 above including the section 106 Agreement, will assist in reducing dependency on the car, enabling one of the City's biggest employers to continue to develop its Green Travel Plan.

Accordingly, I recommend that planning permission be granted for the development.

**B1    APPLICATIONS (cont'd)**

**11    Code No: DER/804/1663**

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

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

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

**11.2    Summary of reasons:** The proposal has been considered against the City of Derby Local Plan policies as summarised at 9 above and would not be unduly detrimental to the streetscene, provides suitable re-use of a brownfield site, and consolidates a core business in an existing industrial location

**11.3    Conditions**

1. Standard condition 30 (surfaces to be drained)
2. Notwithstanding the approved plans, the building shall not be occupied until details of the precise location of only 85 car parking spaces to serve the office use, hereby approved, have been submitted to and agreed in writing with the Local Planning Authority and the agreed vehicle parking and manoeuvring facilities have been provided in accordance with those approved drawings.
3. Standard condition 27 (materials)
4. Standard condition 20 (landscaping scheme)
5. Standard condition 22 (landscaping maintenance)
6. Standard condition 98 (travel plan)
7. Notwithstanding the approved layout plans, four disabled people's parking spaces shall be provided adjacent to the main entrance of the approved office building and retained for that use thereafter.
8. This permission relates to the application as supplemented by the Traffic Impact Assessment received by the Local Planning Authority on 6 January 2005 dated "Final December 2004".
9. Standard condition 19 (means of enclosure)
10. Prior to commencement of development of the car parking areas, detailed plans showing the design and location of any proposed

**B1    APPLICATIONS (cont'd)**

**11    Code No: DER/804/1663**

lighting columns shall be submitted to and approved in writing by the Local Planning Authority.

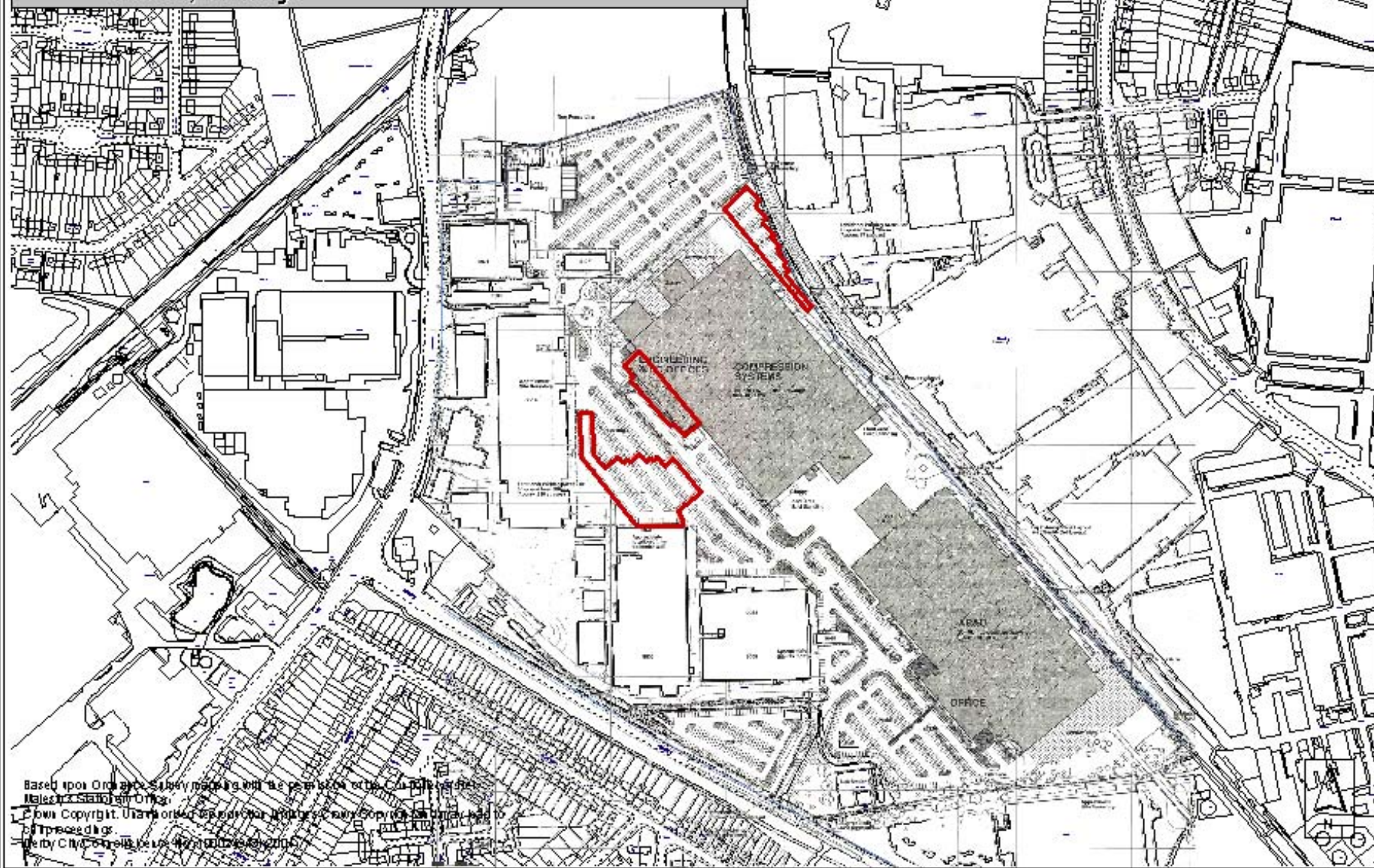
**11.4    Reasons**

1. Standard reason E21...policy T22
2. Standard reason E16...policy T22
3. Standard reason E14...policy E31
4. Standard reason E10...policy E31
5. Standard reason E10...policy E31
6. Standard reason E47
7. Standard reason E34...policy T22
8. Standard reason E04
9. Standard reason E08...policy E31
10. Standard reason E08...policy E31

**11.5    S106 requirements where appropriate:** Contributions to off-site highway works and a Travel Plan Coordinator with an assigned budget and an annual statement submitted to the Council.

**Code – DER8/40/1663**

**Site - Land at Rolls Royce, Sinfon D Site, Wilmore Road, Derby.**



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## **B1    APPLICATIONS    (cont'd)**

**12    Code No:** DER/1104/2204

**Type:** Conservation  
Area Consent

1.    **Address:**    4-6 Stafford Street
2.    **Proposal:** Demolition of two storey building and adjoining links to Stafford House and 102 Friar Gate.
3.    **Description:** This proposal for demolition of a two storey office building relates to a prominent site close to the junction of Stafford Street with Friar Gate. The building is not listed but adjoins 102 Friar Gate which is locally listed. The site lies on the edge of the Friar Gate Conservation Area.

Consent is sought for the demolition of this two storey building. It is a brick building of simple appearance but is flanked by, and linked to, the adjacent buildings by awkward link blocks. The style and character of those adjoining buildings are more traditional, demonstrating an individual character and rhythm that is sadly lacking on this building, which has the appearance of a more recent infill development with its own link blocks as after thoughts. Both neighbouring properties are three storeys in height, adding their own presence to the streetscene.

4.    **Relevant Planning History:**

DER/87/1367 – Extension to form bridge link and additional offices – granted January 1988.

DER/304/539 – Same proposal as this – withdrawn.

DER/1104/1152 – Same proposal as this one, refused for the following reason:

“The existing building occupies a prominent position in the Friar Gate Conservation Area. In the absence of a satisfactory form of redevelopment of the site the proposed demolition of the existing building would be premature. In addition it is considered by the Local Planning Authority that the proposal fails to justify the demolition as consideration of alternative use of the building has not been demonstrated. Accordingly the proposal is contrary to policy E26 of the adopted City of Derby Local Plan and PPG15 Planning and the Historic Environment.”

5.    **Implications of Proposal:**

- 5.1    **Economic:** The loss of office space is regrettable but not unacceptable given the amount of available space in the locality.



**B1 APPLICATIONS (cont'd)**

**12 Code No:** DER/1104/2204

**5.2 Design and Community Safety:** This is a Conservation Area Consent Application to demolish 4-6 Stafford Street. This building dates from the late nineteenth century and is within the Friar Gate Conservation Area. It is a building that contributes to the townscape along Stafford Street and character and appearance of this area.

PPG15 (4.27) states that there should be a general presumption in favour of retaining buildings which make a positive contribution to the character or appearance of a conservation area. The building does make a small positive contribution to the character of the conservation area. Adaptive re-use of the building should be considered, followed by the merits of the application to redevelop the site (reported elsewhere on this agenda).

**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:** I have received one letter of objection, which is reproduced, concerned about the effect of car-based traffic on air quality and more people exposed to poor air quality in an Air Quality Management Area and not focussed on the merits of this application.

**8. Consultations:**

CAAC – the committee raised no objection in principle to the demolition but, in the absence of a satisfactory scheme of redevelopment of the site, it was considered that the application for Conservation Area Consent was premature and should be refused.

County Archaeologist – is satisfied that the archaeological interest will be unaffected by the building demolition.

**B1    APPLICATIONS (cont'd)**

**12    Code No: DER/1104/2204**

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

E24    - Development should not be detrimental to the special character of the Conservation Area.

E26    - Protection of buildings of architectural and historic interest from demolition and unsympathetic alterations.

PPG15 - Planning and the Historic Environment.

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

**9.    Officer Opinion: The site is on the edge of the Conservation Area but is a prominent location on Stafford Street. The building therefore does make a contribution to the character and appearance of the area. PPG15 advises that there should be a general presumption in favour of retaining buildings which make a positive contribution to the character or appearance of a conservation area and outlines that proposals to demolish such buildings should be assessed against a number of broad criteria such as the condition of the building, adequacy of efforts made to retain the building and the merits of alternative proposals for the site. The applicants have stated their intention to redevelop the site of the building in application code DER/1104/2203 and this is considered elsewhere in this agenda.**

The main issues raised by the proposed demolition of the building are concerned with any historic and architectural interest the building may have and contribution to the surrounding conservation area. It is not designated as being of particular interest either by being statutorily listed or identified on the Council's Local List. The building is, however, prominent in the street scene in that it is sited at the back edge of the pavement. I am satisfied that the demolition would not have an unduly harmful impact on the character and appearance of the Conservation Area if there is an acceptable scheme of redevelopment. Should the latter not be forthcoming, then the same reason for refusal as last time should apply.

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

**11.1   To grant demolition consent.**

**11.2   Condition**

The building shall not be demolished until the Local Planning Authority has been provided with evidence of a contract for the redevelopment of

**B1    APPLICATIONS   (cont'd)**

**12    Code No:   DER/1104/2204**

the site subsequent to any future grant of planning permission for such development.

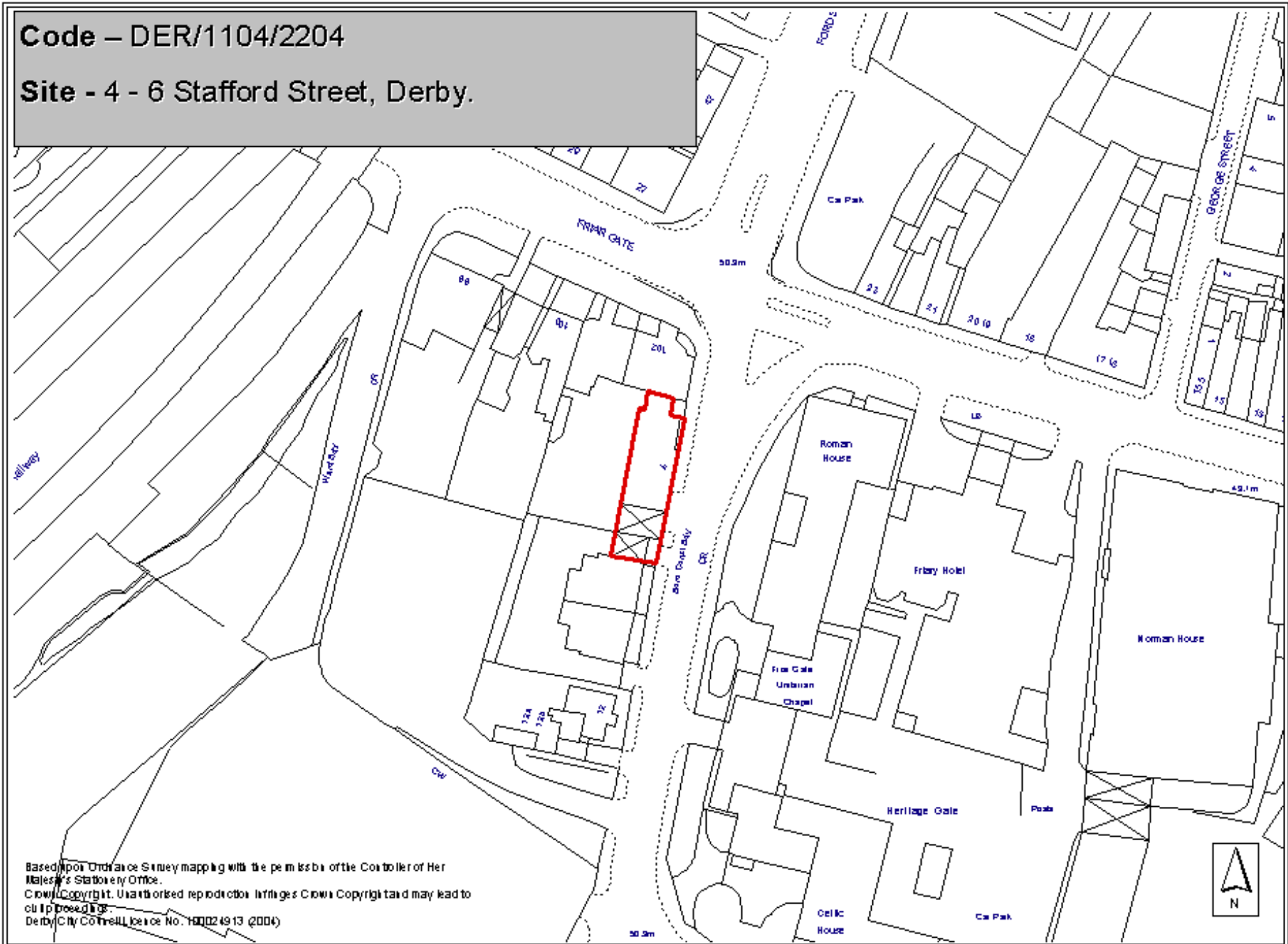
**11.3   Reason**

To avoid the creation of a premature gap in the local streetscene and because consent is only granted on the basis that the site will be the subject of a scheme for redevelopment.



Code – DER/1104/2204

**Site - 4 - 6 Stafford Street, Derby.**



**B1 APPLICATIONS (cont'd)****13 Code No:** DER/1104/2187**Type:** Listed Building Consent

1. **Address:** 32 Church Street, Spondon
2. **Proposal:** Installation of replacement windows
3. **Description:** This application seeks listed building consent to install replacement windows in the front and rear of this property, a grade II listed building that forms part of the Longdons Row Terrace. The property is within the Spondon Conservation Area. The double glazed timber windows are simple in design and are identical to windows that have been inserted into neighbouring properties, as shown on the photographs which will be available at the meeting.

**4. Relevant Planning History:**

DER/02/03/194 – Retention of windows at 34 Church Street (Longdons Row) - granted at Committee 22 April 2003.

DER/06/91/794 – Retention of windows at 31,33,35 Church Street (Longdons Row) - granted 12 September 1991.

**5. Implications of Proposal:****5.1 Economic:** -

- 5.2 Design and Community Safety:** Over time, the windows in this terraced row have been changed to those proposed by the applicant. I have no objections to the proposed windows: I am satisfied that they are reasonably in keeping with the character of the listed building and would not be detrimental to the character of the 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:** None.

**B1    APPLICATIONS (cont'd)**

**13    Code No: DER/1104/2187**

**8.    Consultations:**

CAAC – object to the proposal as presented and recommend that the application be deferred pending the receipt of accurate plans showing full details of an amended proposal. The Committee suggested that the original window pattern be researched through the Local History Society and that, notwithstanding the double glazed windows on adjacent properties, it would be preferable to negotiate the reinstatement of single-glazed timber windows.

- 9.    Summary of policies most relevant:** Planning policy E26 seeks to ensure that development proposals affecting listed buildings do not result in unsympathetic alterations.

Planning policy E24 seeks to ensure development in Conservation Areas preserves and enhances the character of these areas.

*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:** I am satisfied that the proposal does not conflict unduly with planning policy and am particularly mindful of the precedent that has been set by changes to other windows within the terraced row. In my view, there is no justification for refusing this application.

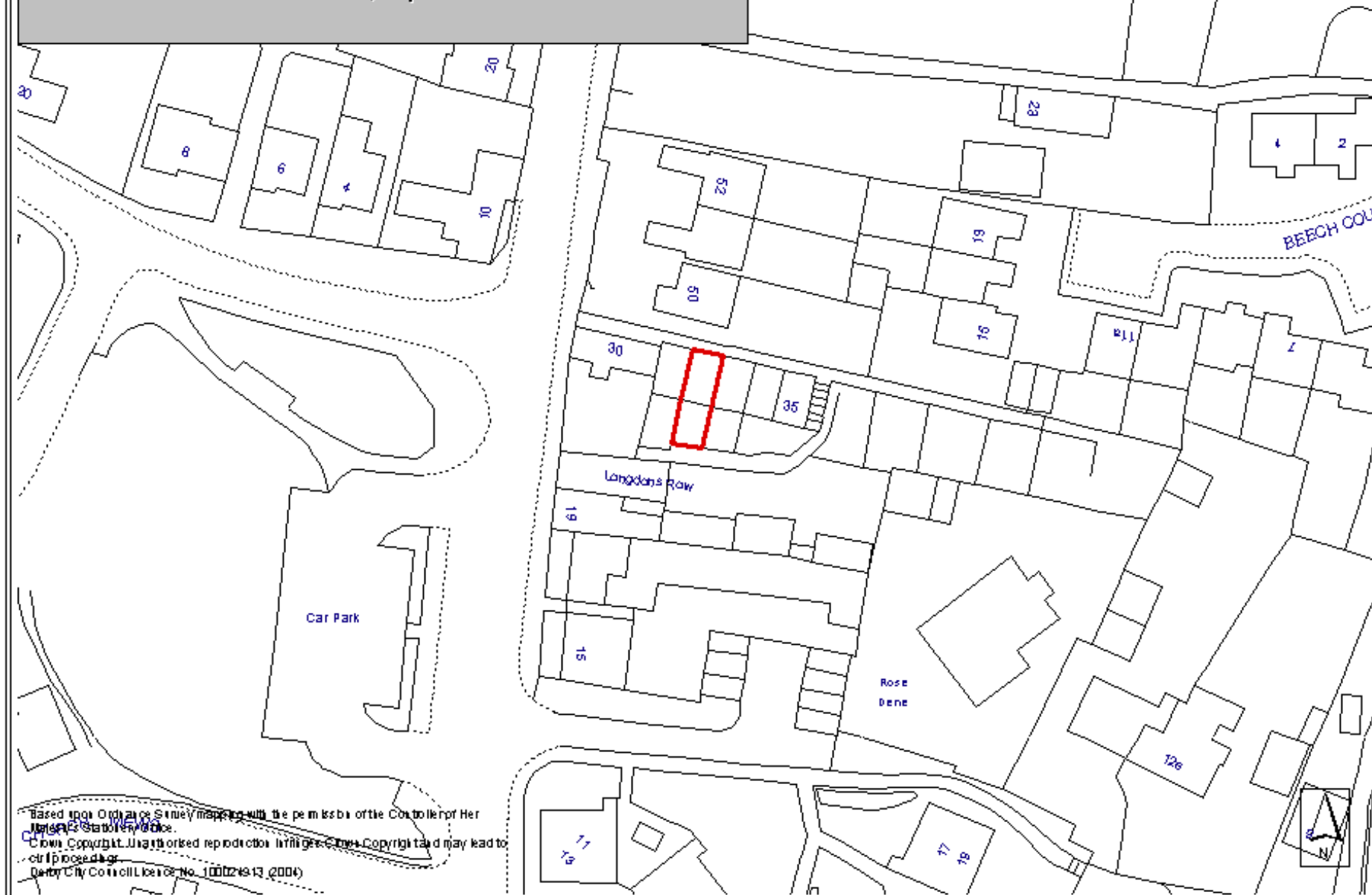
**11.   Recommended decision and summary of reasons:**

**11.1   To grant** Listed Building Consent.

- 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 consistent with decisions on nearby properties and is considered to be in keeping with the character of the listed building and would not be detrimental to the character of the conservation area.

**Code – DER/1104/2187**

**Site - 32 Church Street, Spondon.**



## **B1    APPLICATIONS    (cont'd)**

**14    Code No:**    DER/1204/2419

**Type:**    Full

1.    **Address:**    Land south west of Supermarket, off Peak Drive (including site of MCS Dairies)
2.    **Proposal:**    Erection of non-food retail unit (Use Class A1), builders yard, garden centre and dairy (duplicate application)
3.    **Description:**    This full application relates to land adjacent to the existing Sainsbury's store to the east of Peak Drive and incorporates currently undeveloped land and an existing Co-op Dairy. The site is located to the south of the city centre accessed directly from a roundabout junction on Osmaston Park Road. Part of the site adjoins an area of undeveloped land, which extends along the western boundary. Beyond this land to the west is a railway line, with Pear Tree station on the opposite side of Osmaston Road. The eastern boundary of the site comprises a long-established residential area fronting Victory Road. The site falls within a predominantly commercial area with retail and leisure uses within the immediate locality, with larger scale employment uses to the south and west.

The application is for a retail warehouse (referred to as a B+Q Warehouse in the associated retail assessment) of 13,935-sq m gross floorspace (including 1,858 sq m for an enclosed builders yard and 2,787 sq m for a garden centre). The overall sales area of the unit would be some 12,077sqm. The development includes 491 car parking spaces for the DIY store with 61 car parking spaces dedicated to the relocated dairy. The application suggests that B+Q propose to relocate from the existing B+Q supercentre at Ascot Drive, which no longer meets the retailer's operational requirements. As a consequence of this proposal, approximately 250 jobs would be created (this includes those transferred from Ascot Drive). A Planning and Retail Impact Assessment, a Transport Assessment, an Employment Land Supply Study, a Household Shopping Survey, a Noise Impact Assessment, and a Design Statement were submitted with the application.

The store would have a simple rectangular form, aligned west to east along the southern boundary of the site. The building would have a combination of solid and transparent elements of cladding, blockwork and glass on the main elevation with a raised entrance feature on the front elevation. Projecting roofs over the main entrance feature, exit lobby and coffee shop functions are all interconnected by the application of a soft undulating roof, with high point domination over the main entrance feature and low-key point at the coffee shop extremity. The undulating feature roof is supported by a series of exposed steel tubular structural members that are angled and curved in elevation and which are in sympathy with the curvature of the main roof.

## **B1    APPLICATIONS    (cont'd)**

### **14    Code No:    DER/1204/2419**

Acoustic barriers, as recommended by the Noise Impact assessment that accompanies the application, are proposed, 3.5 m in height adjacent to the Sainsbury Store service yard and 3 m in height adjacent to the proposed B&Q service yard. Both features are designed to protect the amenities of residents that front Victory Road.

The replacement dairy building is of rectangular shape, providing cover for some 40 electric floats with chargers, ancillary offices and staff facilities. Two roller shutter doors at either end of the building would allow vehicular access.

Members should be aware that this is a second application for a proposed B&Q Warehouse unit, the other one at Ascot Drive having already been considered by this Committee. An earlier application on this site is the subject of an appeal against non-determination.

#### **4.    Relevant Planning History:**

DER/989/1577    - Erection of 3 retail units, petrol service station, industrial park and dairy distribution depot, construction of service road and ancillary vehicle parking - granted April 1990. This application was renewed in June 1993 (code DER/1292/1380).

DER/693/761 – Reserved matters approval for the retail elements of the scheme granted in November 1993 but only the food store and petrol filling station were built with the non-food retail site remaining vacant.

The period for the submission of reserved matters in respect of the industrial elements of the outline has been varied on 2 occasions. Latterly DER/401/569 was granted in June 2001, which extended the period until 2004.

DER/203/315 – Extension to existing food store - granted April 2003.

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

**5.1    Economic:** The new retail unit would employ approximately 250 staff, which would be a substantial increase over the existing store at Ascot Drive but would include the transfer of staff to this site.

**5.2    Design and Community Safety:** The store building would be of substantial scale and the features described above lend it a quite striking appearance. It would not appear unduly incongruous or dominant in the street scene given its setting adjacent to the Sainsbury's store and future industrial land.

**B1    APPLICATIONS (cont'd)**

**14    Code No: DER/1204/2419**

**Highways:** Initially I had significant concerns arising from this development in terms of its impact on the immediate highway network. I also had concerns regarding accessibility to the site for pedestrians, cyclists and public transport users. However, having spent considerable time with the developer, reviewing and refining the proposed trip generation likely to be brought about by the development, I am now confident that the true impact of the proposals has been identified. To mitigate these impacts the developer, through a Section 106 Agreement, is now proposing the following:

- To undertake minor capacity improvements to the A5111/Victory Road junction
- To provide improved pedestrian and cycle facilities at the Peak Drive/A5111 junction, including a controlled crossing on Peak Drive
- A contribution of £100,000 towards improvements to public transport, walking and cycling facilities along the A5111.

Subject to these items being included within a Section 106 Agreement, I would not wish to raise highway objections to the proposals.

There are a number of other highway issues where I am awaiting revised details from the developer. These include:

- Confirmation of the levels of parking to be provided within the site, with a justification of any shared usage. The levels need to indicate appropriate numbers of spaces for blue badge holders, for cycles and for motorcycles
- Amendments to the internal roundabout. Because of concerns over queuing vehicles, an amendment to allow a dual lane approach to the roundabout has been proposed
- Revised details showing a significant pedestrian and cycle link, avoiding conflict with vehicle movements, through to the entrance to the proposed store
- Additional pedestrian facilities are required, alongside the internal access road, to ensure appropriate pedestrian access to the employment units and to the dairy
- A travel plan indicating travel patterns for staff employed at the new store should be submitted

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

### 14 **Code No:** DER/1204/2419

- Confirmation that the provision of recycling facilities on the site will be retained

If appropriate details have been received in respect of these issues, I will provide an oral update at Committee. Alternatively, appropriate conditions should be applied to any permission that may be granted, in order to secure the submission of details at a later stage.

**5.4 Disabled People's Access:** The proposed number and location of the disabled parking bays are satisfactory. Any new building would be subject to accessibility requirements of the Building Regulations.

**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:** Two letters of objection has been received, one from Friends of The Earth expressing concern about the site's location in an Air Quality Management Area and that the proposal would do nothing to improve this, and one from a nearby resident concerned about any increase in pollution, noise and traffic problems.

... The letters are reproduced.

Neighbouring authorities:

- South Derbyshire District Council – note that, in the absence of evidence relating to need, sequential approach, retail impact and accessibility, the proposal would be contrary to PPG6 and draft PPS6
- Broxtowe Borough Council – no comments
- Erewash Borough Council – note that the proposal represents a significant increase in retail floor space outside the City Centre, contrary to Government advice.



## **B1    APPLICATIONS    (cont'd)**

**14    Code No:    DER/1204/2419**

### **8.    Consultations:**

DCorpS (EnvHealth) – as the site could be potentially contaminated, a contaminated land study should be undertaken. Due to the proximity of residential dwellings there is potential for noise nuisance from the site and noise barriers should be erected at the perimeter. As the site adjoins the Council's nitrogen dioxide air quality management area and vehicles accessing the site will add significantly to the existing air quality pollution burden an air quality assessment should be provided to quantify the problem and to consider any appropriate mitigation.

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

- S1        - Retail Strategy Objectives
- S2        - Shopping Centre Hierarchy
- S3        - Retail Location Criteria
- S4        - Retail Design Objectives
- S17       - Range of Goods Conditions
- S18       - Trade and Showroom type sales
- EMP11i   - Osmaston Park Road
- EMP15   - Core Business and Industrial Development
- EMP24   - Alternative Uses on Employment Land
- E15       - Sustainable Development
- E17       - Pollution
- E18       - Contaminated land
- E23       - Landscaping schemes
- E31       - Design
- E32       - Community safety and Crime Prevention
- E37       - Public Art
- T13       - Bus and taxi users
- T16       - Rights of Way and Routes for Cyclists and Pedestrians
- T17       - Access for Disabled People
- T22       - Car Parking Standards
- C2        - Community facilities
- C4        - Infrastructure requirements

Relevant CDLP Review policies:

- S1        - Retail Hierarchy
- S2        - Retail Location Criteria
- S9        - Out Of Centre Retail Parks and Other Locations

Relevant Derby and Derbyshire Joint Structure Plan Policies:

General Development Strategy Policy 1 - Sustainable Development.

**B1    APPLICATIONS (cont'd)**

**14    Code No: DER/1204/2419**

General Development Strategy Policy 2 - Scale and Nature of Development.

General Development Strategy Policy 3 - Location and Density of Development.

Economy Policy 1 - Scale and Range of Business, General Industrial and Distribution Provision.

Town Centre and Shopping Policy 4 – New Development in Out of Centre Locations.

**Department of Environment Guidance**

Planning Policy Guidance Note PPG6: Town Centres and Retail Developments.

Planning Policy Guidance Note PPG13: Transport.

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

- 10.    Officer Opinion:** This application is for a new non-food retail warehouse on a site that is allocated in the adopted Local Plan under Policy EMP11i (Osmaston Park Road industrial site), EMP15 (Core Business and Industrial Area) and Policy S2 (Off-Centre Retail Location).

The acceptability of a DIY store of this size raises a number of issues; however, this application has been further complicated by being proposed on employment land and the Council's resolution to grant permission for a 'competing' scheme on Ascot Drive.

Notwithstanding this, the key issues are outlined below:

1. Whether the development of the dairy is consistent with EMP11i
2. Whether the retail proposal would cause or worsen a quantitative or qualitative shortage of employment land (Policy EMP24)
3. Whether there is quantitative capacity for additional comparison retail floorspace in the City
4. Whether there is a qualitative need for a proposal of this nature

## **B1    APPLICATIONS   (cont'd)**

### **14    Code No:   DER/1204/2419**

5. If so, whether the applicants have demonstrated a sequential approach to site selection
6. Whether there would be an undue impact on other centres in the shopping centre hierarchy
7. Whether the site is accessible by a range of means of transport.

For ease of reference each of these points will be visited in turn below:

#### **Dairy Proposal**

This element of the application is relatively straightforward. The dairy is a B2 use and, as EMP11i allows such uses, this part of the proposal is acceptable from a policy point of view.

#### **Retail Proposal**

This element of the application is far more complex and covers both employment and retail policy issues. Consultants were retained to look at the retail assessment submitted with the application.

#### **Retail Policy Issues**

Any out-of-centre retail application must satisfy the three tests of need, sequential test and impact.

- **Quantitative Need:**

A quantitative need exists for this scheme *on its own merits*. There is, of course, the added complication that the Council has resolved to grant permission for a potentially competing scheme at Ascot Drive. Although this is not yet a commitment, it would seem sensible to consider the impacts of granting both schemes.

Long-term calculations made by the applicant imply that, by 2011, there will be enough surplus expenditure in DIY goods to accommodate both proposals that are in front of the Council at this time.

Notwithstanding the available capacity, as both schemes have been put forward as potential B&Q Warehouses, it seems unlikely that both will come forward for development. Considered on their own merits, both schemes are acceptable in policy terms. For these reasons, it may therefore be appropriate to consider them as 'mutually exclusive' applications, rather than cumulative commitments. This gives further comfort in granting permissions for

**B1     APPLICATIONS (cont'd)**

**14     Code No: DER/1204/2419**

both schemes. Tightly worded conditions and S106 agreements can ensure that unjustified or unacceptable alternative proposals are precluded.

The overall conclusion drawn from the applicant's assessment, however, is that there is sufficient capacity to support this scheme on its own merits in the short term and sufficient capacity by the end of the Local Plan period to support both applications before the Council. Therefore, there is no reason to object to the proposal on lack of quantitative need.

- Qualitative Need:

I feel that a qualitative need does exist. I accept the view that Derby's DIY offer is dated and that it is not offering the kind of 'modern' facility other districts can. This is ultimately likely to lead to trade leakage out of Derby, which is both economically and environmentally unsustainable.

In my view a qualitative need does therefore exist for new facilities of this nature in the City.

- Sequential Test & Accessibility:

In my view no *sequentially preferable* site exists for a store of this nature or function.

The Osmaston Park Road site is seen as sequentially equal to Ascot Drive. It resides at the same 'tier' as Ascot Drive as an out-of-centre location that relates well to an existing retail operation. This is comparable to the Ascot Drive proposal that consolidates and expands existing retail units. Both schemes can be seen as satisfying Structure Plan Policy TCSP4 in this regard.

The proposal is accessible by a range of means of transport and will facilitate some linked trips with the existing Sainsbury's store. Access by public transport and pedestrians is not currently ideal (although possible). However, this is not necessarily a reason for refusal in its own right. PPG6 provides for the Council to enter into planning agreements to secure contributions to new or improved public transport services. In terms of cycle access, the site as a whole is reasonably well related to the strategic cycle network. Under the provisions of Policy T16b, facilities for cyclists should be sought.

**B1     APPLICATIONS (cont'd)**

**14     Code No: DER/1204/2419**

In conclusion, there are no *sequentially preferable* sites to this and the site is accessible by a range of means of transport. Although it would expand an existing retail location, it will offer the opportunity for linked trips.

- Impact:

The general consensus is that stores such as these will generally impact and draw trade mainly from existing out-of-centre DIY operators, which are afforded no protection under PPG6. Impact on existing centres in the shopping hierarchy is minimal.

The cumulative impact of both the Osmaston Park Road and Ascot Drive schemes has not been examined. However, logic dictates that, as neither scheme individually unduly impacts on an existing centre, two together will have no noticeable effect either. What is likely to happen (in the unlikely event that both schemes do come forward) is that there would be increased impact on out-of-centre stores, which is not a policy issue.

In order to ensure that the impact is kept at a minimum, a range of goods condition should be imposed under Policy S17. In addition, the provision of a mezzanine floor or the sub-division of the unit should be restricted. A further control should be imposed to restrict the use of the proposal to the B&Q Warehouse model and the nature of the store to be the same as justified in the retail assessment. I am mindful that out-of-centre retail permissions are granted on the basis of certain assumptions about the operator and the characteristics of the proposal. For this reason, we have to ensure that the proposal does not change its nature in such a way that would have meant that we would not have granted it permission in the first place. A S106 agreement should be entered into which ensures that only a store of this type, nature and (potentially) operator is allowed.

In conclusion, the proposal, either individually or cumulatively with other proposals, is unlikely to undermine the vitality and viability of any centre in the existing shopping hierarchy. However, to ensure that the store does not change its character in ways that would create a development that could have been refused (or not been justified), the controls outlined above should be imposed.

## **B1    APPLICATIONS   (cont'd)**

### **14    Code No:   DER/1204/2419**

#### **Loss of Employment Land**

The applicant concludes that the loss of around 3ha of employment land will not contravene the requirements of Policy EMP24 insofar as it would not cause or worsen a shortage of land and would not inhibit or prejudice existing business activity. This conclusion is that the element of the EMP11i site that would be lost is a poor site in market terms and is unlikely to come forward for business uses in the future in any event as it would be unlikely to find favour with developers. It also concludes that there is more than sufficient supply of employment land in both quantitative and qualitative terms. The job creation of the DIY store and the provision of some industrial units on the north-western part of the site are also seen as contributing factors to the acceptability of losing this land.

These conclusions cannot be refuted. Although the loss of land is actually closer to 4ha, I doubt that I could realistically argue a quantitative shortage when the Local Plan Review allocates over 320ha for new development. Furthermore, this site has been allocated for a number of years without any signs of the outline permission it has coming to fruition. The fact that this scheme should guarantee the development of some new industrial units on the remainder of the site is also material. Subject to our ensuring the provision of the associated employment units, I do not wish to object to this application on loss of employment grounds.

#### **Other Policy Issues**

##### **Design & Public Art**

I am satisfied that the design of the store is consistent with design policies S4 and E31. An appropriate landscaping scheme in line with Policy E23 can also be provided.

This is a significant proposal that would clearly trigger the 'public art' policy. Policy E37 highlights the potential to negotiate with developers to voluntarily commission a work(s) of art in accordance with the Council's 'Percent for Art' scheme. Some public art / realm improvements could be secured through the Section 106 Agreement.

#### **Overall Policy Conclusions**

If we look at the scheme on its own merits there is sufficient capacity to accommodate the proposal, there are no sequentially preferable sites and impact is acceptable. The proposal is therefore acceptable in principle.

**B1    APPLICATIONS   (cont'd)**

**14    Code No:   DER/1204/2419**

There is an argument that the (not-yet) committed floorspace at Ascot Drive should be factored into the equation. If this is done, Sainsbury's long-term estimates suggest that enough capacity exists for both schemes. As the Local Plan Review runs until 2011, it is entirely sensible to make provision for this level of capacity up until this time.

As such, even when considered as 'cumulative commitments' and not mutually exclusive schemes, there would appear to be a case for allowing both to go forward.

Subject to the above controls and conditions being in place, I am drawn to conclude that there are no overriding policy objections to the proposal.

**Highways**

Subject to improvements to junction capacity, pedestrian, cycle and public transport facilities as outlined above I am satisfied that the development can proceed without a highway-based objection. Minor highway issues remain outstanding but I feel that these can be secured by condition or their inclusion reported orally at the meeting. Equally air quality issues and their assessment can be reported orally.

Overall, the proposed retail warehouse on this site would satisfy the objectives of national and local planning policies. The impact of the development on the local highway network, subject to the improvements outlined, would not compromise highway safety and would therefore be able to accommodate the vehicle trips to the site. In terms of design and layout it would not detract from the mixed character of built form in the surrounding area. Despite the submission of a similar B&Q proposal at Ascot Drive, the applicants for this scheme have justified the proposed development of a DIY type warehouse on this site in policy terms. In the event that B&Q or similar operator do not take up this site, then an alternative form of retail development should not be allowed to proceed here. This can be secured by means of a legal agreement.

This application must be referred to the Secretary of State under the Town and Country Planning (Shopping Development) Direction 1993, due to the scale of the recent permission for the Eagle Centre extension. The application for the other retail scheme at Ascot Drive has already been referred.

**B1    APPLICATIONS (cont'd)**

**14    Code No: DER/1204/2419**

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

**11.1    A.    To refer** the application to the Secretary of State under the Town and Country Planning (Shopping Development) Direction 1993 to enable consideration of whether the application should be called-in.

**B.    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.

**C.    Subject** to the Secretary of State not calling-in the application, **to authorise** the Assistant Director – Development **to grant** planning permission on the conclusion of the above agreement, with conditions.

**11.2    Summary of reasons:** The proposal has been considered in relation to the provisions of the City of Derby Local Plan and all other material considerations as indicated at 9. above. The development would be appropriate in this location and would be in keeping with the appearance and character of the local streetscene.

**11.3    Conditions**

1. Standard condition 09A (amended plans received on 8 and 11 March 2005)
2. Standard condition 27 (external materials)
3. Standard condition 20 (landscaping scheme)
4. Standard condition 22 (landscaping scheme) (condition 3)
5. Standard condition 69 (cycle/motorcycle parking)
6. Standard condition 67 (disabled people's provision)
7. Notwithstanding the provisions of the Town and Country Planning (Use Classes Order) 1987 (as amended) or any Order revoking and re-enacting that Order, the premises shall not be used for the sale of:
  - Food (including snack food)
  - Clothing and footwear (unless directly related to permitted goods sold on the same premises)
  - Fibres and textiles for clothing;
  - Ornaments, silverware, china, glassware and fancy goods;



**B1    APPLICATIONS    (cont'd)**

**14    Code No:    DER/1204/2419**

- Music and musical instruments;
  - Books and recorded material;
  - Stationery, artwork supplies and greeting cards;
  - Photographic equipment and services;
  - Jewellery, watches, clocks;
  - Sports goods and equipment;
  - Pet food or pet-related goods;
  - Optical goods or services;
  - Luggage, travel goods, travel services and personal accessories;
  - Pharmaceutical or cosmetic goods or services;
  - Service of travel or ticket agency or a post office or an undertaker or a dry cleaner;
  - Service as a hairdresser or for the sale of hair care products;
  - Electrical, audio, visual or telecommunication equipment not directly related to the use of the premises as a DIY/home improvement retailer.
8. The gross sales floor area shall not exceed 13,935 square metres as a whole. The floorspace shall be distributed as follows – builders yard 13%; garden centre 20% and retail warehouse 67%, as described in the submitted retail assessment. No internal alterations shall take place to increase the sales floorspace of the store, including through the provision of a mezzanine level, or to sub-divide the space into smaller units.
9. Development shall not begin until:
- a. details of an investigative survey of the site have been submitted to and approved in writing by the Local Planning Authority. This investigative survey shall have regard for ground and water contamination, the potential for gas emissions and any associated risk to the public, buildings and/or the environment
  - b. the investigative survey has been carried out and a report submitted, to include details of remedial measures to be taken to address any contamination or other problems; and both the report and the remedial measures have been approved in writing by the Local Planning Authority

## **B1    APPLICATIONS    (cont'd)**

### **14    Code No:    DER/1204/2419**

- c. all the necessary remedial measures have been completed in accordance with the approved details, and
  - d. the applicants have certified to the Local Planning Authority that the measures taken have rendered the site free from risk to human health from the contaminants identified.
10. 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.
11. Standard condition 98 (travel plan)
12. Standard condition 99 (recycling facilities)

#### **11.4    Reasons**

- 1. Standard reason E04
- 2. Standard reason E14...policies E15 and E31
- 3. Standard reason E26...policy E23
- 4. Standard reason E26...policy E23
- 5. Standard reason E35...policy T22
- 6. Standard reason E34...policy T17
- 7. To protect the vitality and viability of existing defined centres within the shopping hierarchy in accordance with the objectives of Policy S17 of the Adopted City of Derby Local Plan.
- 8. To ensure that the characteristics of the store do not change in ways that would have resulted in the refusal of the application and in order to ensure that the retail strategy outlined in Adopted City of Derby Local Plan Policy S1 is not undermined and the vitality and viability of centres in the defined shopping hierarchy are not harmed.
- 9. In the interests of environmental amenity...policy E18
- 10. To preserve the amenities of the area...policy E31
- 11. Standard reason E47
- 12. Standard reason E48

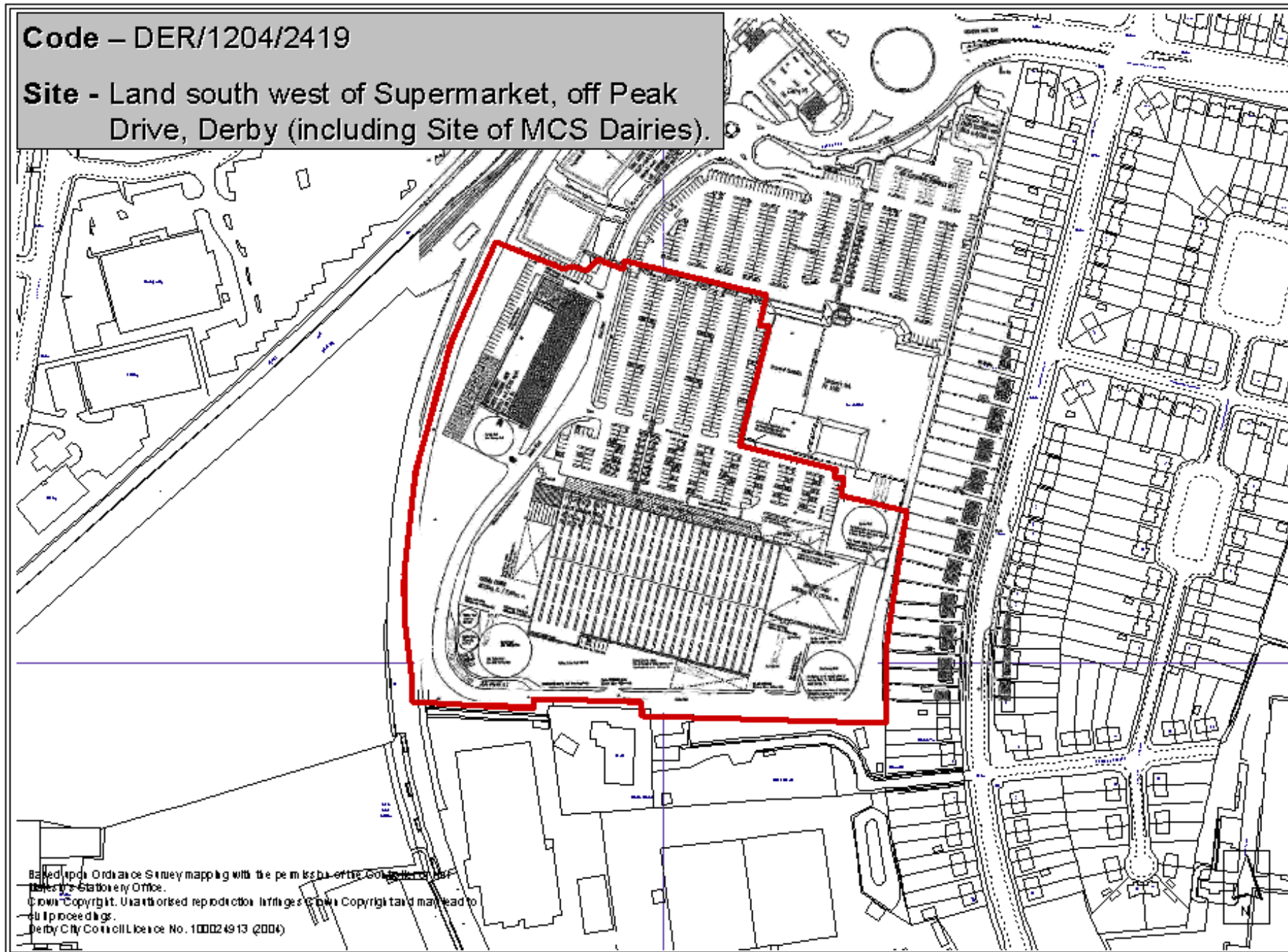
**B1    APPLICATIONS   (cont'd)**

**14    Code No:   DER/1204/2419**

**11.5   S106 requirements where appropriate:** Contributions to off-site public transport, cycling and pedestrian improvements, junction capacity improvements to Osmaston Park Road corridor. Restriction to type of operator and nature of goods to be permitted on the site and the security of the completion of the B1, B2 and B8 industrial units before the non-food retail unit is brought into use. Contributions towards public art/public realm improvements.

**Code – DER/1204/2419**

**Site - Land south west of Supermarket, off Peak Drive, Derby (including Site of MCS Dairies).**



**B1 APPLICATIONS (cont'd)**

**15 Code No:** DER/1104/2183

**Type:** Reserved  
Matters

1. **Address:** Former Mackworth College Campus, Normanton Road
2. **Proposal:** Erection of single storey buildings for food and non-food retail, restaurant uses, car parking and access (approval of reserved matters pursuant to previously approved outline application DER/101/119) and amendment to previously approved reserved matters application DER/902/1405.

... 3. **Description and Planning History:** As previous report (reproduced).

4. **Relevant Planning History:** As previous report.

5. **Implications of Proposal:** As previous report.

5.1 **Economic:** As previous report.

5.2 **Design and Community Safety:** As previous report.

5.3 **Highways:** As previous report.

5.4 **Disabled People's Access:** As previous report.

5.5 **Other Environmental:** As previous report.

6. **Publicity:**

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:** As previous report.

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

- S1 - Retail strategy objectives
- S2 - Shopping centre hierarchy
- S3 - Retail location criteria
- S4 - Retail design objectives
- E31 - Design
- E32 - Design and community
- E34 - Shop fronts

**B1    APPLICATIONS    (cont'd)**

**15    Code No:    DER/1104/2183**

T16 - Facilities for pedestrians and cyclists

T17 - Access for disabled people

T22 - Parking standards/Appendix A

Revised deposit CDLP Review Policies:

R8 - Normanton/Pear Tree Road Linear Centre.

9.    **Officer Opinion:** In accordance with the resolution of the Committee meeting on 24 February officers have again met with the applicant to seek to improve the design of the proposed buildings. The meeting was held on 3 March and e-mailed copies of proposed revisions were received as the report went to print. Any further update will be reported annually at the meeting. However, in the mean time I must reiterate my previous recommendation to refuse this poorly-designed submission.

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

**11.1    To refuse** approval of details.

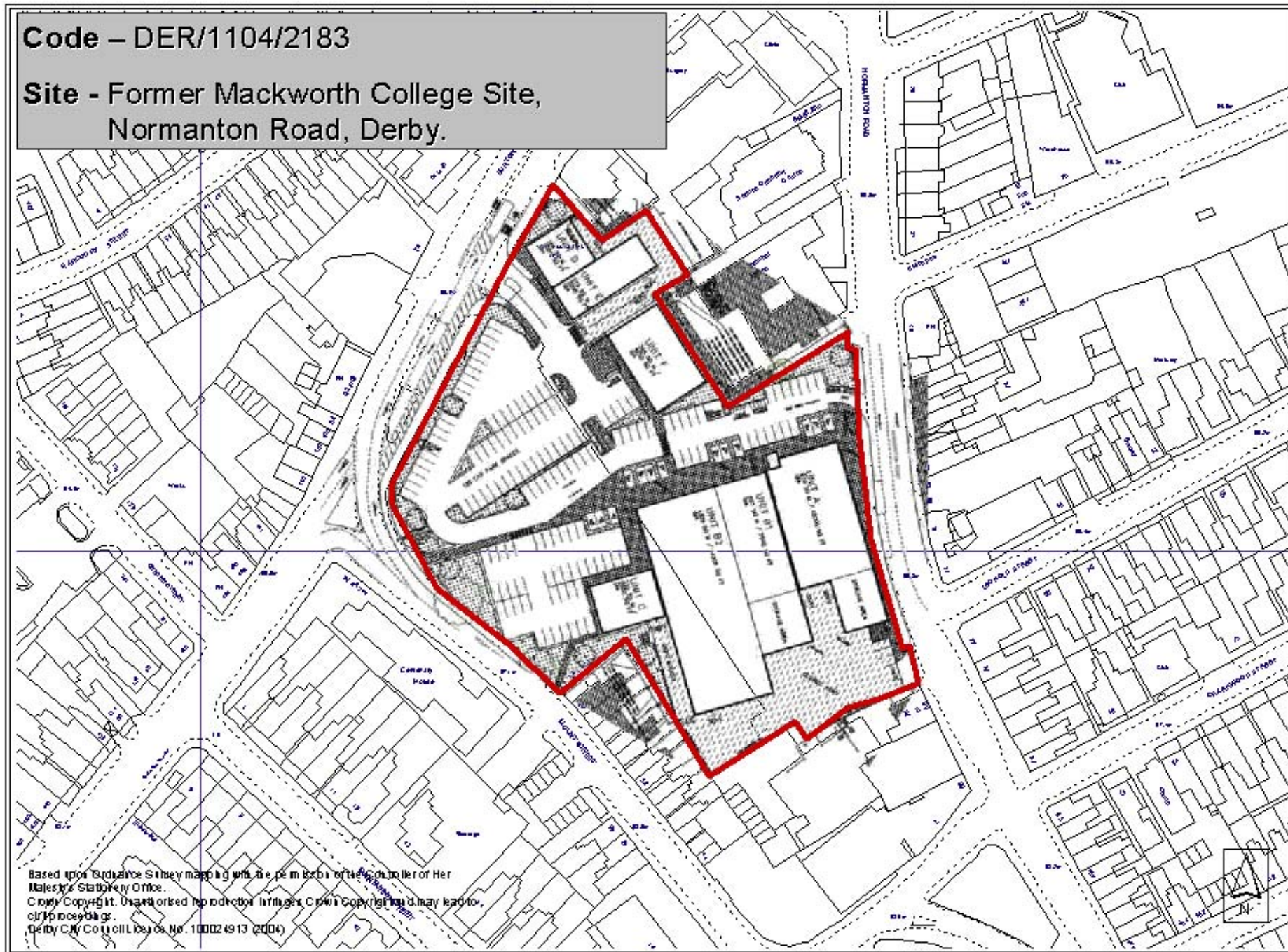
**11.2    Reason**

In the opinion of the Local Planning Authority, the scale and detailed design of the proposal is unsympathetic to the character of the surrounding area and, in turn, incompatible with the streetscene. The design, detailing and materials proposed for this prominent site fail to achieve the good standard of design required to compliment the existing townscape. The proposal harms the main shopping street by presenting a dead space and broken street frontage. This is considered to be to the detriment of both the shopping street and the local townscape. As a consequence, the proposal, in the opinion of the Local Planning Authority, misses an opportunity to provide a lively, attractive or welcoming environment. Accordingly, the proposal is contrary to policies E31, E32, E34 and S4 of the adopted City of Derby Local Plan.



**Code – DER/1104/2183**

**Site - Former Mackworth College Site,  
Normanton Road, Derby.**



**D1 SPECIAL ITEMS**

**1 AMENDED SECTION 106 AGREEMENT**

**Code No:** DER/903/1619

Change of use and addition of two further storeys to create 51 apartments,  
Gower House, Gower Street

Members will recall this application being reported at the meeting on 20 November 2003. Planning permission was granted subject to a Section 106 Agreement to secure the provision of affordable housing units within the development and a financial contribution towards cycling provision.

A financial contribution towards cycling within the locality of the application site has been agreed.

There have been lengthy discussions with the applicant about the provision of affordable housing and much work has been done by the applicants and the City Council to try to secure a Registered Social Landlord to take on the affordable housing units. There have been difficulties with the size of the scheme and the viability of it from an RSL point of view. Unfortunately no RSL has been willing or able to take the units on. This means that on-site provision is not possible. City Council Housing Development Officers are satisfied that the affordable housing is not achievable on this scheme.

Therefore, as on-site provision of the affordable housing will not work, I have attempted to secure a financial contribution in lieu of on-site provision. The applicants have stated that the economics of the scheme are such that the provision of a financial contribution would make the entire scheme unviable. They have submitted a detailed financial appraisal to prove this. After careful consideration of this, I accept that the provision of any type of affordable housing contribution would threaten the viability of the whole scheme. This is an important brownfield site that I wish to see developed for housing.

The Director of Policy has accepted this position.

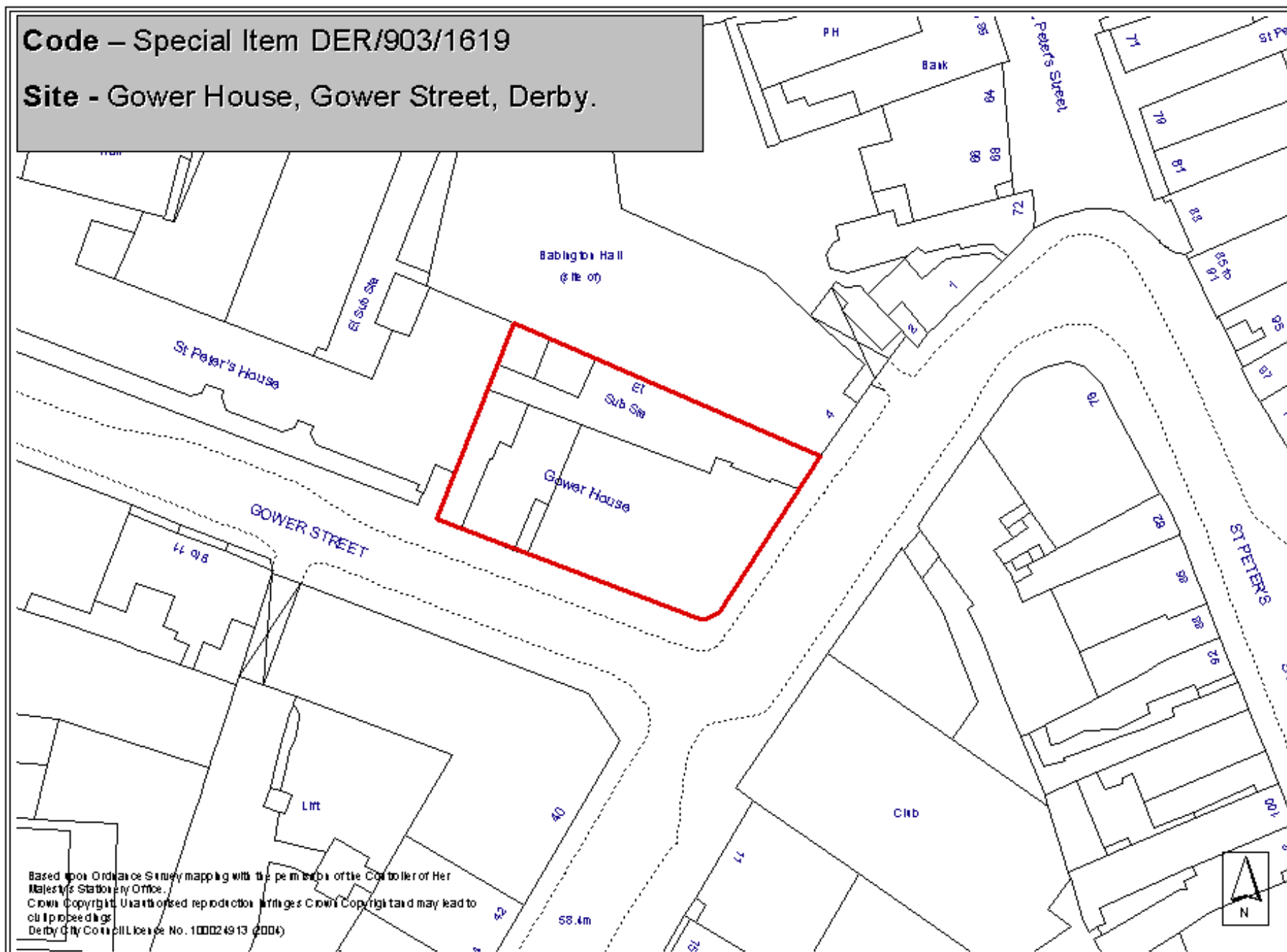
**RECOMMENDATION:**

**To negotiate** the terms of a Section 106 Agreement without any affordable housing contribution.



**Code** – Special Item DER/903/1619

**Site** - Gower House, Gower Street, Derby.



## **D1 SPECIAL ITEMS (cont'd)**

### **2 ENFORCEMENT REPORT**

#### **125 Rutland Street**

No. 125 Rutland Street is a terraced dwelling in a short row of five properties. On 11 July 2000 planning permission was granted for a single storey rear domestic kitchen and shower room extension under code DER/500/560.

The plans submitted with the application that were subsequently approved, show the dimensions of the extension as 6m long x 2.6m wide x 3m high.

In March 2004 an application was received from the owner of the end adjoining terraced property, No. 123 Rutland Street, to add an additional single storey kitchen extension onto a previous extension which, by its dimensions 5.9m long x 3.3m wide x 2.75m and a volume of 53.5 cubic metres, appears to have been built without planning permission.

The March 2004 application at No. 123 would have made the extension in total 9.5m long x 3.3m wide x 2.75m high. The application was refused under delegated powers on 26 April 2004, the Planning Officer noting that a previous planning application for the erection of a much smaller 6.7m long extension at 123 Rutland Street was refused under planning code DER/990/1319 on 8 November 1990 for the following reason:

“The proposed extension, by reason of its size and projection in close proximity to the boundary, would seriously detract from the amenities of the adjacent dwelling”.

During a site visit to 123 Rutland Street in the course of determining the application for that address, the Planning Officer noted that the rear extension of the adjoining property at 125 Rutland Street appeared to have been built longer than what had been approved.

The matter was passed to the Enforcement staff and a site visit was made to 125 Rutland Street. The extension at 125, when measured, was found to be 1 metre longer than approved; 7 metres instead of 6 metres as indicated on the approved plans.

The Building Control Surveyor's file notes for No. 125 indicate that the building work for the extension was not finally completed until November 2003.

This makes it well within the four year time limit for consideration of enforcement action.

The matter of the unauthorised 1 metre at 125 Rutland Street has also been raised by the owner of No. 123 via a Councillor. It is unfortunate that the

**D1    SPECIAL ITEMS   (cont'd)**

**3    ENFORCEMENT REPORT**

planning process appears to be being ignored at both these properties, with one claiming precedent if the other is seen to benefit.

I find it wholly unacceptable that matters should progress with a blatant disregard of the statutory planning process.

There are two options available to the Council to resolve this unfortunate matter:

1. we could seek the removal of the unauthorised additional 1 metre of the extension or
2. resolve to take no action, but this could send the wrong signals to the community.

I feel that I must point out that we are required to be satisfied that any action we take is both necessary and proportionate in relation to any harm or loss of amenity caused. In the particular circumstances it would be difficult to demonstrate that there would be demonstrable harm to the amenities of properties either side of No. 125.

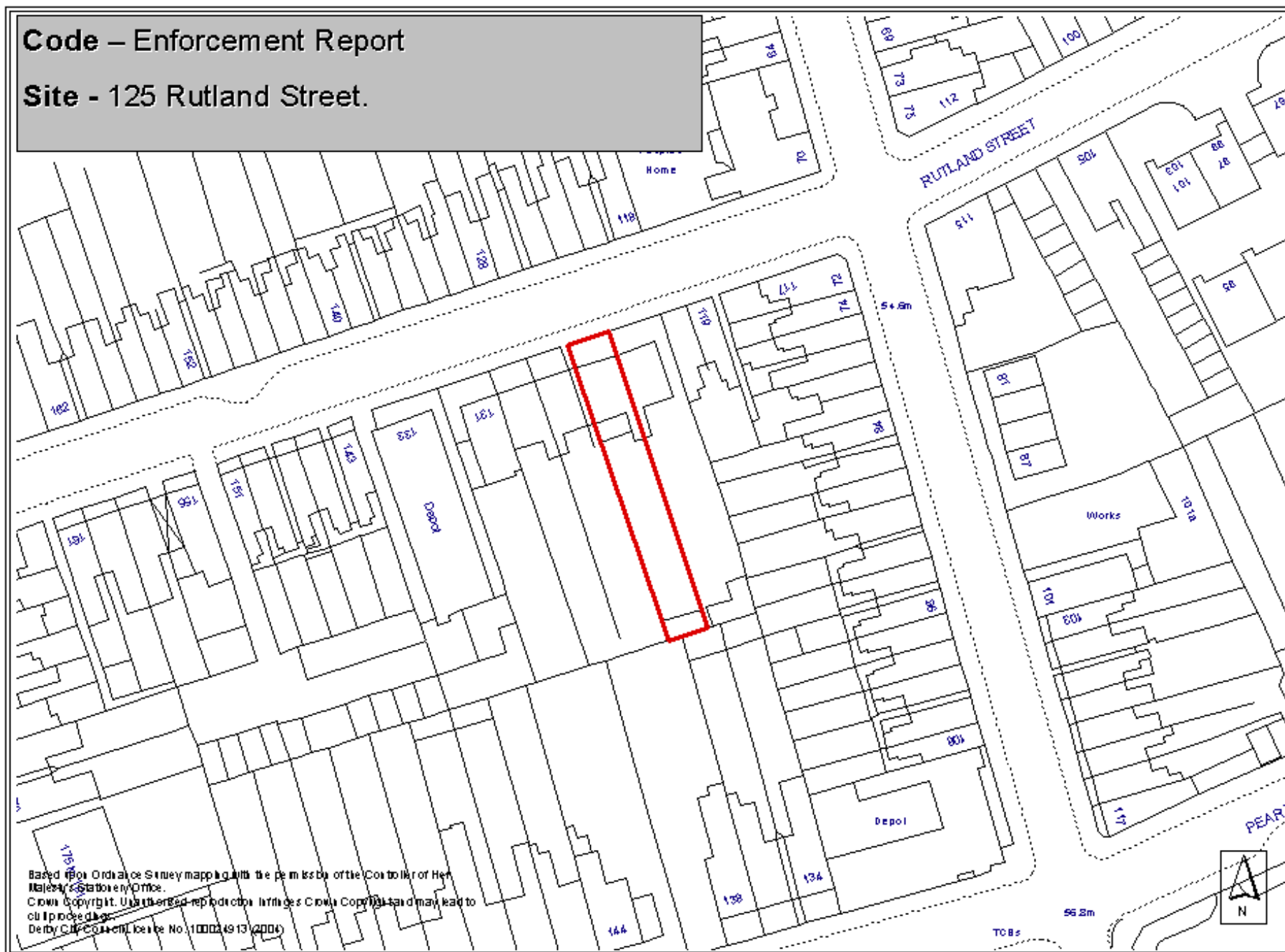
The extension will, however, remain unauthorised and could cause difficulties if the property owner ever wishes to sell the property.

**RECOMMENDATION:**

- A.    To take** no action in relation to the unauthorised 1 metre of extension on the rear of 125 Rutland Street.
- B.    To write** to the owner of No. 125 Rutland Street to make clear the continued unauthorised nature of the extension and the difficulties this may pose should he wish to sell the property.

**Code – Enforcement Report**

**Site - 125 Rutland Street.**



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## D2 **SPECIAL ITEMS**

### 1 **APPEAL DECISIONS**

Appeals against planning refusal:

Code No	Proposal	Location	Decision
DER/304/569	Outline planning application for residential development	Land adjacent 233 Rykneld Road, Littleover (Micklemeadow Farm)	Dismissed
<p>Comments: Planning permission was refused on the basis that the application land was a greenfield site and not, as contended by the applicants, part of the curtilage of the farmhouse, when it could have been considered to be a brownfield site.</p> <p>The land is not allocated for any use within the adopted City of Derby Local Plan, nor is it proposed to allocate the land for any particular use in the Local Plan Review. The proposal would therefore amount to a windfall site on green field land. As the housing allocations in the Local Plan Review currently exceed the Structure Plan requirement, there is no case for more land to be allocated for housing at the present time. Furthermore, national planning policy guidance makes a strong national presumption against making housing land allocation allowances for greenfield windfalls.</p> <p>The Inspector agreed with the Council's view, pointing out that no evidence had been given that the site should be brought forward to meeting housing supply requirements and that development of the appeal site for residential purposes would extend the built-up area, contrary to the aim of focussing new housing development in existing urban areas.</p>			

**RECOMMENDATION:** To note the report.

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

#### 1 **Code No:** DER/205/185

1. **Address:** Highway verge at junction of Derby Road and Parkway, Chellaston
2. **Proposal:** Installation of 12m monopole including three antennas, and equipment cabinets.
3. **Description of Location:** Highway verge on the west side of Derby Road South of its junction with Parkway. The length of verge abuts the curtilage of The Red Lion public house. On the opposite side of Derby Road are residential properties, that nearest to the proposed equipment being 33m away from it. To the north of Parkway are further residential properties. The nearest of these are 35m from the proposed equipment. The equipment is required to provide Vodafone coverage in the area.
4. **Description of Equipment:** The proposed monopole would be 12m in height, with the proposed antennae 2m high above that. The associated ground level equipment would be in the form of an equipment cabinet 1.3m x 1m x 2m high, and a meter cabinet 0.9m x 350mm x 1m high. The monopole would be similar in appearance and height to a streetlighting column.
5. **Alternatives considered by Applicant:** A schedule of 17 alternatives has been provided. Reasons for their rejection cover:
  - site owner unwilling to provide facilities (4)
  - adverse planning assessment (7)
  - technically unsatisfactory (4)
  - site considered too sensitive (2)
6. **Relevant Planning History:** None on this site.
7. **Implications of Proposal:**
  - 7.1 **Economic:** None directly arising. The extension of coverage is intended to generally equip the United Kingdom better in relation to all forms of communication technology.
  - 7.2 **Design:** The type of monopole has been designed to replicate, in terms of general impact, the design of existing lighting columns on major road.
  - 7.3 **Community Safety:** Any hazard presented by this type of equipment is no greater than that from other street furniture.

### D3 **APPLICATIONS** (cont'd)

#### 1 **Code No:** DER/205/185

7.4 **Highways:** No objection. This is a wide area of verge, and there are no pedestrian conflict or visibility implications.

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

7.6 **Other Environmental:** -

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

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

9. **Representations:** Objections have been received from both of the schools notified (Chellaston Infants and Chellaston Juniors) and from nine residents. The main grounds of objection are:

- health implications, particularly for children
- poor appearance in the streetscene
- effect on property values

Any further representations will be reported at the meeting.

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

DCorpS (Health) – no objections

#### 11. **Summary of policies most relevant:** Policy E38.

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

- a. impact upon amenities and the surrounding environment, with consideration given to sensitive areas, screening and landscaping
- b. there is no possibility of erecting the mast upon existing buildings or sharing mast facilities

### D3 **APPLICATIONS** (cont'd)

#### 1 **Code No:** DER/205/185

- c. the proposal should not unacceptably inhibit development potential.

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

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

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

#### **Health Considerations**

Further to the comments under 7.5 above, a recent case before the Court of Appeal has reinforced the requirement for Local Planning Authorities to assess telecommunications proposals on siting and visual amenity grounds only.

#### **Visual Amenities and the Environment**

I am satisfied that the proposal would not have any unreasonable impact upon visual amenities or the surrounding environment. The monopole would be sited on a busy main road and would closely resemble the existing lighting columns. In my view, the telecommunications industry has listened to past criticism of the ugliness of its early equipment and has developed this type, which is indistinguishable from other urban street furniture in visual impact, for urban residential locations.

#### **Mast-Sharing and Erection upon Existing Buildings**

The applicant has submitted supporting information which states that alternative site options have been explored as set out in section 5 above. I am satisfied that there are none available within the limits that will give coverage to the cell that have any material advantages over this one.



### D3 **APPLICATIONS** (cont'd)

#### 1 **Code No:** DER/205/185

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

#### Highway considerations

The proposed monopole would be sited on highway verge and I raise no objections to the proposal on highway visibility grounds.

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

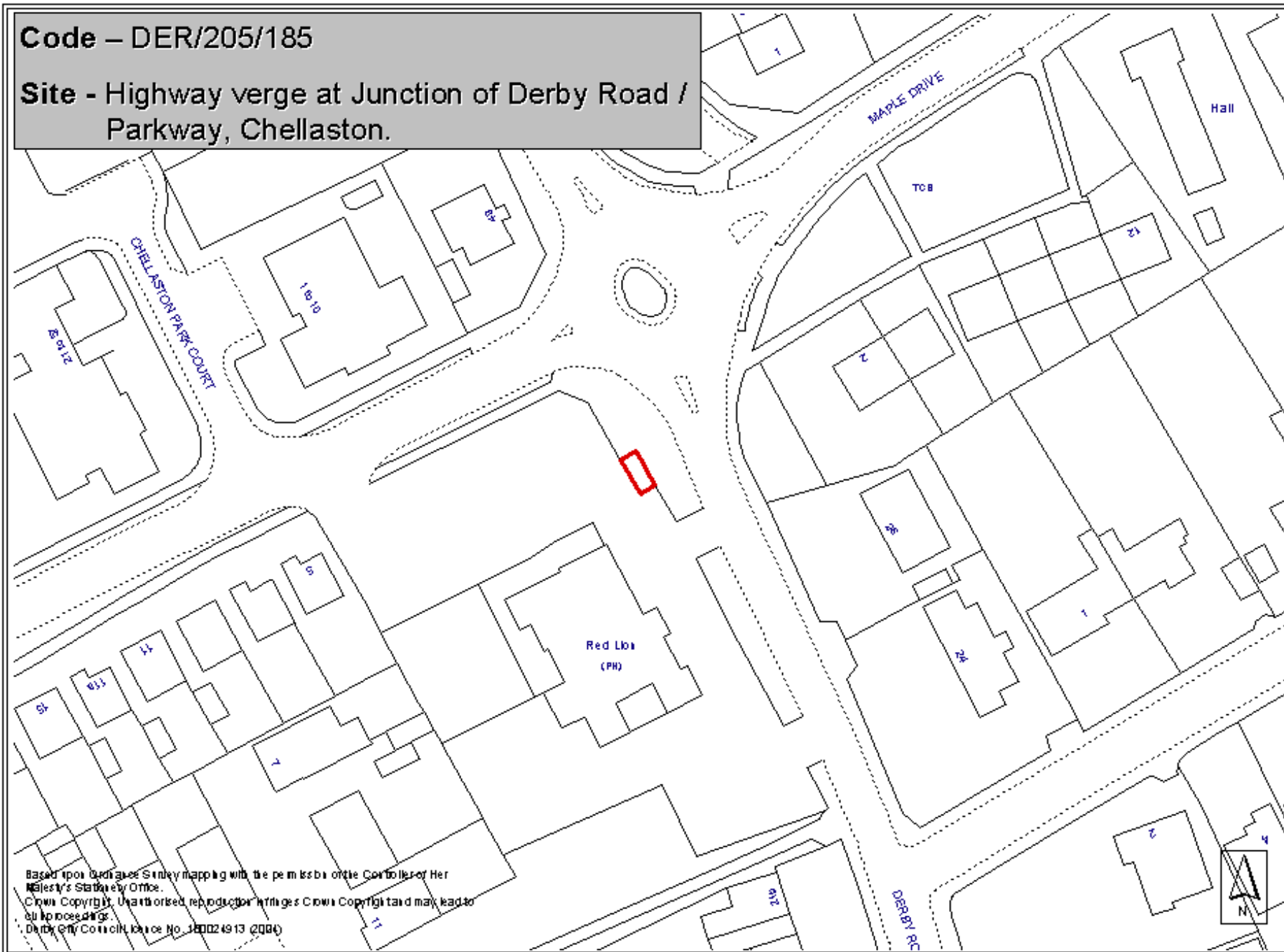
#### **13. Recommended decision:**

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

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

Code – DER/205/185

**Site** - Highway verge at Junction of Derby Road / Parkway, Chellaston.



### D3 **PRIOR NOTIFICATIONS – Telecommunications** (cont'd)

2 **Code No:** DER/105/112

**Type:** Prior notification

1. **Address:** Mast south of Orient Way, Pride Park
2. **Proposal:** Installation of six antennas and four dishes with six cabinets
3. **Description of Location:** Mast south of Orient Way, Pride Park. Notification has been received to install six antennas and four dishes onto an existing tower, together with six cabinets at ground level. The notification is by Gridcom (UK) Ltd, an independent shared infrastructure provider involved in the installation and management of shareable telecommunications infrastructure including the construction of new ground-based masts and, in this particular case, the utilisation of the Transco tower.
4. **Description of Equipment:** The tower is located on land south of the new roundabout on Orient Way and north east of Deadmans Lane. It is an existing 45.8 m tower containing dishes and antennae by other operators. The additional dishes and antennae proposed for Orange would result in six headframes supporting the dishes and antennae. The proposed headframe for Orange is located at a height of 32m. The cabinets are located at ground level under the tower and are approximately 2.5m x 2.5m x 2.5m and grey in colour.
5. **Alternatives considered by Applicant:** Not indicated, but this is a shared facility which is encouraged in national guidance.
6. **Relevant Planning History:** Additional dishes and antennae have been subject to notification. The tower was subject to planning permission in 1980.
7. **Implications of Proposal:**
  - 7.1 **Economic:** None directly arising. The extension of 3G coverage is intended generally to equip the United Kingdom better in relation to all forms of radio communication technology.
  - 7.2 **Design:** The dishes and antennae are similar to others on the tower.
  - 7.3 **Community Safety:** Increased network coverage could be of benefit.
  - 7.4 **Highways:** No implications.
  - 7.5 **Health:** The proposal is certified as being in full compliance with the requirements of the radio frequency (RF) public exposure guidelines of the International Commission on Non-Ionising Radiation (ICNIRP). As a result of this and the advice in Planning Policy Guidance Note on

### D3 **PRIOR NOTIFICATIONS – Telecommunications** (cont'd)

#### 2 **Code No:** DER/105/112

Telecommunications (PPG8), the planning authority should not consider further the health implications of the proposal.

**7.6 Other Environmental:** The site is located within a commercial area.

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

Neighbour Notification letter	One business property within 90m and one day nursery within 400m	Site Notice	*
Statutory press advert and site notice		Discretionary press advert and site notice	
Other	Ward Member notification		

9. **Representations:** Objections have been received from two of the Ward Councillors.

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

DCorpS (EH) – no comments.

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

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

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

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

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

### D3 **PRIOR NOTIFICATIONS – Telecommunications** (cont'd)

#### 2 **Code No:** DER/105/112

12. **Officer Opinion:** Policy E38 of the adopted CDLP is applicable, even though this application seeks prior notification approval for the proposed development and not planning permission. The policy makes it clear that, unless there are conflicting material considerations relating to criteria a, b or c above, permission should be granted where there is an application for permission, or that the Local Planning Authority should not refuse prior notification cases on location and appearance grounds. This is consistent with Government advice in PPG8 which seeks to encourage development of the telecommunications network. Indeed, this is one of the relatively few occasions where the recommended site sharing can take place by utilising an existing tower.

#### Health Considerations

Further to the comments under 7.5 above, a recent case before the Court of Appeal has reinforced the requirement for Local Planning Authorities to assess telecommunications proposals on siting and visual amenity grounds only.

#### Visual Amenities and the Environment

I am satisfied that the proposal would not have any unreasonable impact upon visual amenities or the surrounding environment. The installation is on an existing tower within a commercial area, with the nearest residential property over 250m away.

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

This proposal comprises site sharing which is recommended in PPG8 and in policy E38.

#### Highway considerations

The proposal is on an existing tower with no significant implications.

In conclusion, I consider the site to be extremely suitable for the proposal and that the Local Planning Authority should not seek to control the siting and appearance of the equipment.

The determination period will have expired before the meeting and I am requesting Members to confirm acceptance of the proposal.

13. **Recommended decision:**

- 13.1 **To confirm** that the City Council does not wish to control the details of siting and appearance.

**D3    PRIOR NOTIFICATIONS – Telecommunications    (cont'd)**

**2    Code No: DER/105/112**

**13.2    Summary of reasons:** The proposal has been considered against the City of Derby Local Plan policy as summarised in 11 above and against Planning Policy Guidance Note 8. It constitutes a site-sharing telecommunications development in an acceptable location in a commercial area, and would improve the network in this part of the City without having a detrimental effect upon local amenities.

**Code** – DER/105/112

**Site** - Mast south of Orient Way, Pride Park,  
Derby.

