

B1 APPLICATIONS

1 Code No: DER/406/596

Type: Full

1. **Address:** Chellaston Community Centre, Barley Croft, Chellaston
2. **Proposal:** Erection of security fence and change of use from public open space to community centre use.
3. **Description:** Chellaston community centre is located on the eastern side of Swarkestone Road, in the Chellaston District centre. To the north of the site are the district centre shops and to the south is an area of public open space. A children's playground located within the open space sits approximately 15m from the rear of the community centre building.

Planning permission is sought for the enclosure of an area of land at the rear of the community centre with fencing 2.4m in height. The enclosure of this area is sought to not only provide a secure area for users of the community centre but to also improve security at the centre and to help reduce problems with vandalism. The proposed fencing is of a weldmesh design and is proposed to be coloured green.

4. **Relevant Planning History:** DER/404/801 - Erection of security fence and change of use from public open space to curtilage of community centre, withdrawn 28 February 2005.

5. **Implications of Proposal:**

5.1 **Economic:** None.

5.2 **Design and Community Safety:** Although the fencing would enclose land that is within an area enjoyed for its openness the type of fencing proposed would allow for clear visibility through into the proposed enclosed area and beyond. Its green colour would also help to reduce its visual impact. In my opinion, the type of fencing proposed is the most appropriate in terms of the security it would offer the community centre whilst limiting its visual impact on the surrounding area.

5.3 **Highways:** There are no highway implications therefore there are no objections.

5.4 **Disabled People's Access:** Not applicable.

5.5 **Other Environmental:** None.

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6. Publicity:

Neighbour Notification letters	9	Site Notice	*
Statutory press advert and site notice		Discretionary press advert and site notice	
Other			

7. **Representations:** No letters of representation have been received in response to this application. The proposal was reported to area panel 2 in May 2005 where it was agreed that any application submitted for planning permission, would be reported to the Planning Control Committee for determination.

8. Consultations:

DCS (Health) – no objections raised.

DCS (Parks) – the proposal will result in a loss of public open space which is against Council policy. However, it is recognised in this case that the area of lost public open space will be used for community benefit. As the fence is required to provide a secure play area, it is felt a 2m high fence would be sufficient and preferable. 2.4m high is considered to be intrusive. The type of fence proposed is acceptable. Some tree and shrub planting should be added to the fenced off area to help reduce the visual effects of what could otherwise look like a compound area.

DCS (Arboriculture) – to be reported.

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

- L1 - Protection of parks and public open space
- L7 - Sports pitches and playing fields
- L12 - New community facilities
- E27 - Community safety

The above is a summary of the policies that are relevant. Members should refer to their copy of the CDLPR 2006 for the full version.

10. **Officer Opinion:** Local Plan Policy L1 seeks to protect areas of public open space but does allow for recreational uses of an open nature. The proposed enclosure of open space as proposed in this application would take land into the curtilage of the community centre and is proposed to be used for recreation by users of the community centre. The land in question does not form part of an existing sports pitch and

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given that it is an area which is relatively small in size, I consider that its change of use would be acceptable under the provisions of CDLPR policy L1. However, should planning permission be granted, I consider that the future use of the land in this recreational manner should be controlled by condition of permission.

The erection of fencing in an area of public open space would not normally be encouraged but weighed against the additional security that this would offer the community centre and the secure area that it would provide for specific recreational activity, I consider that it can be justified. The design and colour of the proposed fencing would also help to maintain some openness through the site. A fence of only 2m in height would be preferable in that it would have less visual impact on the adjacent open space. However the applicants have advised that a fence of 2.4m height is considered necessary to provide adequate security for the community centre. Given the open design of the fencing proposed, I do not consider considerable benefit would be gained in insisting on a reduction in the height of the fence by 0.4m.

It is clear that there is support for this proposal from local residents. Although the City Council would not normally wish to agree to the change of use of areas of public open space, the proposed use of the land will be for recreational purpose and is therefore acceptable in policy terms. Amendments to the position of the fence, the position of an emergency exit gate and the incorporation of a mowing strip have been sought in accordance with advice from colleagues in our Parks section and I consider this proposal acceptable for the reasons given above.

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 against the Adopted City of Derby Local Plan policies set out in (9) above and all other material considerations. It is considered to be an acceptable form of development given the siting and design of the fencing and the size of the area of land concerned.

11.3 Conditions

1. This permission shall relate solely to the use of the enclosed area to the rear of the community centre for recreational and leisure uses of an open nature only.

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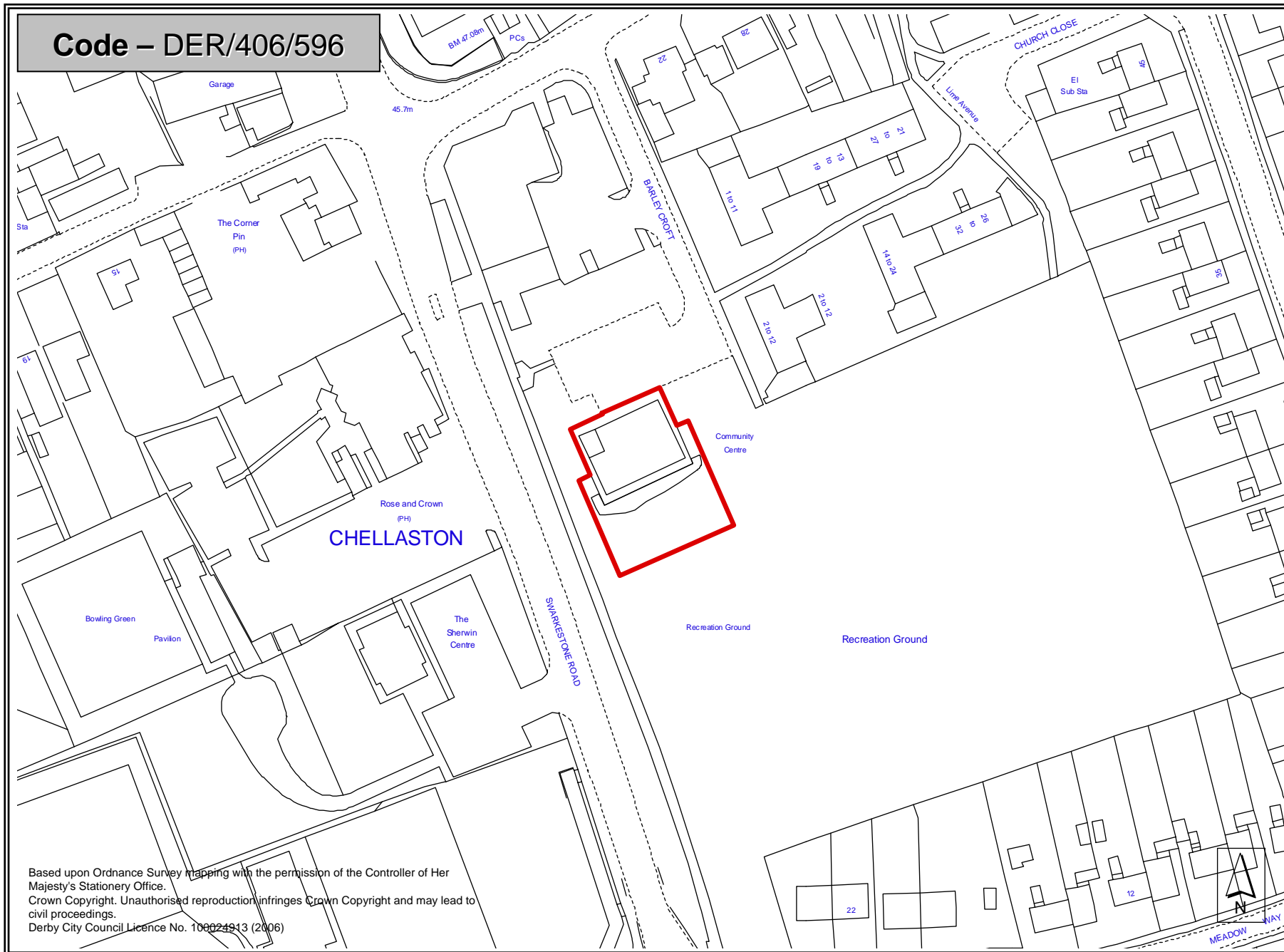
2. Shrub and tree planting shall be undertaken in the enclosed area of land and no development shall be commenced until a landscaping scheme indicating the types and positions of trees and shrubs have been submitted to and approved in writing by the Local Planning Authority.
3. The landscaping scheme submitted pursuant to Condition 2 above shall be carried out within 12 months of the commencement of the use or the first planting season whichever is the sooner and any trees or plants which, within a period of five years from the date of such landscaping works, die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation.
4. Standard condition 09A (revised plans received 4 July 2006)

11.4 Reasons

1. For the avoidance of doubt and to ensure that the open nature of the land is maintained in accordance with policy L1 of the adopted City of Derby Local Plan Review 2006.
2. To reduce the visual impact of the fence on the surrounding public open space in the interests of safeguarding the visual amenity of the area and in accordance with policy L1 of the adopted City of Derby Local Plan Review 2006.
3. Standard reason E10....policy L1.
4. Standard reason E04

11.5 S106 requirements where appropriate: None.

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2 Code No: DER/206/244

Type: Full

1. **Address:** Site of the former Baseball Ground and adjoining land, Shaftesbury Crescent
2. **Proposal:** Erection of 147 dwelling houses, garages and formation of public open space and ancillary works.
3. **Description:** Members will be familiar with this application which was reported to the meeting on 11 May 2006. The application was deferred by Members to pursue an improved level of affordable housing provision. The May report is reproduced for Member's reference.

It is important to note that the proposed development would cover an area an area of approximately 3.6ha and the density would equate to approximately 41 dwellings per ha. With regard to the provision of affordable housing in this location, my colleagues in the Council's Housing Division have explored options to increase the level of provision. The issues surrounding the level, type and economic viability of affordable housing provision in this part of the city, as compiled by the Corporate Director – Resources and Housing, are addressed below:

Policy Context

The adopted CDLPR 2006 includes a specific policy relating to the Baseball Ground, policy R5, which includes the following reference to affordable housing:

“The City Council will seek to negotiate the provision of affordable housing based on a target of 30% of the overall housing provision on the site”.

Policy H19 of the adopted CDLPR 2006 states that the following considerations will be material in considering the amount of affordable housing to be secured from a development:

- a. evidence of local need for affordable housing
- b. site size, suitability and the economics of provision
- c. the need to achieve a successful housing development
- d. the presence of competing planning objectives.

Consideration of amount of affordable housing

The impact of the above considerations will now be considered in the context of the Baseball Ground site.

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a. evidence of local need for affordable housing

It has been recognised by the Regional Housing Board that the Baseball Ground is within an area, Rosehill – where there is a failing housing market. Funding has been secured to carry out master planning work in the area, with the intention of bringing transformational change to the area and its housing market.

Currently the majority of the properties in the area are terraced houses, with a high proportion of privately rented and vacant properties. There is low demand and high turnover of the available social housing. The latest Housing Needs Survey (2001) showed there was an adequate supply of affordable housing, except for four bed properties where there is unmet need.

There is, therefore, limited need for additional affordable housing in the area, which has been reflected in discussions with the developer, to ensure the development is sustainable.

b. site size, suitability and the economics of provision

As values in the area are relatively low and the cost of the development relatively high, the cost of the development is greater than its value. Part of the cost can be attributed to the provision of good quality incidental open space, which is a planning requirement to address a local imbalance. The proposed development would also be to a high standard of design quality, both from an aesthetic and cost in use point of view. In addition, there is also significant abnormal development costs associated with developing the site. These factors have all added to the development cost and consequently the development can **only** proceed with English Partnerships grant support to cover the gap.

English Partnerships funding cannot fund affordable housing and so the only way that affordable housing can be delivered from the development is if further subsidy is available, with the primary source being the Housing Corporation.

c. the need to achieve a successful housing development

All partners to this development recognise the need to achieve a successful housing development, both in terms of the development itself and the wider potentially beneficial impact on the surrounding area. Discussions concerning affordable housing have recognised this in terms of the amount of affordable housing to be secured, the tenure mix and the property type and size, so as to ensure the development is sustainable.

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e. the presence of competing planning objectives

The proposed development is a major commercially driven regeneration scheme designed to pump prime the failing housing market in the area, as well as providing additional, high quality, public open space, together with a range of design and planning objectives. The benefits of this development will be felt in the wider area in the future as the housing market grows stronger, when further residential development, including the provision of affordable housing, may become economically viable.

It is recognised that a pragmatic approach needs to be taken to the securing of affordable housing from this development. In line with Policy H19 a flexible approach can be taken and it is considered to be justified in this case, bearing in mind the regeneration benefits and the economics of the development. In essence the amount of affordable housing that can be delivered is directly related to the securing of Housing Corporation funding, which is limited and there are other priorities in Derby and the East Midlands competing for the available funding.

From the Housing Corporation 2006/08 programme funding has been secured which will deliver 15 units of affordable housing. Further discussions have taken place with the Housing Corporation and as a result, subject to the availability of funding and appropriate value for money tests, a commitment has been made for a further 15 units to be delivered from the 08/11 programme. This would result in a total of 30 units of affordable housing on site, or **20.4%** of the total number of properties. It is considered that this is the maximum amount of affordable housing that can be secured from this development.

It is recommended that Members consider the contents of this report and that, subject to the Housing Corporation funding being confirmed, it is agreed that 30 units of affordable housing be secured from this development.

4. Relevant Planning History: None of any relevance.

5. Implications of Proposal:

5.1 Economic: Refer to the previous report.

5.2 Design and Community Safety: Refer to the previous report.

5.3 Highways: I am advised by colleagues in the Traffic Division that, subject to the agreement of S106 monies to contribute to junction

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improvements in the locality, there are no objections to the proposed development on traffic grounds. Work has been undertaken to gauge junction capacities and queuing times in the area and my Traffic colleagues are generally satisfied with the results. The agent has also confirmed in writing a number of technical issues relating to various on-site highway details. I understand that my colleagues in the Highways Development Control Division are satisfied with these details.

5.4 Disabled People's Access: Refer to the previous report.

5.5 Other Environmental:

Noise

It is important for Members to note that a noise report was commissioned to address the impact of noise affecting the proposed development from surrounding existing businesses, as indicated in the officer opinion section of the previous report. The main reasons for requiring the noise survey was the potential noise nuisance from the Meat Centre and other industrial premises around Harrington Street. The Meat Centre can operate 24 hours a day seven days a week. This includes taking deliveries from HGVs between 01:00-06:00 hours.

The noise survey showed that much of the development site is likely to be in noise exposure category B. PPG24 states that "Noise should be taken into account when determining planning applications and, where appropriate, conditions imposed to ensure an adequate level of protection against noise". The assessment then covers the noise mitigation scheme for the development.

I am advised that my colleagues in Environmental Services were concerned about the content of the report as during the noise survey no HGVs used the site. The site also closed at around 03:00 hours. This means that the worst case scenario could not have been measured. To address this issue the consultant who conducted the report has assured my colleagues in Environmental Services that it would be possible to model the noise scenario with HGVs accessing the site.

The Pollution Section would not object to the application providing a scheme of noise mitigation can be agreed prior to development commencing on site. This would depend largely on what noise exposure category the noise modelling work predicted.

The City Council has a duty to ensure that not only are future residents of the site protected from surrounding commercial noise, the proposed development does not impact unduly on the operations of those surrounding businesses. I anticipate that a suitable worded condition

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be attached to any permission to ensure that, in accordance with the specialist advice of my colleagues in Environmental Services, the issue of noise is correctly addressed.

Drainage

A drainage appraisal has been undertaken by STW to assess the impact of the proposed development on combined foul and surface water flows from the site. I am advised that the existing sewers could not accommodate the proposed flows but that Cotton Brook could be used. This would involve the developer negotiating with the City Council as a riparian land owner of the Brook.

Flood Risk

A FRA has been submitted to satisfy the requirements of the EA and I anticipate that the issue should be resolved before the meeting.

6. **Publicity:**

Neighbour Notification letters	103	Site Notice	4
Statutory press advert and site notice		Discretionary press advert and site notice	
Other			

7. **Representations:** Refer to the previous report.

8. **Consultations:** See the previous report. The comments of the Corporate Director – Resources and Housing are included in Section 3 of this report.

9. **Summary of policies most relevant:** Refer to the previous report.

10. **Officer Opinion:** Refer to the previous report.

I fully appreciate Members aspirations to secure 30% affordable housing provision on this site. I hope the comments in Section 3 of this report highlight that, in this particular case, there are key economic reasons why this target cannot be achieved. There is evidence of low demand/high turnover for the affordable housing in the area, while the Housing Needs Survey 2001 showed that the property type where there was unmet need was four bedroom accommodation. Consequently, the affordable housing provided will be four bed houses for rent and shared ownership properties, which will fill in the gaps in the current supply. In my opinion there are clear planning objectives

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and immense planning gain for redeveloping the site which would, in my opinion, re-vitalise this part of the city.

I anticipate that, by the meeting, the outstanding issues relating to noise mitigation measures for part of the site and Flood Risk will have been duly addressed and any relevant condition can be reported orally.

11. Recommended decision and summary of reasons:

11.1 A. To authorise the Assistant Director – Regeneration to negotiate the terms of a Section S106 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 – Regeneration **to grant** planning permission on the conclusion of the above Agreement, subject to conditions.

11.2 Summary of reasons: The proposal has been considered in relation to the provisions of the adopted City of Derby Local Plan Review and all other material considerations as indicated in 9 above and it is an acceptable form of development in overall layout, siting, design, residential amenity, highways and open space terms in this location.

11.3 Conditions

1. Standard condition 83 (drawing nos.)
2. Standard condition 27 (details of external materials)
3. Standard condition 44 (landscaping scheme – submitted drawings)
4. Standard condition 34 (loading/unloading space kept free)
5. Standard condition 30 (surface to be drained, surfaced etc)
6. Standard condition 19 (means of enclosure)
7. Standard condition 99 (recycling)
8. Before any development is commenced a scheme for protecting the proposed dwellings from noise from the adjacent commercial buildings shall be submitted to and approved in writing by the Local Planning Authority. Any works which form part of the scheme shall be completed before any of the permitted dwellings are occupied.
9. No development shall commence until a scheme including the timing for the provision of surface water drainage works and foul water drainage provision has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include details of Sustainable Drainage Features, unless otherwise agreed in writing.

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- 10. Standard condition 100 (contamination)
- 11. Standard condition 89 (landscape management plan)

11.4 Reasons

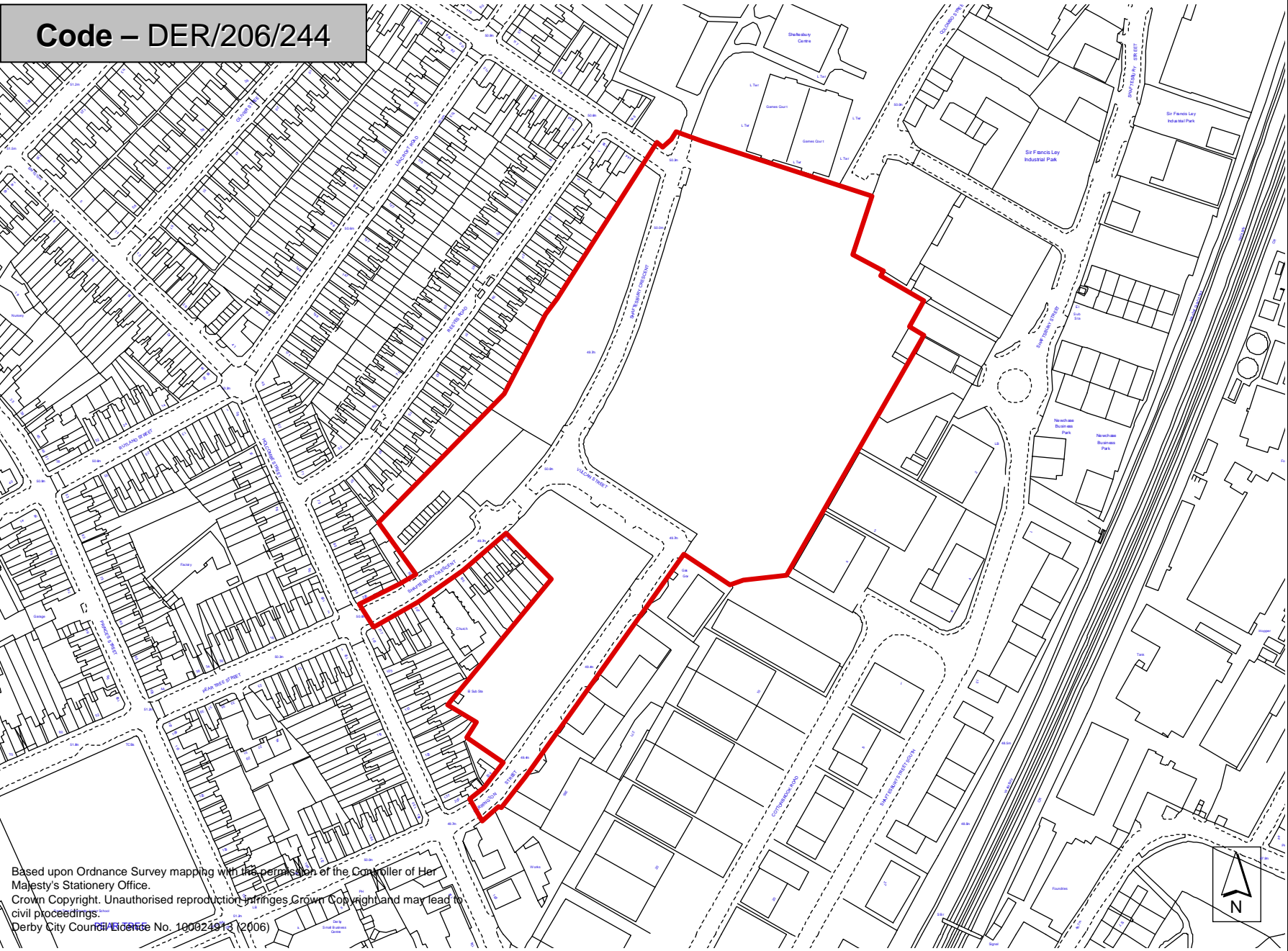
- 1. Standard reason E04
- 2. Standard reason E14 (CDLPR H21 and E26)
- 3. Standard reason E14 (CDLPR E20 and E26)
- 4. Standard reason E17
- 5. Standard reason E09 (CDLP H21)
- 6. Standard reason E14 (CDLPR H21 and E27)
- 7. Standard reason E48 (CDLPR E13)

- 8. In the interests of residential and environmental amenity and in accordance with policy ST12 of the CDLPR.

- 9. Standard reason E21
- 10. Standard reason E49 (CDLPR ST12 and E15)
- 11. Standard reason E14 (CDLPR policy H21)

- 11.5 S106 requirements where appropriate:** Refer to previous report. The S106 will also accommodate major off-site open space provision. The other Heads of Terms remain the same.

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3 Code No: DER/506/775

Type: Full

1. **Address:** Site of 60 Shardlow Road, Alvaston
2. **Proposal:** Erection of 16 apartments and 1 dwelling house
3. **Description:** This full application seeks permission for the erection of a two storey apartment building of a hipped roof design, to provide sixteen apartments. Windows would be in all elevations but predominantly on the Shardlow Road and Courtland Gardens frontages. In addition it is proposed to erect a single dwelling house between the proposed apartment building and No. 3 Courtland Gardens. This building would again be two storeys in height with an attached double garage and a separate access from Courtland Gardens. A surface car parking area with 16 spaces would be provided to the rear of the proposed apartment building with access from Shardlow Road only.

The site contains several trees are to be retained. Guidance has been sought from the Arboricultural Officer, and his comments will be reported.

The application site is in a predominantly residential area. On the opposite side of Courtland Gardens are a two storey house and two bungalows. The adjacent property in Courtland Gardens is a two storey house, while to the west is The Court, off Field Lane, are bungalows. The properties on the opposite side of Shardlow Road are two storey houses.

At the present time the site is occupied by a vacant two and one storey dwelling house. A report regarding bats in the existing building has been submitted with the application. This proposal is very similar in physical terms, to that for which permission was granted in June 2005, but involves smaller apartments.

4. Relevant Planning History:

DER/1104/1858 – erection of ten apartments and two dwelling houses. Refused January 2005.

DER/305/372 – erection of ten apartments and one dwelling house. Granted June 2005.

5. Implications of Proposal:

5.1 Economic: None.

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5.2 Design and Community Safety: In my opinion the design and scale of the proposed buildings are acceptable, and is almost identical to that for which permission has already been granted. External materials would be controlled by condition.

5.3 Highways: No major objections are raised. The form of access to the highway is acceptable, as is the parking provision of 100% (16 spaces). The radius kerbs should be omitted and replaced with taper and drop kerbs over the equivalent width to allow easy pedestrian movement. Visibility lines of 2.4 m x 90 m should be provided in both directions, without any obstruction higher than 1.0 m in either direction. Secure internal cycle parking should be provided.

5.4 Disabled People's Access: Two lifetime home dwellings should be negotiated, perhaps one apartment and the house. One disabled parking space is required in the car park. Compliance with the Building Regulations will deliver a degree of accessibility to the remaining units.

5.5 Other Environmental: A number of trees on the site are protected by Tree Preservation Order, and the guidance of the Arboricultural Officer has been sought. It is proposed to remove some trees. A report regarding the issue of bats in the existing building has also been submitted and relevant guidance sought.

6. Publicity:

Neighbour Notification letter	27	Site Notice	
Statutory press advert and site notice		Discretionary press advert and site notice	
Other			

7. Representations: I have received seven letters or e-mails of objection, and these will be available in the members room. These include objections from Councillor Leeming and Councillor Jackson. The main issues raised are:

- why the change from ten apartments to sixteen?
- parking will not be adequate
- the development is too intensive
- opposed to the loss of the existing house
- access onto the highway is not safe
- affect on bats
- the site has been allowed to become derelict
- poor design

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- will cause overlooking and loss of privacy

8. Consultations:

Commercial Services (Arb Officer) – to be reported.

DWT – requests that this application not be determined until bat mitigation proposals have been approved by English Nature and additional survey work be undertaken.

Police ALO – recommends 1200 mm open railing boundary fencing with gates to all pedestrian access points other than the vehicle entrance. Entrance to car park area with pillars or symbolic entrance treatment to define private space. That consideration be given to implementing the guidance of Secured by Design Scheme.

9. Summary of policies most relevant:

City of Derby Local Plan Review:

- ST9 - Design and the Urban Environment
- ST12 - Amenity
- H20 - Lifetime Homes
- H21 - Residential Development – General Criteria
- E9 - Protection of Habitats
- E11 - Trees
- E12 - Renewable Energy
- E26 - Design
- L3 - Public Open Space Standards
- L4 - Public Open Space Requirements in New Development
- T4 - Access Parking and Servicing.

The above is a summary of the policies that are relevant. Members should refer to their copy of the CDLPR 2006 for the full version.

- 10. Officer Opinion:** In dealing with this application, some Members may recall the previous application (DER/305/372) that was considered by this Committee on 26 May 2005. This proposal has a built form virtually identical to that approved at that time, and with identical elevations to the proposed dwelling house on the Courtland Gardens frontage. The apartment block has a similar footprint to before, and is in the same two storey form but does feature additional fenestration on all elevations. The proposed building is also slightly closer to the boundary with Shardlow Road. The major difference now is that instead of ten apartments, it is now proposed to provide sixteen one bedroom apartments, eight on each floor. The only other change is the slight

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increase in the surface parking provision from fifteen spaces to sixteen.

In physical/design terms, I have no objections to raise to the alterations in the elevational details. The details of the dwelling house are as before, and I do not consider that there is any objection to the increase in the number of windows in the elevations of the apartment block. The proposed building is only two storeys in height, and is well screened by a number of protected trees. There are reasonable distances to the established properties in Courtland Gardens and The Court and I am satisfied that unreasonable overlooking will not be caused, subject to some minor amendments I have requested from the applicant.

As I indicated in the previous report to this Committee, there is no policy objection to a development of this type on this site, and no justification for the retention of the existing unlisted building. Again the proposal acknowledges the significance of the existing TPO protected trees on the site, and the position of the proposed buildings and parking area/vehicular access all have regard for the well being of the trees. The views of the Arboricultural Officer will be reported, and a condition would again be imposed regarding a method statement to indicate how ground work will be carried out in close proximity to some of the trees. In highway terms the level of parking and form of access onto Shardlow Road is acceptable.

Once again the applicant has submitted a detailed report regarding Bats. Derbyshire Wildlife Trust have requested that a DEFRA licence be obtained before any works are undertaken on the building. I have informed the applicant of the need to comply with the relevant legislation regarding protected species and forwarded the Derbyshire Wildlife Trust's comments to them. It is required that further survey work and bat mitigation measures be agreed with English Nature and the applicant is aware of this matter.

As I indicated at the time of the previous application, I am satisfied that a two storey development of this type is acceptable on this site. I do acknowledge that some of the adjacent properties are single storey, but that is no justification for requiring only single storey development on this site. Reasonable relationships are again achieved with surrounding properties and the protected trees. The key difference with the previous proposal is the issue of the intensity of the use of the site, a point touched on by most of the objectors. I have concluded the degree of vehicle and pedestrians movements and general disturbance generated by these sixteen smaller units, would not be unreasonably greater than that level generated by the previously approved larger units. I have therefore concluded that it would be unreasonable to

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refuse planning permission, particularly in light of the direct similarity of this proposal to that approved last year. A section 106 Agreement will seek to provide two mobility units and contributions to public open space provision and highway requirements.

11. Recommended decision and summary of reasons:

- 11.1 A. To authorise** the Assistant Director – Regeneration to negotiate the terms of a Section 106 Agreement to achieve the objectives set out in 11.5 and **to authorise** the Director of Corporate Services to enter into such an agreement.
- B. To authorise** the Assistant Director - Regeneration **to grant** planning permission on the conclusion of the above agreement, with conditions. Should the Section 106 Agreement be not concluded within 13 weeks of the application's life (23 August) the Assistant Director - Regeneration to give consideration, in consultation with the Chair, to refusal of the application.

11.2 Summary of reasons:

The proposal has been considered against the adopted City of Derby Local Plan policies as summarised in 9. above and the scheme would be an appropriate form of development which would be reasonably in keeping with the appearance and character of the streetscene and would not unduly affect residential amenities.

11.3 Conditions

1. Standard condition 27 (external materials)
2. Standard condition 19 (means of enclosure)
3. Standard condition 30 (hard surfacing)
4. Standard condition 20 (landscaping)
5. Standard condition 22 (landscaping maintenance)
6. Standard condition 24A (protection of vegetation)
7. Standard condition 13 (domestic use of garage)

8. Before any development commences, a method statement for the construction of the car park shall be submitted to, and be agreed in writing by the Local Planning Authority.

9. The development shall not be taken into use until details of secure cycle parking have been submitted to and agreed in writing by the Local Planning Authority and until such provision has been implemented.

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10. Standard condition 99 (recycling)
11. Before any development is commenced, including demolition of the existing building:
 - a. a survey of roosting bats in the building and the potential for roosting bats shall be undertaken. This shall be in the form of emergence/roost survey to determine the exact nature of bat presence on site.

Depending on the results of the survey:

 - b. necessary measures to protect the species through mitigation proposals shall be submitted to and agreed in writing by the Local Planning Authority.
 - c. all such agreed measures shall be implemented in their entirety.
 - d. a DEFRA licence shall be secured to legitimise destruction of any bat roost.
12. Before the development commences full details of the vehicular access incorporating dropped and taper kerbs, shall be submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be implemented in its entirety before the apartments are first brought into use.

11.4 Reasons

1. Standard reason E14 ...policy H21
2. Standard reason E14 ...policy H21
3. Standard reason E14 ...policy H21
4. Standard reason E10 ...policy H21
5. Standard reason E24 ...policy H21
6. Standard reason E24 ...policy E11
7. Standard reason E08 ...policy T4
8. In order to protect trees on the site protected by a Tree Preservation Order, and to ensure that no damage is carried out to the roots of those trees...policy E11
9. Standard reason E22 ...policy T4
10. Standard reason E48

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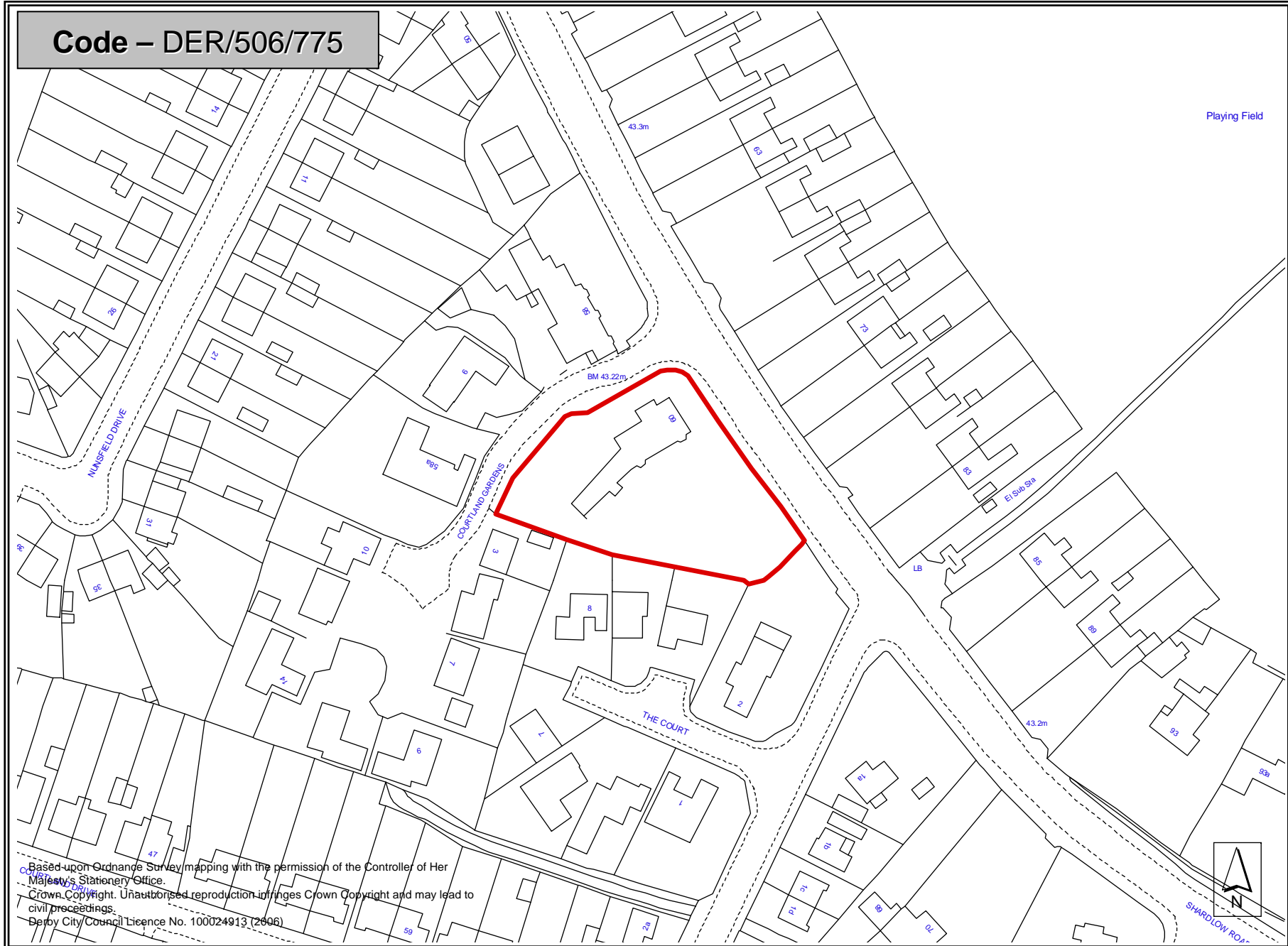
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11. To ensure that the existence of any bat roost at the site is fully investigated and that there is minimal disturbance and protection of this protected species in accordance with policy E9 of the adopted City of Derby Local Plan Review, and the principles of Planning Policy Statement 9 – Nature Conservation.

12. In the interests of traffic and pedestrian safety ...policy T4.

11.5 S106 requirements where appropriate: Public Open Space provision, two mobility units and highway contributions.

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B1 APPLICATIONS (cont'd)

4 Code No: DER/506/884

Type: Reserved Matters

1. **Address:** Site of 57 Lime Grove, Chaddesden
2. **Proposal:** Erection of six dwelling houses
3. **Description:** This is a Reserved Matters application for the erection of 6 dwellings on the site of 57 Lime Grove, Chaddesden. The existing dwelling on the site would be demolished as part of the scheme.

Four detached dwellings are proposed towards the rear of the site and two dwellings on Lime Grove frontage either side of the access road. Due to the constraints on the site with regard the protected trees the size and design of the dwellings vary. A four bedroomed dwelling with a double garage to the rear is proposed in the south western corner of the site adjacent to 55 Lime Grove. The remainder are three and four bed properties.

The site frontage is onto Lime Grove and the site is surrounding by residential properties. The site is on the eastern side of the road, 50 metres from the junction with Lexington Road. The site has extensive grounds with many mature trees on the rear and side boundaries, all of which are now protected by a Tree Preservation Order. The site area is 2068 square metres. Properties on the street are a mixture of semi-detached, detached houses and bungalows.

4. Relevant Planning History:

DER/306/457 - Fell three Hawthorn, one Oak, one Conifer ,and various works to Sycamore, Oak, Ash, Chestnut, Scots Pine, and Beech trees all trees protected by Tree Preservation Order 2004 No. 397 (57 Lime Grove, Chaddesden), granted 15 May 2006

DER/305/475 – Erection of seven dwelling houses, withdrawn 30 May 2006

DER/504/1010 – Outline – Residential Development, granted July 2004

DER/194/4 – Extensions to bungalow (study, dining room, family room, utility room, lobby, store and formation of three bedrooms in roofspace), granted February 1994

5. Implications of Proposal:

5.1 Economic: None.

B1 APPLICATIONS (cont'd)

4 Code No: DER/506/884

5.2 **Design and Community Safety:** Assessment of the design is in Officer Opinion. In terms of community safety implications, I consider that the proposal is an acceptable form of development in this location.

5.3 **Highways:** The submitted plans do not include previous suggested revisions such as bin storage area, minimum 5m vehicle standing space for plots 5 to 6 and non protruding garage door on plot 5. Plot 6 and plot 2 require 2 no. parking spaces.

5.4 **Disabled People's Access:** Any new dwellings would be accessible through the Building Regulations.

5.5 **Other Environmental:** None.

6. Publicity:

Neighbour Notification letters	22	Site Notice	
Statutory press advert and site notice		Discretionary press advert and site notice	
Other			

7. **Representations:** I have received three letters of objection and one ... of comment, which are reproduced, raising the following points:

- parking proposed is not adequate for the type C dwellings.
- No. 55 object to the planting of a tree adjacent to the driveway thereby reducing visibility
- Plot 6 is cramped and sufficient clearance from the Oak tree should be maintained.

8. Consultations:

DComms (Aboriculture) - to be reported.

Severn Trent - no objection subject to drainage condition

9. Summary of policies most relevant:

H21 - Residential Development – General Criteria
ST12 - Amenity
E11 - Trees
E26 - Design
E27 - Community safety
T4 - Access, parking and servicing

The above is a summary of the policy that is relevant. Members should refer to their copy of the CDLP Review 2006 for the full version.

B1 APPLICATIONS (cont'd)

4 Code No: DER/506/884

- 10. Officer Opinion:** The site is within an existing built up area and as the site would have direct access onto Lime Grove, via a properly constructed access, it would be an acceptable form of infill development. The main issue with regard this proposal is the impact on the existing trees on site.

All trees on site are protected by a Tree Preservation Order. There are 14 trees on site with the majority adjacent to the rear boundary. Permission was granted to fell three Hawthorn, one Oak and one Conifer in May of this year. A tree survey has been submitted with the application which indicates the Root Protection Areas. Extensive negotiations have been carried out between the agent and Arboricultural Manager and various changes have been made from the withdrawn application.

The main issue was that the trees would shadow and dominate the garden areas of the properties which would not result in a harmonious relationship with the trees and may have led to continuous applications for works to the trees.

Measures taken to ensure the protection of the trees are as follows:

- no buildings or driveways encroach into the root protection areas
- all the dwellings have a private, screened amenity space of a least 60m², clear of any canopy
- where any dwelling faces towards a tree canopy, there is a separation distance of at least 6 metres and, where only the minimum of 6 metres is achieved; there is generally a secondary outlook from the living room away from the canopy.

The bungalow to the north west faces east and there is a 2m wall on the boundary. The dwelling on plot 2 would be parallel at a distance of 4m and only a kitchen door is proposed on the north western elevation. The dwelling on plot 3 would be 11m from the existing bungalow and there are two 13m high trees on part of this boundary that provide some screening. I do not consider overlooking or overshadowing of this bungalow would be significant.

Plots 3, 4, 5 and 6 have sizeable rear gardens with a variety of types and heights of trees. A condition removing permitted development rights for extensions and garden buildings shall be placed on any permission due to the existence of the trees.

B1 APPLICATIONS (cont'd)

4 Code No: DER/506/884

There is a distance of 16m between plot 3 and the bungalow to the north. There is a 2m fence on this boundary with 9m -12m high trees on part of the boundary. The rear elevation of plot 3 faces to the north east. Overlooking and overshadowing of this property is not considered significant. The property immediately adjacent to this bungalow is 23 metres from plot 3 and is completely screened by a dense 4m high line of fir trees.

There is a public house over the north eastern boundary of the site. Plots 3 and 4 are 26-28m away and there is extensive tree cover in this corner. Plots 5 and 6 have their rear elevations facing east and the pub's car park is over the boundary. Relationships between properties within the development are acceptable as there are over 21 m between main elevations and side elevations have either blank gables or non-habitable room windows. However, plot 2 and plot 3 are 12.4m apart. The rear elevation of plot 2 faces east and the front elevation of plot 3 faces south west. As the elevations are not directly facing each other I consider this to be an acceptable relationship, and overlooking of main room windows would not be significant.

Plot 1 would be 1.8m from the neighbouring properties garage adjacent to the boundary. No windows are proposed on the southern elevation of the proposed property and this shall be controlled by condition. The neighbouring property to the south has a landing window on the side elevation. Overshadowing of this non-habitable window is not considered to be significant. The proposed dwelling would not encroach within the 45 degree angle taken from habitable room windows nearest to the boundary.

The appearance of the properties within this area is considered acceptable as the road has a mixture of house styles and types. There are hipped roof semis, detached hipped roof bungalows and gable roof semis. Plots 1 and 2 that face onto the street frontage are in line with properties either side of the site and the designs are similar detached gable roof properties.

The major concern with regard to this proposal is the impact on the protected trees on site and the distance of the trees from the proposed properties. Arboricultural advice will be reported. Revised plans that include bin storage areas and adequate parking have been requested. The new tree indicated on the layout plan mentioned by an objector would be controlled by a landscaping scheme condition.

In conclusion, the proposal is considered to have a harmonious relationship with the existing trees on site and the amenity of neighbouring properties would not be significantly affected due to the

B1 APPLICATIONS (cont'd)

4 Code No: DER/506/884

distances involved and extensive screening on the boundaries. The proposal therefore accords with the above mentioned policies and I recommend accordingly.

11. Recommended decision and summary of reasons:

11.1 To grant planning permission with conditions and to remind the applicant of any outstanding conditions on the outline permission.

11.2 Summary of reasons:

The proposal has been considered in relation to the provisions of the City of Derby Local Plan Review and all other considerations as indicated at 9 above and is considered acceptable as it would not have a significant impact on the existing trees and the amenity of neighbouring properties and area.

11.3 Conditions

1. Standard condition 84 (planning permission B) LG/Y/001 (Revision), LG/Y/002, LG/Y/003, LG/Y/004.
2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order) no extensions or garden buildings shall be erected within the curtilage of any dwelling house without the prior permission in writing of the Local Planning Authority.
3. Standard condition 19 (means of enclosure)
4. Standard condition 24 (vegetation – protection during construction) - which should read: During the period of construction works all trees, hedgerows and other vegetation to be retained shall be protected in accordance with BS:5837 : 2005 (“Trees in relation to construction”). Such protection shall be provided before other site works commence and shall be retained in position at all times until completion of construction works, unless otherwise agreed in writing by the Local Planning Authority.
5. Standard condition 27 (external material)
6. Standard condition 30 (surfaces drained)
7. Standard condition 38 (drainage)

B1 APPLICATIONS (cont'd)

4 Code No: DER/506/884

11.4 Reasons

1. Standard reason E04
2. Standard reason E07...policy ST12
3. Standard reason E14...policy H21
4. Standard reason E24...policy E11
5. Standard reason E14...policy H21
6. Standard reason E21
7. Standard reason E21

11.5 S106 requirements where appropriate: None.

Code – DER/506/884

Cherry Tree Hill
Infant School

66.5m

67.1m

66.6m

LEXINGTON ROAD

TCB

The Kingfisher
(PH)

67.3m

SPRINGFIELD ROAD

67.0m

LEWISTON ROAD

ELM GROVE

ELM GROVE

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B1 APPLICATIONS (cont'd)

5 Code No: DER/506/859

Type: Outline

1. Address: Roundhouse Road, Hudson Way and Locomotive Way, Derby
2. Proposal: Erection of Offices, Residential Units, Retail Units, Hotel and National Rail Centre. (NRC)
3. Description: This application covers the whole of the last surviving section of the former Midland Railway locomotive works, latterly in use as a specialist bogie manufacturing unit by Bombardier. It seeks outline permission for the uses set out above with all details reserved for later approval except for access, which is in any case fixed by the position of the roads serving the site.

In support of the application is a notional layout plan, a Planning Policy Statement, a Transport Impact Assessment, a Noise Assessment (a review of that done previously for DER/703/1382), a Design Statement, a Retail Statement, an Infrastructure, Utilities and Flood Risk Report and the Draft Terms of a Section 106 Agreement.

The individual components are set out below, although the plot areas and floorspaces quoted are not intended to be rigid:

a. National Rail Centre	– 1.07ha,	(notionally)	4,190 sq m.
b. Pre-let office site	– 0.58ha,		3,000 sq m.
c. Other office sites	– 1.52ha,		7,000 sq m.
d. Hotel	– 0.49ha,	100 bedrooms.	
e. Residential area	– 1.2ha,	168 flats	
f. Retail site	- 0.32ha,		<u>950 sq m.</u>
Totals	5.18ha		15,140 sq m.

4. Relevant Planning History:

DER/703/1382 – Erection of 96 flats. Granted conditionally with Section 106 Agreement 25 February 2005. (Committee 23 October 2003.)

DER/606/970 – Current application on part of this site, see following item B1 6.

5. Implications of Proposal:

- 5.1 **Economic:** The office development would be likely to accommodate between 800 and 1000 people, the other uses adding between 40 and 100. Apart from the estimated direct job creation, the development has the potential for a high level of indirect economic benefit through the National Rail Centre. At present I understand that there will be a small

B1 APPLICATIONS (cont'd)

5 Code No: DER/506/859

permanent staff with casuals taken on for special events. The more significant economic development impact will arise indirectly from raising further the City's profile in the railway industry and what might be termed semi-directly by people coming to exhibitions and working here, with input to the local economy, for short periods.

- 5.2 Design and Community Safety:** Design can be assessed only to a very limited extent in an outline application where it is important to take the notional layout as just that. The basic concept of three or four stories will be compatible in massing terms with the surroundings. Clearly the NRC will offer the opportunity for innovative design and it is I feel unfortunate that it is to go on a site with limited visibility.

Community safety will need to be considered at reserved matter stage. In principle I see not incompatibility in community safety terms in having residential development within the particular types of commercial development proposed.

- 5.3 Highways:** The Transport Assessment submitted as part of the outline planning application for the entire site indicates that vehicle flows to and from this site will change dramatically if the proposals go ahead. Although there is some debate about what traffic could be generated by the existing permissions in place for the site, it is clear that the proposals will increase current vehicle flows by between 366 and 454 in the morning peak period and by between 299 and 358 in the evening period.

Within the Transport Assessment the developer's agents have modelled the impact of these additional vehicle movements on the key junctions leading into Pride Park. At the Cock Pitt Island junction some modelling work has been undertaken which assumes that the Riverlights scheme is implemented. Modelling the junction without Riverlights is difficult and we perhaps need to assume that the impacts will be largely similar both with and without the Riverlights junction. We have disagreed with some aspects of the work undertaken by the developer's agent. However, the impact at this junction is expected to increase vehicle queues on Station Approach by over 100 vehicles in the morning peak and by almost 200 vehicles in the evening peak. This scale of impact would have a significant affect both within Pride Park and throughout much of the highway network. The developers agent has suggested some changes to the Riverlights scheme to address these queues but they have the effect of making the overall operation of the junction worse and are not acceptable.

At the "Toys R Us" Island, where Pride Park joins The Wyvern, the impact is also significant. Queue lengths are again likely to increase

B1 APPLICATIONS (cont'd)

5 Code No: DER/506/859

with the morning peak being the most significant. It is suggested that the existing vehicle queue here is 150 vehicles and this would rise to 215 with the development in place. The current queue already extends into the A52 Brian Clough Way and any worsening of the situation would be extremely detrimental. Proposals have been tabled to improve this junction. While theoretically minor changes to lane widths and reducing the size of the roundabout seem to enable queue lengths to be brought back to the “without development” position, your officers are sceptical that such improvements would in reality make so much difference.

At the third entrance to Pride Park, the junction of London Road, officers are concerned that the modelling work undertaken does not accurately reflect the current situation. Members will recall considerable work was undertaken in establishing the capacity of this junction to accommodate the housing development at the former Wilmorton College site and work so far undertaken by this developer does not show an accurate picture here. Although we could ask for additional modelling to be undertaken officers don't believe this will necessarily achieve much. It is clear that the reality will be that the true impact of this proposed development will be additional congestion and delay to the travelling public at this junction also.

While the transport impacts are significant we must recognise that the site needs to be developed. It would be possible to suggest that the transport impacts could be mitigated in ways, which the developer has not proposed, but on which the Council could take the lead. To do this we must ensure that significant actions are available to us to change the behaviour of other road users and hence reduce the background traffic flows. In order to allow the development to proceed as proposed we would need to convince other road users to adopt a different travel pattern in order to ensure that delays and congestion do not in reality get worse. To achieve this is not a simple task. Should the developer be willing to contribute significant funds to allow the Council to take forward other solutions it may be that we could accept the development knowing that we will strive to achieve changes in travel behaviour. These alternative measures should include, but not be limited to:

Relocation of the existing Pride Park Park and Ride site. This has been suggested on several occasions and would reduce the number of vehicles entering Pride Park. The Council would need to ensure that a suitable alternative site is identified and acquired. The developer should be expected to contribute a minimum of £1million towards this.

Physical alterations to the highway to include possible works at the “Toys R Us” roundabout and works which may assist with issues

B1 APPLICATIONS (cont'd)

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emerging from the Eastern Fringes Action Plan which could otherwise be more difficult to deal with should this development proceed. These works could facilitate public transport improvements and may, for example, include improved public transport access to the dedicated bus route adjacent to Costco. A minimum contribution of £500k should be sought.

Promotion and subsidy to alternative travel modes. Essentially promotion of public transport together with walking and cycle infrastructure to assist access to and from Pride Park. This would require long term revenue support and should again be a minimum of £500k.

I have not repeated the above observations in the following report on the full application for the training centre but I have made comments of a detailed nature that flow from them.

5.4 Disabled People's Access: All commercial parts of the development would be accessible. It is not known whether lifts would be incorporated into the residential blocks to make the upper floor accessible. The normal 10% mobility ratio would be obtained by the Section 106 Agreement.

5.5 Other Environmental: There is ground contamination from its previous use and noise impact from nearby railway activities. Specialist reports on these are evaluated. In relation to noise however, this was fully investigated in relation to application DER/703/1382; the part of the site now envisaged is further from the noise sources and the problem should be less.

6. Publicity:

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

7. **Representations:** None at the time of preparation of this report.

8. **Consultations:**

EA – holding objection pending the submission of a ground contamination treatment study.

B1 APPLICATIONS (cont'd)

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EMDA – supports proposals.

Other consultations will be reported when the application is reported back to this Committee.

9. Summary of policies most relevant: Adopted CDLP Review 2006:

EP3d	- B1, D2, C1, C2 and C3 in and around the Roundhouse.*
EP11	- B1, B2 and B8 development in existing business and Industrial areas*
EP10	- Major Office Development
EP12	- Alternative Uses in Business and Industrial Areas
EP16	- Visitor Accommodation
H21	- Residential Development General Criteria
ST9	- Design & the Urban Environment
ST12	- Amenity
ST14	- Infrastructure
STx2	- Flood Protection
L3	- Public Open Space Standards
L4	- POS Requirements in New Developments
S2	- Retail Location Criteria
S6	- Small Shops
S10	- Range of goods and alterations to retail units
E12	- Renewable Energy
E15	- Contaminated Land
E20	- Landscaping Schemes
E26	- Design
E30	- Environmental Art
T1	- Transport Implications of New Development
T4	- Access, Parking and Servicing
T6	- Pedestrians
T7	- Cyclists
T8	- Public Transport
T10	- Access for Disabled People
T15(9)x	- Footpaths, Cycle Ways and Routes for Horse Riders

* In relation to policies EP3d and EP11, only a small part of the site is covered by EP3d. Most of site is under EP11 as, at the time of preparation of the Local Plan, it was existing industry. In practice account should be had to policy EP3 generally which would have been applied to the site had it been identified as a redevelopment opportunity rather than a continuation of existing industry situation.

(Some of the above policies cannot practically be taken into account until reserved matters applications are made)

B1 APPLICATIONS (cont'd)

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The above is a summary of the policies that are relevant. Members should refer to their copy of the CDLP Review 2006 for the full version.

Account should also be taken of:

- PPS1 (Delivering Sustainable Development)
- PPG3 (Housing)
- PPG4 (Industrial, Commercial and Small Firms)
- PPS6 (Planning for Town Centres).

The strategic objectives of the Derby and Derbyshire Joint Structure Plan are effectively incorporated into the CDLP-R. I comment at length in "Officer Opinion" on the applicability and interpretation of policies.

- 10. Officer Opinion:** This is a significant and complex mixed use application and assessment of the specialist studies set out in section 3 above is continuing. It is not ready for determination but I am reporting it to this meeting so that Members understand the context of the following item DER/606/970 which, for the reasons set out in its report, is in my view determinable. My comments below mainly concern the policy implications of the proposals and are, I hope, comprehensive on that side. Where they move into commenting on the the merit of individual components they are my thoughts at this stage of evaluation and will be expanded on in a later report.

As set out in section 9 above, this site is partially allocated under Policy EP11 and partially under EP3d in the Adopted CDLP-R. The alternative application DER/606/970 for a training centre on the eastern part of the site, on land identified for office space in this application, does not, of course, have any influence on the consideration of this application.

This outline application for a mixed-use development includes a range of uses, some of which are entirely in line with policy and a number that are not. EP11 only permits B1, B2 or B8 development. However, it does contain criteria for considering alternative proposals, the main ones for this application being:

- that it would not lead to a quantitative or qualitative deficiency in the supply of employment land
- that it would not be incompatible with established employment activity, and
- that it would not prejudice the development potential of other sites identified for business and industrial use.

EP3d is more relaxed. This allows B1, D2, D1, C2 and C1. C3 and A3 are only permitted in the Roundhouse building itself.

B1 APPLICATIONS (cont'd)

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I will go through each of the uses in turn to assess their policy implications:

B1 Offices

Clearly the office element of this proposal is acceptable in principle. Although in total the amount of B1 floorspace provided exceeds 2,500 sq m (the threshold the triggers Policy EP10 – Major Office Development) it was accepted that Pride Park was a sustainable location, suitable for major offices and so it was never subject to EP10.

National Rail Centre

The NRC is clearly a *sui generis* use although it seems to most closely relate to D1 uses with some B1. The indicative location of the facility is entirely within the EP11 allocation and so D1 uses would not normally be acceptable.

Derby Cityscape has expressed some concern on the aspect of loss of employment land. However, the last survey identified 327.17 hectares of employment land, still 12 hectares above the Structure Plan requirement. Although this figure does not take into account the recent losses of existing employment land for housing development, it would still be argued that this is a healthy amount of land. Added to this is the fact that certain of our larger allocations – which have been unavailable for long periods of time – are now beginning to see signs of coming forward (e.g. Raynesway). This means that the amount of 'readily available' land is actually likely to increase in the short to medium term, thus undermining any quantitative loss of supply issues.

Also, I doubt whether there are many more suitable locations in the City, or indeed nationally, for a National Rail Centre to be located. Whilst permanent on-site employment is limited, the potential importance to the City's status and economy of such a facility justifies the "loss of employment land" in the direct sense.

The applicant's agent refers to the National Rail Centre as a "showcase development" and, for once, this cliché is used literally as it is intended to be a place where rail-related technology and consultancy services can be shown in a dedicated setting rather than in general general-purpose exhibition centres. It will bring some limited direct employment but its benefit is more in the extent to which it will reinforce the City's position as the UK's principal centre for railway technology. As an exhibition and conference centre it could be used for non-railway related activities for the promotion of local commerce generally.

B1 APPLICATIONS (cont'd)

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Freed from the constraints of conventional industrial or office development it offers the opportunity for an innovative and exciting architectural form but we shall not see what is on offer until the stage of a reserved matters application is reached. The TIA examines alternative means of accessing the activities at the centre; there will be a need for a substantial level of car parking and the way in which this is used and managed outside the short periods of intensive use of the premises require careful assessment.

C1 Hotel

The consideration of a hotel is slightly complicated in that on the EP3d part of the site a hotel is in line with policy, but on the EP11 part it is not. The indicative plan locates the hotel on EP11, and, whilst it is not inconceivable that the reserved matters application could see the hotel in a different part of the site, I believe that it is unlikely to move. With this in mind, it would hardly be rational to refuse the hotel on the basis that it is "on the wrong side of the road".

As with the NRC, I do not think that a loss of employment land objection would be justifiable. However, the merits of a hotel in this location still need to be examined. Hotels are covered by EP16 (Visitor Accommodation). This policy requires new hotels to be located in the City Centre (particularly in areas well related to the railway station) and areas that are well related to new visitor attractions. The application meets both these criteria.

PPS6 identifies hotels as a 'key town centre use' which should be justified through the tests of need and sequential approach although such a procedure adds little when the proposal so clearly meets the criteria of EP16. In the planning statement the applicant's agent argues that *"the outline application proposes further hotel accommodation which will provide much needed bed spaces for the new NRC"*.

Whilst not been backed up by any hard facts or figures, at least a clear link has been made between the two developments. If we accept the likelihood that the NRC will indeed create a need for more bed spaces, then logically the most sequentially preferable site would be next door – as this is. In lieu of any Government guidance explaining exactly how one demonstrates a need for a hotel, I am comfortable with the assertion that a facility of the size and function of the NRC may create a demand for additional hotel accommodation. As such, I see no reason to object on the grounds of PPS6.

B1 APPLICATIONS (cont'd)

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There are other hotels nearby, most obviously the Holiday Inn at Roundhouse Road and the various hotels in the Midland Road area. It will of course add to the City's scale and range of hotel facilities and that is essential to bring to the City conferences and other events of a sessional nature.

Retail

This is part of the application raises complex retail policy issues. As requested, the applicant has submitted a statement that aims to justify the retail floorspace. These comments appear to be based on the premise that the unit would be occupied by an "Express Convenience Store". However, the description of the proposal is for retail units and the indicative plan actually indicates 3 separate units and I am pursuing the precise nature of the intended split.

In general, the case made can be summarised as saying that:

- The limited size of the proposal (950 sq m) and its limited catchment area would not have any significant impact on the retail hierarchy of the City
- The retail element is a small ancillary element, supplemented to the other major proposals of the mixed use development
- The 'need' arises from the proposed apartments (168) and the existing working population within Pride Park, and the 'population' created by the hotel, offices (which they argue may employ up to 530 people) and the NRC
- Pride Park as a whole employs 6,400 people and that there are very few convenience facilities within walking distance that cater for the needs of workers on Pride Park
- Those convenience facilities that do exist in the area (at the Station, at the Wyvern and on London Road) are not within a reasonable walking distance - or of an appropriate nature - and are actually likely to encourage unsustainable car trips from people living and working in Pride Park (for example, people driving to the Wyvern at lunchtime) and that the catchment is constrained by physical barriers
- As the 'need' is firmly and squarely located in this part of the City, then the sequential approach is superfluous.

Overall I think there is a case for some level of retail, particularly in terms of very basic lunchtime or top-up needs. Pride Park has a large and contained daily 'population' of around 7,000 people – not including

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visitors to the leisure facilities, car showrooms and potentially the college - and, if we were proposing a housing site of this scale, it is likely that we would make provision for some retail within it.

The problem with the proposal is that there is no clear evidence for the amount of retail proposed in relation to the size of the working population. In other words, the applicant has not clearly related the *need* to the *scale* of the retail proposed.

The store is of a size and type that would be better located in a District Centre. It is also too large to serve a 'neighbourhood' function. For instance, in West Chellaston – a 1000 dwelling allocation – we only allowed a maximum of 750 sq m in 4 units.

Demonstrating a general 'need' does not justify *any* level of floorspace. There needs to be more justification as to why a smaller store could not serve the same function, with an inherently smaller catchment and potential impact. I have asked for further information which can justify why that level of floorspace is needed to satisfy the 'deficiency' identified. It may then be necessary to condition the scale and nature of the retail floorspace to ensure that it meets the needs of Pride Park in the manner described by the retail statement and does not provide a higher order facility, which could become a destination in its own right.

C3 – Residential

The principle of residential development on Pride Park has already been established with the permission granted on Hudson Way a little while ago for 96 apartments. This application is for 168 apartments, though the considerations are much the same; employment land, satisfactory living environment and S106 contributions.

It is not intended to be family housing and it would be surrounded by offices and hotels with one corner close to an existing industrial unit. The standard of residential amenity that can be provided in this mixed-use area is not what would obtain in an exclusively residential area but it can, I believe, be made adequate. To a great extent this point was argued through in relation to the 96-unit scheme at Hudson Way and, compared to that, the area now proposed for residential development would be much less affected by noise from the active railway. Other aspects of the residential development on this scale are being assessed.

I have covered the employment land issue above and although the cumulative 'loss' is building with all of these "non-B" proposals I am not convinced there would be justification for objecting on employment land

B1 APPLICATIONS (cont'd)

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supply issues, particularly considering paragraph 42(a) of PPG3, which suggests that Local Planning Authorities should look favourably at this type of application, unless it would undermine regional & local housing, regeneration or economic development strategies.

Other issues

The route of a proposed cycleway / walkway (T15(9)) runs along the boundary of the site and I am considering how this can be protected and implemented as part of the development. This would enhance access to the site by foot and cycling, which would meet a number of policies' objectives.

Although only outline I will draw to the developer's attention that final designs will satisfy the requirements of policies ST9, E26 and, particularly, E12 which requires that development proposals will have full regard to the need to reduce the net use of energy by:

- ensuring that the siting, design and layout and orientation of buildings have full regard to the need to reduce energy consumption and will facilitate the use of renewable energy sources
- minimising the emission of greenhouse gases.

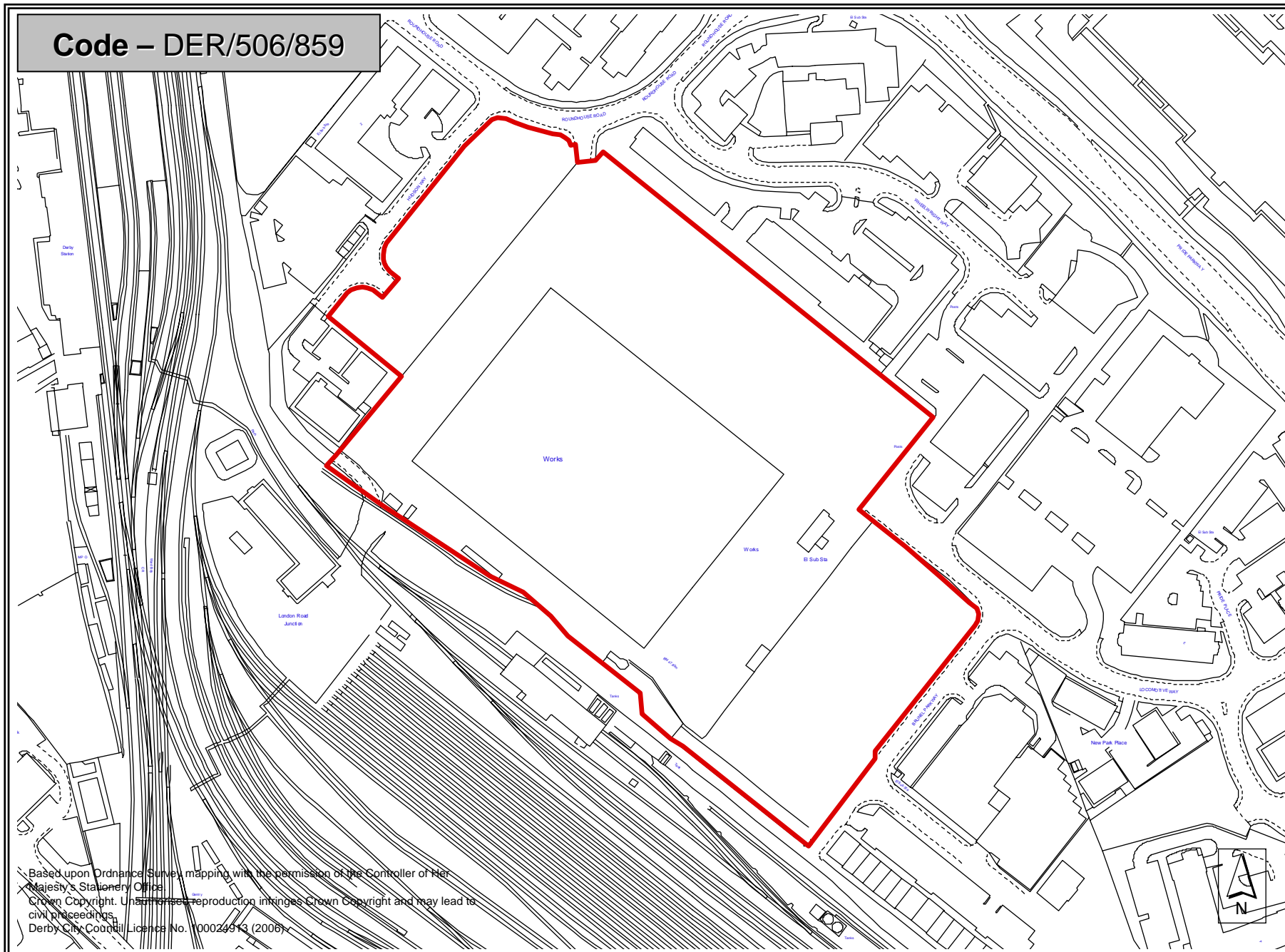
The scale and prominence of the scheme as a whole ought to be able to justify a higher than normal quality design which can accommodate the principles of E12. In relation to the other aspects of design and layout, the reserved matters application should include landscaping schemes that fit in with the requirements of E20 and should only provide sufficient parking to serve the proposal in line with the standards set out in Policy T4. The provision of 'environmental art' may also be appropriate for a scheme of this nature.

11. Recommended decision and summary of reasons:

11.1 To note the report that the application will be brought back to a future meeting of this Committee.

11.2 S106 requirements where appropriate: There will be a Section 106 Agreement covering affordable and mobility housing, public open space, transport implications and, possibly, public art.

Code – DER/506/859



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B1 APPLICATIONS (cont'd)

6 Code No: DER/606/970

Type: Full

1. **Address:** Locomotive Way
2. **Proposal:** Erection of a Training Centre
3. **Description:** This application covers the south-eastern part of the last surviving section of the former Midland Railway locomotive works, latterly in use as a specialist bogie manufacturing unit by Bombardier. It seeks full permission for a training centre for the vehicle body repair and construction industries.

Apart from full drawings, in support of the application is a Design and Access Statement, a Transport Summary and a Planning Policy Synopsis. These latter two are based on the full statements and assessments submitted as part of the outline application.

The floor space is stated as 9709 sq. m. The building would be in a single rectangular block with external areas devoted to access, servicing and parking. It is a mixture of two and one tall single storey and rises to a maximum of 10.6m. Materials are indicated as brickwork with plastic-coated sheeting and colour-coated aluminium windows. Internally there are large single and double height workshops, offices, a restaurant, toilets, shower and locker rooms, lecture rooms and an area for finished vehicle display.

4. **Relevant Planning History:** DER/506/859 – Current application on this site and the larger area to the west, see preceding item B1 5.
5. **Implications of Proposal:**
 - 5.1 **Economic:** Around 100 people would be likely to be employed. Apart from the estimated direct job creation, the development has the potential for a high level of indirect economic benefit through the attendance of trainees.
 - 5.2 **Design and Community Safety:** The design is generally compatible in terms of materials and scale with other development in Pride Park. The need for solid walls at ground level for functional reasons in much of the workshop walling limits the scope for fenestration but a quite striking overall treatment has been achieved. I see no incompatibility in community safety terms in the activities to be carried out on this site either with those nearby or proposed in the outline application.
 - 5.3 **Highways:** Members should refer to the overall highway comments in the preceding report, DER/506/859, for the general background. This proposal for full planning permission for a part of the larger site has not been assessed separately by the applicant but instead is covered by

B1 APPLICATIONS (cont'd)

6 Code No: DER/606/970

the Transport Assessment for the larger, outline application, site. This detailed proposal generates approximately 26% of the traffic estimated to be generated by the larger area and hence its impacts can perhaps be assumed to be an equivalent proportion. Subject to the developer entering into a Section 106 Agreement to provide a pro-rata contribution towards the measures identified above highway objections will not be raised. The remaining contributions must be secured as part of the outline application.

5.4 Disabled People's Access: All parts of the development would be accessible with lifts incorporated to the first floor.

5.5 Other Environmental: There is ground contamination from its previous use and a specialist report on this is being evaluated. It is most unlikely that there will be any problems making the ground suitable for the intended use.

6. Publicity:

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

7. Representations: None at the time of preparation of this report.

8. Consultations:

EA – holding objection pending the submission of a ground contamination treatment study.

DES – (EH&TS) – comments on ground conditions and noise implications.

Police CPTD Advisor – to be reported.

9. Summary of policies most relevant: Adopted CDLP Review 2006:

- EP15 - Contaminated Land
- E20 - Landscaping Schemes
- EP11 - B1, B2 and B8 development in existing business and Industrial areas.*
- EP12 - Alternative Uses in Business and Industrial Areas.
- ST12 - Amenity.
- ST14 - Infrastructure.

B1 APPLICATIONS (cont'd)

6 Code No: DER/606/970

- STx2 - Flood Protection.
- T1 - Transport Implications of New Development.
- T4 - Access, Parking and Servicing.
- T6 - Pedestrians.
- T7 - Cyclists.
- T8 - Public Transport.
- T10 - Access for Disabled People.
- T15(9) - Footpaths, Cycle Ways and Routes for Horse Riders.

- Whilst for practical purposes this site is part of Pride Park, at the time of preparation of the Local Plan, it was existing industry and policy EP11 applies. In practice account should be had to policy EP3 generally which would have been applied to the site had it been identified as a redevelopment opportunity rather than a continuation of existing industry situation.

The above is a summary of the policies that are relevant. Members should refer to their copy of the CDLP Review 2006 for the full version.

Account should also be taken of:

- PPS1 (Delivering Sustainable Development)
- PPG4 (Industrial, Commercial and Small Firms)

10. Officer Opinion: Members will have seen the preceding report on DER/506/859 which sets the context of this item.

As set out in section 9 above, this site is allocated under Policy EP11 in the Adopted CDLP-R. The current outline application DER/506/859 for the larger site does have to borne in mind in that it is that that demonstrates the applicant's comprehensive approach to the redevelopment of the former Bombardier land. I am satisfied that the "substitution" of this training centre for the office space shown on the outline application's notional plan would not prejudice the development of the overall site. Indeed the reduction of the office space from 10,000 sq m to 4,400 sq m will make it more likely that that aspect will move to completion more quickly. Other sites suitable for offices are more readily available than are sites for a training centre of this type.

Whilst EP11 only permits B1, B2 or B8 development, it does contain criteria for considering alternative proposals, the main ones for this application being:

- that it would not lead to a quantitative or qualitative deficiency in the supply of employment land,

B1 APPLICATIONS (cont'd)

6 Code No: DER/606/970

- that it would not be incompatible with established employment activity, and
- that it would not prejudice the development potential of other sites identified for business and industrial use.

Use Class D1 is probably the broadest of all use classes and contains uses which, in many cases, have quite different impacts on the area in which they are situated. The generic term “for the provision of education” includes schools, colleges and training centres. Many of these will have characteristics that make their location within a residential area appropriate, but training centres that are clearly intended to specialise in industrial training are best located in industrial areas. The fact that they may employ less people than if the equivalent floorspace was provided for industry or offices has to be accepted.

The route of a proposed cycleway / walkway (T15(9)) runs along the boundary of the site and I am considering how this can be protected and implemented as part of the development. This would enhance access to the site by foot and cycling, which would meet a number of policies’ objectives.

The Traffic Statement based on the wider TIA concludes that the training school use would generate less than office development shown for the same area in the outline application. Of course the wider TIA is still under assessment but it is clear already that this part of the site, whichever alternative it is developed for, would generate some 26% of peak-hour traffic.

The development will substantially and adversely affect traffic movements, not so much within Pride Park where the network is adequate, but at the “exit junctions” at Cock Pitt, Wyvern and London Road where capacity is severely constrained and where it was always acknowledged as being impossible to enhance capacity as fully as might have been desirable to cater for Pride Park.

Before closure, the bogie works had an unusually low traffic generation for its floorspace. Since closure there has been none and any development will therefore be noticeable, especially a training centre dealing with large numbers of trainees on a sessional basis of conventional working hours.

I am satisfied with this proposal apart from the traffic generation aspects and, but for this, would be recommending approval unencumbered by a Section 106 Agreement or other mechanism to mitigate the traffic impact. I am aware of the urgency of establishing planning permission to secure this development for the City but there

B1 APPLICATIONS (cont'd)

6 Code No: DER/606/970

are uncomfortable implications of doing so without any arrangements for mitigation. These are:

1. The training school development, by itself, would cause a significant increase in peak-hour traffic that would add to congestion at the boundaries of Pride Park.
2. In conjunction with the remainder of the site, those difficulties would be serious enough to affect movement in a significant part of the City.
3. If the reliance for mitigation is to be placed wholly on the outline permission, that application *may* be withdrawn, or, if granted with a Section 106 Agreement, not implemented.
4. Ownership could be split, possibly by circumstances outside the control of the applicants, and new owners of the larger part of the site would have no liability to deal with the problems of this smaller part in the absence of an Agreement entered into now as part of the determination of this application.

As stated above, the development would generate some 26% of the traffic likely to come from the whole overall site. The Department's highways officers have identified the likely cost of possible mitigation of the junctions surrounding Pride Park. Full mitigation would cost far more than the development, as a whole, could, or should, bear but we do have a view on the proportion that should properly be borne by the development of the Bombardier site as a whole.

My conclusion is that it would be imprudent to agree to this development other than through a fairly simple Section 106 Agreement that would deal only with traffic matters and would, in effect be a "payment on account" of 26% of what is likely to be required in respect of the entire site. Any Section 106 Agreement on the overall site would need to refer back to this Agreement and effectively allow for the offsetting of any contribution already made. I am continuing to work with the applicants and colleagues in the Department's Highways Division towards both a full appreciation of the implications and a strategy for dealing with them.

I expect that a ground remediation scheme satisfactory to the EA will be produced by the date of the meeting or by the time that the decision is ready to be issued if Members accept the recommendations. However, in view of the fact that substantially worse parts of Pride Park have been successfully remediated, I consider that it would be possible as an alternative to make such a scheme a condition of the permission.

B1 APPLICATIONS (cont'd)

6 Code No: DER/606/970

11. Recommended decision and summary of reasons:

11.1 A. To authorise the Assistant Director - Regeneration to negotiate a Section 106 Agreement to secure the contribution set out in 11.5 below, and **to authorise** the Director of Corporate and Adult Services to enter into such an Agreement.

B. To authorise the Assistant Director - Regeneration to grant planning permission on the conclusion of the above Agreement subject to the conditions set out below.

11.2 Summary of reasons: The proposal has been considered against the Adopted City of Derby Local Plan Review policies set out in (9) above and all other material considerations and is in conformity with them or can be made so by the conditions imposed and the terms of the Section 106 Agreement. It would provide the City with a modern vocational training facility that would enhance economic development prospects.

11.3 Conditions

1. Standard condition 20 (landscaping)
2. Standard condition 22 (landscaping maintenance) (insert "1")
3. Standard condition 34 (no obstruction of parking etc) (add: "Parking spaces shall be used solely for the accommodation of vehicles attracted to the business on the site")
4. No development shall begin until details of waste storage, covered cycle and motor cycle parking, in either the locations indicated or in an alternative location, have been submitted to and approved in writing by the Local Planning Authority. Such facilities as may be agreed shall be constructed concurrently with the development and thereafter be retained unless variations are agreed under condition (5) below.
5. Directly on first occupation of any buildings, the occupier shall commence work on a survey of travel to work practices and needs and proceed to prepare and submit to the Local Planning Authority within six months a Plan (a "Green Travel Plan") designed to encourage travel to work and in connection with work other than by private car. Such plan shall include provision for monitoring, development of targets with annual review of achievements, and revision of its provisions for a period of five years from its first submission.

B1 APPLICATIONS (cont'd)

6 Code No: DER/606/970

6. The details provided under condition (1) above shall make provision for level routes from the disabled person's parking spaces to all entrances of the building.
7. Standard condition 38 (drainage details)
8. (Such condition as may be required either to secure the implementation of a submitted satisfactory ground remediation scheme or to require the submission of such a scheme and its subsequent implementation.)

11.4 Reason

1. Standard reason E10 (add: "in accordance with the objectives of policy E20 of the adopted City of Derby Local Plan Review - 2006")
2. Standard reason E10 (add: "in accordance with the objectives of policy E20 of the adopted City of Derby Local Plan Review - 2006")
3. To accommodate the parking and manoeuvring requirements of the development, to minimise the danger, obstruction and inconvenience to users of the site and the highway and to prevent the use of parking within the site in a manner that would overload the highway system, in accordance with policy T4 of the adopted City of Derby Local Plan Review – 2006.
4. No such details were supplied. In relation to cycle and motor-cycle parking such facilities are required to ensure that the opportunities for modal shift are properly examined and implemented in the interests of reducing unnecessary use of the private car and to meet the objectives of policies T4, T6, T7 of the adopted City of Derby Local Plan Review – 2006.
5. To ensure that the opportunities for modal shift are properly examined and implemented in the interests of reducing unnecessary use of the private car and to meet the objectives of policies T4, T6 and T7 of the adopted City of Derby Local Plan Review – 2006.
6. Standard reason E34 (add: "in accordance with the objectives of policy T10 of the adopted City of Derby Local Plan Review – 2006.
7. To ensure the provision of satisfactory drainage arrangements compatible, as far as is practicable, with the principles of sustainable urban drainage systems.

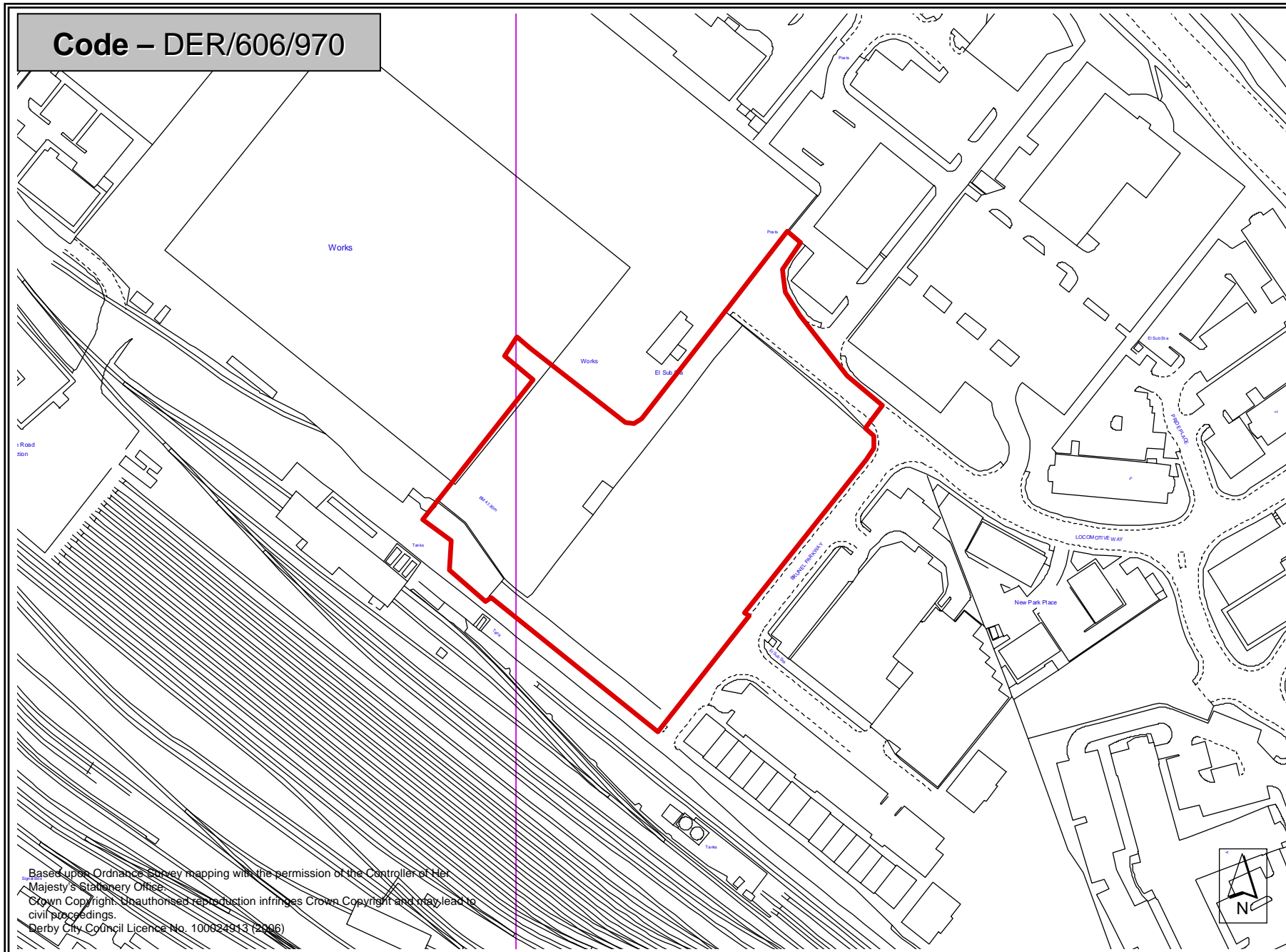
B1 APPLICATIONS (cont'd)

6 Code No: DER/606/970

8. To ensure that the ground is remediated to a condition suitable for its intended use in accordance with the objectives of policy E15 of the adopted City of Derby Local Plan Review – 2006.

11.5 S106 requirements where appropriate: A proportionate contribution to mitigating the traffic and transport implications of the development of the whole site of the outline application would be required. This would take the form of an advance contribution tied to the implementation of this permission, allowing this scheme to proceed, whilst the more complex assessment of the outline application is undertaken.

Code – DER/606/970



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B1 APPLICATIONS (cont'd)

7 Code No: DER/1005/1736

Type: Outline -
(siting and means
of access)

1. **Address:** Land at 139 Whitaker Road
2. **Proposal:** Residential development (one bungalow)
3. **Description:** Outline planning permission is sought with details of siting and means of access to be approved for a detached bungalow on land which currently forms the side/rear garden of 139 Whitaker Road. No. 139 is a detached bungalow which sits to the rear of dwellings fronting Whitaker Road. Access to no. 139 is via a private access drive which extends between 137 and 141 Whitaker Road. This access drive is proposed to provide means of access to the new bungalow.

The application site is an irregular shape and includes a narrow strip of land which would extend to the side of no. 139 Whitaker Road in order to link the site to the access drive. The ground level of the site is lower than no. 139 and it currently takes the form of mature garden and contains some mature trees.

Outline permission is sought for a detached bungalow with a footprint of approximately 88 square metres. It would be sited 3m from the southern boundary which is shared with detached bungalows fronting The Close and 1m from the eastern boundary which is shared with dwellings fronting Arlington Road.

4. **Relevant Planning History:** Most recent:

DER/194/24 – Extension to dwelling (conservatory), granted 18/02/94

5. **Implications of Proposal:**

5.1 **Economic:** None.

5.2 **Design and Community Safety:** Design details are reserved for future approval, should outline planning permission be granted. Community safety issues would also be considered as part of any detailed proposal.

5.3 **Highways:** Would recommend a widening of the existing access from 4.1m to 5.5m between the highway and the access gates. However, if the access could not be widened a refusal of planning permission could not be justified as Whitaker Road is not classified and vehicle movements are not excessive. The proposed parking is satisfactory

B1 APPLICATIONS (cont'd)

7 Code No: DER/1005/1736

and would recommend that a bin storage space is provided near to the driveway gates in view of the excessive man carry distance.

5.4 Disabled People's Access: None

5.5 Other Environmental: Three poplar trees that are protected by a tree preservation order sit adjacent to the eastern site boundary. See section 8 for the Arboricultural Officer's comments relating to the trees.

6. Publicity:

Neighbour Notification letters	9	Site Notice	
Statutory press advert and site notice		Discretionary press advert and site notice	
Other			

7. Representations Eight letters have been received in response to this application. Four letters of objection were submitted in response to the original submission and an additional three in response to amended plans. The objections raised relate to:

- Loss of view and privacy
- Concerns that the development will lead to damage to mature trees on the site and subsequently tree loss
- Infill development is increasing housing density in the area which is beginning to destroy the character of the area
- Building on mature gardens results in the loss of important wildlife and green spaces in the area
- Proposed access and visibility to the site is inadequate and further development will compromise road safety
- Restrictive covenants on the site allow only one building to be sited on the land (this is not a relevant planning matter).

One letter of comment was also submitted by a local resident which suggests that the development would not impact upon the local area as it is well surrounded by trees.

8. Consultations

DCommS (Arboriculture) - If planning permission is granted, appropriate conditions must specify that the turning area needs to be constructed first and needs to be a porous gravel surface which is constructed on top of the existing surface. A protective fence also needs to be erected at the edge of the crown spread of the trees before any works commence on site.

B1 APPLICATIONS (cont'd)

7 Code No: DER/1005/1736

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

- ST12 - Amenity
- ST14 - Infrastructure
- E11 - Trees
- E26 - Design
- H21 - Residential development – general criteria
- T4 - Access, parking and servicing

The above is a summary of the policies that are relevant. Members should refer to their copy of the CDLP Review 2006 for the full version.

- 10. Officer Opinion:** I consider the subdivision of 139 Whitaker Road to be acceptable as no. 139 would continue to retain adequate garden and off road parking space. The surrounding area is residential in character and the siting of a detached dwelling on the plot would offer a form of development which reflects the nature of development in the area. The site constitutes brownfield land as defined by PPG3 and I consider the proposal offers an appropriate use of this site.

Amendments were made to the proposed siting of the bungalow in order to remove detrimental implications of the development on the three poplar trees. The area under their canopies which is proposed to accommodate the vehicle turning space is already covered with stone and gravel and any additional stone is proposed to be placed on top. Our Arboricultural Officers are satisfied with this work subject to the imposition of appropriate conditions. Local residents have raised concerns with regards to the impact of this development on other trees on and adjacent to the site. These have been assessed and were not considered to be worthy of protection by a preservation order and I am satisfied that this development would have an acceptable relationship with trees on and adjacent to the site.

The new bungalow would have a tight relationship to its site boundaries but given that all windows should be located at ground floor level, and can be controlled by condition, I am satisfied that an overlooking problem should not be created for neighbours at the reserved matters stage when the detailed design of the bungalow would be considered. A distance of 10m would be maintained between the bungalow and 6 The Close at the rear and its siting would meet with our space standards. Given the tight relationship that the bungalow would have to its boundaries, careful design of its elevations will be needed but I am satisfied that a satisfactory living environment for future occupiers could be created without compromising the amenities enjoyed by the occupiers of neighbouring property.

B1 APPLICATIONS (cont'd)

7 Code No: DER/1005/1736

Local residents have raised concern that the use of this access for another dwelling would compromise highway safety on an already dangerous corner of Whitaker Road. However, the Highway officer has confirmed that a refusal of planning permission cannot be justified in this case.

Overall, I am satisfied that this application proposes an appropriate use of this site. I am also satisfied that at the reserved matters stage the design of the building can be sufficiently controlled to ensure that it does not offer detriment to the amenity of neighbouring property. For these reasons I consider the siting and means of access detailed in this outline scheme to be acceptable and see no grounds on which to reasonably refuse permission.

11. Recommended decision and summary of reasons:

11.1 To grant outline 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 Review – 2006 and all other material considerations as indicated in 9 above and is an acceptable form of development in principle, in this location.

11.3 Conditions

1. Standard condition 09A (revised plans received 11 May 2006)
2. Standard condition 01 (reserved matters)
3. Standard condition 02 (approval of reserved matters)
4. Standard condition 21 (landscaping)
5. Standard condition 19 (means of enclosure)
6. Standard condition 38 (drainage)
7. Standard condition 24A (vegetation protection including overhanging)
8. The turning area for vehicles shall be constructed prior to development commencing on site and shall be constructed in accordance with details to be submitted to and approved in writing by the Local Planning Authority unless otherwise agreed in writing by the Local Planning Authority.
9. The dwelling shall comprise ground floor accommodation only.
10. Details submitted pursuant to condition 2 shall also include precise details of bin storage.

B1 APPLICATIONS (cont'd)

7 Code No: DER/1005/1736

11.4 Reasons

1. Standard reason E04
2. Standard reason E01
3. Standard reason E02
4. Standard reason E14...policy H21
5. Standard reason E09...policy H21
6. Standard reason E21...policy ST14
7. Standard reason E11... policy E11

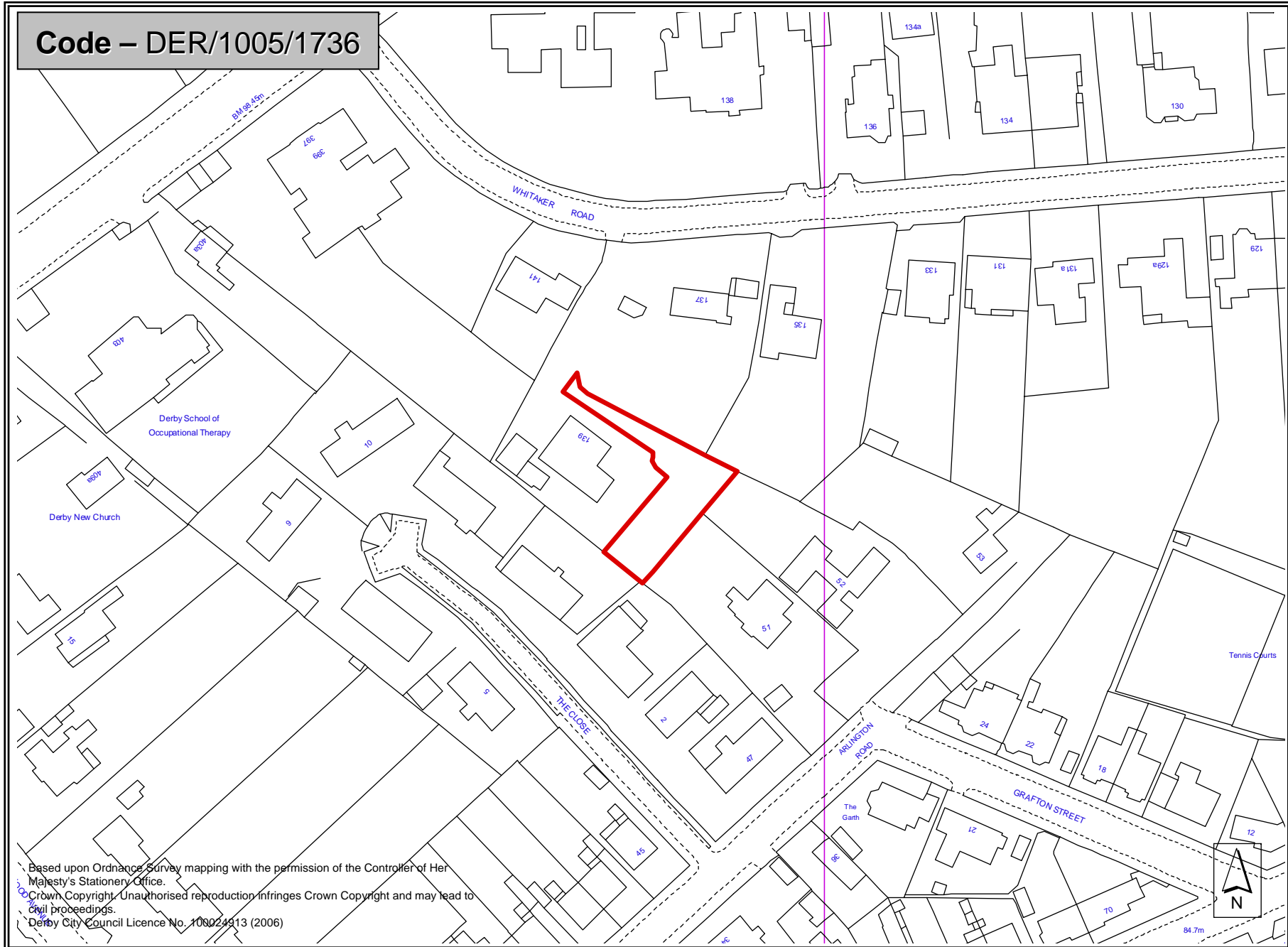
8. To safeguard the adjacent trees that are protected by a tree preservation order in order to preserve the character and amenity of the area...policy E11.

9. To preserve the amount of adjoining residents, to reduce the impact of the dwelling on the area and in accordance with the description of proposed development...policy H21.

10. In the interests of residential amenity and in view of the excessive man carry distance that would otherwise result ... policy H21

11.5 S106 requirements where appropriate: None.

Code – DER/1005/1736



D1 SPECIAL ITEMS

1 ENFORCEMENT REPORT

Car park at the land to the rear of 32 Friar Gate

At the meeting held on 23 March 2006, I updated Members as to the current situation at the above address. Members resolved to continue keeping enforcement action in abeyance for a further 3 months to allow time for the landowner to bring forward redevelopment proposals for the site. This report is intended as a further update on the progress with this matter following a meeting with the landowner and their agent.

The site is an area of land formerly occupied by the railway viaduct north of Friar Gate Bridge, which was demolished in the 1980s. The land is approximately 0.2 hectares in area and is wholly within the Friar Gate Conservation area. Abutting the south of the site, fronting onto Friar Gate, is a range of Grade II listed buildings including Friar Gate Bridge. The site's principal access is onto Agard Street to the north.

The site has been used as a car park since 1987. Temporary planning permission was originally granted under code DER/887/1032 for a period of 5 years. In 1993 a second temporary permission was given approval under code DER/993/1218 for a further 5 years. A third temporary planning permission was granted in 1998 under code DER/998/1189 until 1 March 2001. However, a fourth planning application was refused in 2001, by this Committee, under code DER/101/108, because it was considered contrary to Policies T20 and T21 of the then adopted City of Derby Local Plan 1998, the adopted Joint Structure Plan and national Planning Policy Guidance Note 13 (Transport).

Under the previously adopted City of Derby Local Plan 1998 the site was on the line originally intended for the inner ring road and was therefore protected from redevelopment. The newly adopted City of Derby Local Plan Review 2006, however, has now removed this protection, although it does require provision of a cycleway/walkway across the site.

On 7 March 2006, the Landowner's Agent was contacted and made aware of changes to the Local Plan.

On 26 April 2006, a meeting was held with the Landowner and his Agent to discuss possible options for the site. At that meeting the owner was advised that the current use of the land was unauthorised and made aware of the Committee's March resolution to keep enforcement action in abeyance for a further three months to allow them to bring forward development proposals.

The Landowner's Agent advised that because his client is not a developer and because of the complexities of the site, being within the Friar Gate Conservation Area, having boundaries with several grade II listed buildings on Friar Gate and with locally listed tram tracks running across the site, it was

D1 SPECIAL ITEMS (cont'd)

1 ENFORCEMENT REPORT

unlikely that it would be possible for them to bring forward redevelopment proposals within the three month timescale. However, in a subsequent letter from the Agent they gave assurances that it is their client's intention to sell their entire holding of the area, which includes the site in question, to a third party developer. I produce, for Members information, a copy of the letter along with an associated plan indicating the entirety of their client's current ownership.

The potential for comprehensive redevelopment of the land, currently used as a car park, was discussed with the Landowner. It was identified that any proposed redevelopment scheme would benefit from the inclusion of the adjacent land at 4-6 Agard Street, which are owned by the Landowner and the properties at 33-35 Ford Street, which are owned by a third party. Some of this land surrounding the site in question is also required by the City Council as part of Phase 2 of the proposed Connecting Derby Scheme.

The Landowners Agent raised concerns that if the highway scheme commences, it would cause physical conflicts with the construction of any proposed redevelopment of the site in question and its adjacent land. In light of this, the agent has requested that enforcement action continues to be held in abeyance until works on this phase of the highway scheme has been resolved.

The possibility of developing the car park site as the first phase of a wider, more comprehensive scheme was discussed during the meeting although it was identified that this may also raise additional difficulties in light of the timescale of the proposed Connecting Derby Scheme.

Notwithstanding the above, the use of the land as a car park remains unauthorised and contrary to the planning policies. Since the adoption of the City of Derby Local Plan Review 2006, policies T20 and T21 have been replaced and are now essentially embodied within a single policy, T5. This policy requires that, beyond the central area (the boundary being along Ford Street/Stafford Street) that need be shown for parking in relation to a) a location's proximity to bus, cycle and pedestrian routes; b) whether there is a shortfall in existing off street parking which is causing significant problems to road safety, traffic management or residential amenity; and c) the facility would not encourage additional trips by private car.

When deciding whether to continue to hold enforcement action in abeyance, Members should be aware of the statutory time limit on the commencement of action, which in this case is ten years. As the last planning permission, DER/898/1189, lapsed on 1 March 2001 the deadline for commencing enforcement action would be before 1 March 2011.

D1 SPECIAL ITEMS (cont'd)

1 ENFORCEMENT REPORT

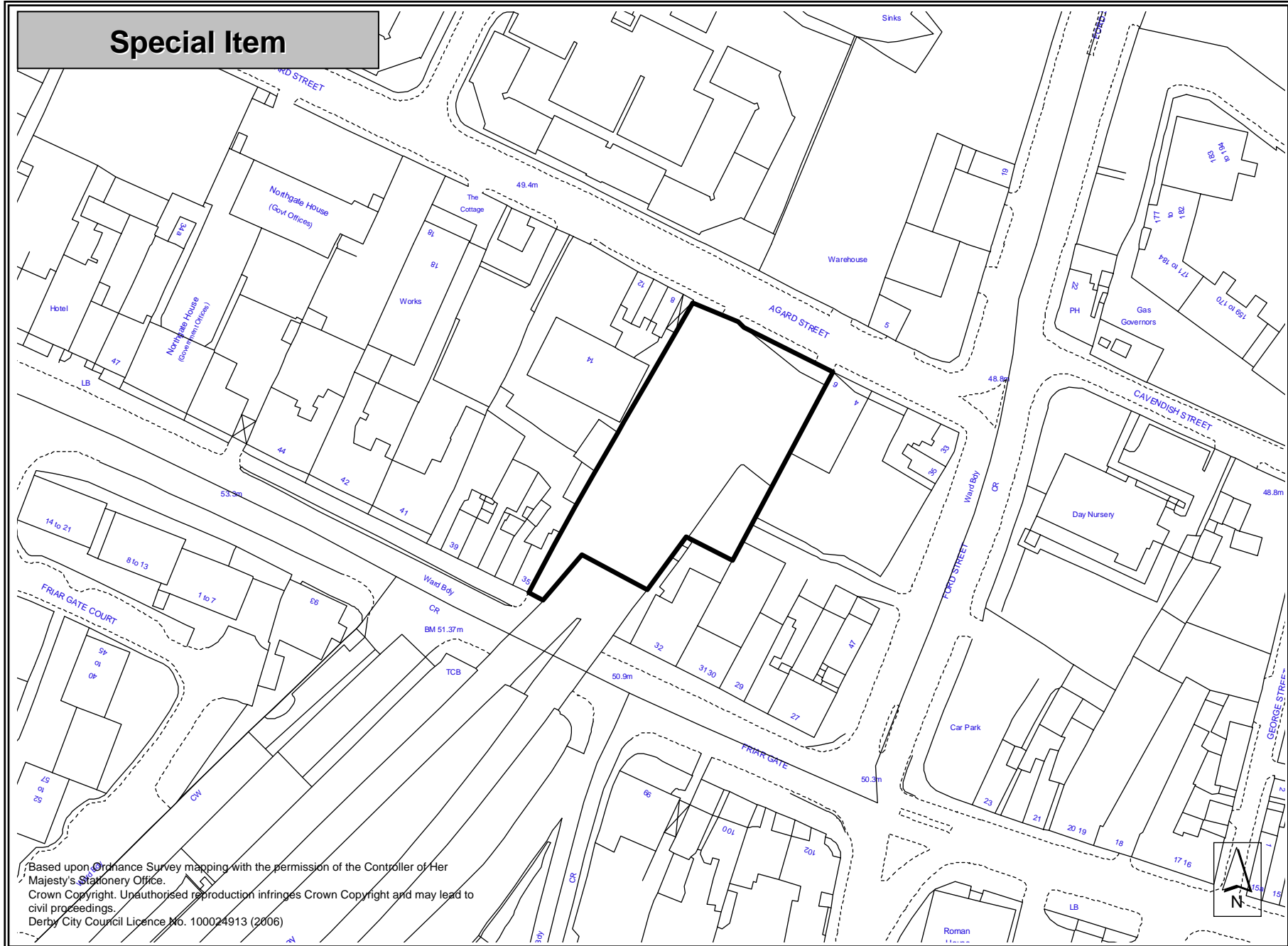
During the meeting the Landowner's agent indicated that should enforcement action be commenced, his client would most likely seek to appeal any Notice served on them.

After careful consideration of the above information, I consider it appropriate to commence enforcement action, subject to the Director of Corporate and Adult Services being satisfied with all the evidence. However, as the land was, until recently, blighted by the route of the previously planned line of the inner ring road and in light of the complexities that are inherent in the comprehensive redevelopment of the site and surrounding land, I consider that any Notice that is served should recognise this and provide a suitable deadline for compliance with the Notice. I consider that a two year period for compliance is reasonable in light of the circumstances set out above.

RECOMMENDATIONS:

1. **To commence** enforcement action, subject to the Director of Corporate and Adult Services being satisfied with the evidence.
2. **To impose** a two year deadline for compliance with the Enforcement Notice.

Special Item



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D2 SPECIAL ITEMS

1 APPEALS DECISIONS

Appeals against planning refusal:

Code No	Proposal	Location	Decision
DER/1005/1729	Erection of two dwelling houses	Land at 49 Markeaton Street	Allowed
<p>Comments: The Council had refused planning permission on the basis that the appeal proposal was of a considerably inferior quality to a scheme approved in December 2004. CAAC also objected and recommended refusal on the grounds that the design of the proposal was inappropriate to the character of the Conservation Area and the setting of the adjacent listed building. The Inspector's attention was drawn to the nature of the previous scheme, but he concluded that the appeal proposal was acceptable in this Conservation Area location, and allowed the appeal. This is a disappointing decision, in respect of the Council's attempt to achieve good design standards in Conservation Areas.</p>			

Code No	Proposal	Location	Decision
DER/605/972	Erection of double garage	137 Allestree Lane, Allestree	Dismissed
<p>Comments: The main issue with this proposal was its impact on the character and appearance of the surrounding area. The Inspector considered that the garage would appear out of keeping with the surrounding residential area, where none of the properties currently have garages or other substantial structures, sited in front of the building line. It would also be highly visible from numerous public vantage points, with a significant adverse effect on the streetscene. The garage would thereby be contrary to policies H26 and E26 of the adopted Local Plan. Attention was drawn to other properties with garages to the front, although none were considered to be directly comparable with the proposal, and this appeal was determined on its own merits.</p>			

RECOMMENDATION: To note the report.