

A

1

Type: Listed Building
Full

1. **Address:** Former Friar Gate Goods Yard, Stafford Street
2. **Proposal:** Demolition of wall
3. **Description:** This listed building application, together with a number of minor amendments to the Inner Ring Road planning application DER/704/1380, was deferred at the meeting held on 22 December 2005. This current report now relates only to the listed building application and that part of the amendments to the planning application that specify the form of its rebuilding.

Following the Secretary of State's announcement on 21 December that he did not intend to call in the planning application for the Inner Ring Road, there is less urgency in dealing with the other amendments. They will therefore be reported to a future meeting together with the Flood Risk Assessment, the outstanding part of the Archaeological Assessment and a schedule of recommended conditions.

The origin of the listed building application is in the response of English Heritage to the City Council's Inner Ring Road proposals, where they commented that a listed building consent would be needed to demolish the boundary walls to Stafford Street as they were deemed to be listed as curtilage structures to the Warehouse and Engine House.

The demolition part of the proposal, listed building application DER/1105/1883, is exactly as envisaged in the planning application DER/704/1380 considered by Members in February last year, when Members resolved that they were minded to grant permission subject to the Secretary of State not calling in the application for his own determination.

As a specific listed building application has now been made it is necessary to indicate how the demolition will be mitigated. The one amendment to the planning application DER/704/1380 to be considered at this meeting does this by proposing a rebuilding, to a height of 1.2m, of the walls intended to be demolished.

The applicant's reason for choosing this is twofold; firstly it is estimated that there would only be sufficient sound bricks to achieve this height; secondly, it is considered that a screen/security wall would be inappropriate in the future circumstances of this site.

4. **Relevant Planning History:** In relation to the listed building application, none. In advising on the preparation of the Connecting Derby planning submission, I had not treated these walls as listed. The

A DEVELOPMENT BY THE CITY COUNCIL

1 Code Nos: DER/1105/1883
 DER/704/1380

guidelines in PPG15 on determining what is deemed to be listed are very difficult to apply in this particular case but, following EH's comments and further discussions, I took the view that there was little point in disputing the finer legal points and that an application should be made.

In relation to the planning application, this was considered by Members on 3 February 2005 and subsequently referred to the Secretary of State as a departure. The Secretary of State has now indicated that he does not wish to call in the planning application.

5. Implications of Proposal:

5.1 Economic: In relation to the scheme in general, as in the report to 3 February 2005 meeting. In relation to the amendment, none.

5.2 Design and Community Safety: In relation to DER/1105/1883, there are no design implications as the application relates solely to demolition. There are design and community safety implications in the form of rebuilding under DER/704/1380 and also a design impact in the context of the setting of the listed buildings.

5.3 Highways: The demolition of the wall at Stafford Street and the alignment for its rebuilding is as envisaged in the original scheme and the effect on the highway proposals is no different.

5.4 Disabled People's Access: None applicable.

5.5 Other Environmental: Impact on the setting of the listed buildings is dealt with in "Officer Opinion" below.

6. Publicity:

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

7. Representations: At the time of the preparation of this report Seven
... objections had been received and these are reproduced. The grounds are that the wall should not be demolished at all and / or that the proposed height of rebuilding is inadequate.

A DEVELOPMENT BY THE CITY COUNCIL (cont'd)

1 Code Nos: DER/1105/1883
 DER/704/1380

8. Consultations:

EH – has now responded confirming that it wishes to see the Stafford Street wall rebuilt to its full height, materials and architectural arrangement. It is unconvinced of the arguments for reducing the rebuilt height and considers that the application should be withdrawn. If not withdrawn, it should be refused.

CAAC – has no objection to demolition and re-erection on whatever alignment is appropriate but that rebuilding should be to the full height of around 2.1m with use of the same bond etc. CAAC also asked for recording before demolition, which is no problem, and for the demolition and re-erection to be undertaken as a single operation.

9. Summary of policies most relevant:

Derby and Derbyshire Adopted Structure Plan April 2001

Transport Policy 14 - Identifies Derby City Centre Integrated Transport Improvements

Adopted CDLP policies:

- T4 - Protection of the IRR route.
- E26 - Except in very special circumstances, development and related applications for listed building consent will not be approved which would affect statutory listed buildings etc.
- E27 - Protection of listed buildings and their settings.
- E31 - Design quality.

CDLP review, Relevant Review Policies:

- T2 - City Council Schemes a) City Centre Integrated Transport Project: "Connecting Derby".
- CC29 - Transport.
- ST9 - Design and the Urban Environment.

Planning Policy Guidance Notes:

- PPG1 - General policy and principles.
- PPG15 - Planning and the Historic Environment.

The above is a substantially shortened version of policies applying to the whole Connecting Derby proposals and is intended to cover those

A DEVELOPMENT BY THE CITY COUNCIL (cont'd)

1 Code Nos: DER/1105/1883
 DER/704/1380

policies that are relevant to the listed building application and to the amendment to the planning application. Members should refer to their copies of the CDLP/CDLP Review for the full version of the above policies and to my report of 3 February 2005 for the full list of policies. That report also gives advice on the way that these policies should be applied. I am satisfied that the scale of the current amendment does not require a repetition or re-examination of that advice but it can of course be provided if Members feel that it would be helpful.

- 10. Officer Opinion:** I would remind Members that this listed building application cannot be determined by the City Council. It is desirable that it is forwarded to the Secretary of State as soon as possible.

Whilst demolition of this wall is intrinsic to the Inner Ring Road scheme, the rebuilding, whether in respect of alignment or height, is very much a contingency proposal. The objective of all parties is to agree an alignment and design as part of the redevelopment proposals for the entire Friar Gate Goods Yard and not to rebuild on an alignment that would quickly be demolished and rebuilt again.

Similarly, the road design included in the current scheme would, in all probability, be amended, leading to a situation where the great majority of the Inner Ring Road was built under a planning permission from DER/704/1380, but, in the immediate vicinity of the Uttoxeter New Road junction, it would be either under a variant of it or under a separate permission associated with the redevelopment of the Friar Gate Goods Yard site as has been done for Bradshaw Way.

Nevertheless, the Inner Ring Road application has to be “self-contained” in that authority for the accommodation and mitigation works has to be in place in case there is no prospect, by the time of the road’s construction, of the development of abutting sites going ahead sequentially, so dealing with the question of boundary treatment. The listed building application will be determined by the Secretary of State who will take into account the views of the City Council as Local Planning Authority. Any future application on behalf of the developers of the goods yard will be dealt with by the City Council.

I set out below the options ranging from maximum to minimum conservation content.

1. Rebuild on the highway boundary to full height. This gives the maximum retention of the enclosing character that the wall has always given to the goods yard containing the listed buildings. Apart from the listed building aspect, this would have mixed safety

A DEVELOPMENT BY THE CITY COUNCIL (cont'd)

**1 Code Nos: DER/1105/1883
 DER/704/1380**

and security implications. If the goods yard were to continue to be a place with no public access it would deter entry but could also shelter anti-social behaviour. It would, however, almost certainly require the sourcing and importation of compatible materials.

2. Rebuild on the highway boundary, pillars to full height and the wall to less. The precise height is not important, the distinction is between a wall that cannot readily be seen over or scaled and one that can. The historic sense of enclosure would be diminished but the listed warehouse would be more readily visible. It would be less effective from the excluding security viewpoint but visual surveillance would be increased.
3. Eliminate the wall but rebuild gate pillars to define the entrance with historic fabric. Total loss of boundary definition with no security function.
4. Wait until the form of redevelopment is established and then pursue (1), (2), or (3) above in relation to the new highway boundary that emerges from that design work. It would be very likely that the case for (1) would be substantially diminished.

Whilst wall height has a cost implication, the more difficult areas lie in balancing heritage impact, community safety and redevelopment possibilities. The Local Planning Authority would then have to suggest to the Secretary of State a sound legal method of requiring appropriate mitigation in the event of redevelopment not proceeding, whilst avoiding any obligation leading to abortive work. At present my view is that, whatever may be put forward by resolution of the Planning Control Committee for consideration by the Secretary of State, one assumes at public inquiry, the matter may have to be revisited in the form of a new application during the progress of the works.

Conclusions

Wall demolition is as was always envisaged. In relation to rebuilding, there is no single unarguably better solution. The views of English Heritage are valid in relation to the restricted aspect of the heritage environment. I am not convinced that rebuilding to full height is appropriate in the context of the redevelopment proposals. A quite attractive argument can be advanced for making the principal listed building, the warehouse, much more prominent in the street scene by minimising visual obstruction.

A DEVELOPMENT BY THE CITY COUNCIL (cont'd)

**1 Code Nos: DER/1105/1883
 DER/704/1380**

These arguments can be debated at a public inquiry if the Secretary of State chooses to hold one or otherwise considered by the Secretary of State on the basis of the written representations made but, in order to progress the matter, I consider that the proposal to rebuild to a 1.2m height should be endorsed and the listed building application forwarded to the Secretary of State on this basis.

11. Recommended decision and summary of reasons:

11.1 DER/1105/1883 - **To forward** the application with all background documents and representations to the Secretary of State with a statement of support requesting that the Secretary of State grants listed building consent for the demolition works.

DER/704/1380 - (Stafford Street Wall) - **To note and endorse** the details of the wall's reconstruction.

DER/704/1380 - (Other amendments) - To note that the Assistant Director - Regeneration will report these to a future meeting with other outstanding information, the final recommended conditions and reasons for the decision, at which time any further representations on the amendments will be considered.

DER/1105/1883 - As a decision is to be made by the Secretary of State, the reasons will be as thought fit by him. However, for the supporting statement I would incorporate the following: "Whilst the demolition is not desirable in relation to the duties in Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and to the advice in PPG15, the overall benefits and policy considerations above are sufficient to justify the areas of harm to the historic environment."

DER/704/1380 - To be reported to a future meeting.

11.2 Conditions

DER/1105/1883 – It would be my intention to put to the Secretary of State that, apart from routine conditions concerning precise specifications, a condition will need to be found to ensure that the wall is rebuilt to an appropriate height, on an alignment that meets both road and redevelopment requirements and to a timescale that avoids abortive work but does not allow the situation to drift in the event of redevelopment being delayed.

A DEVELOPMENT BY THE CITY COUNCIL (cont'd)

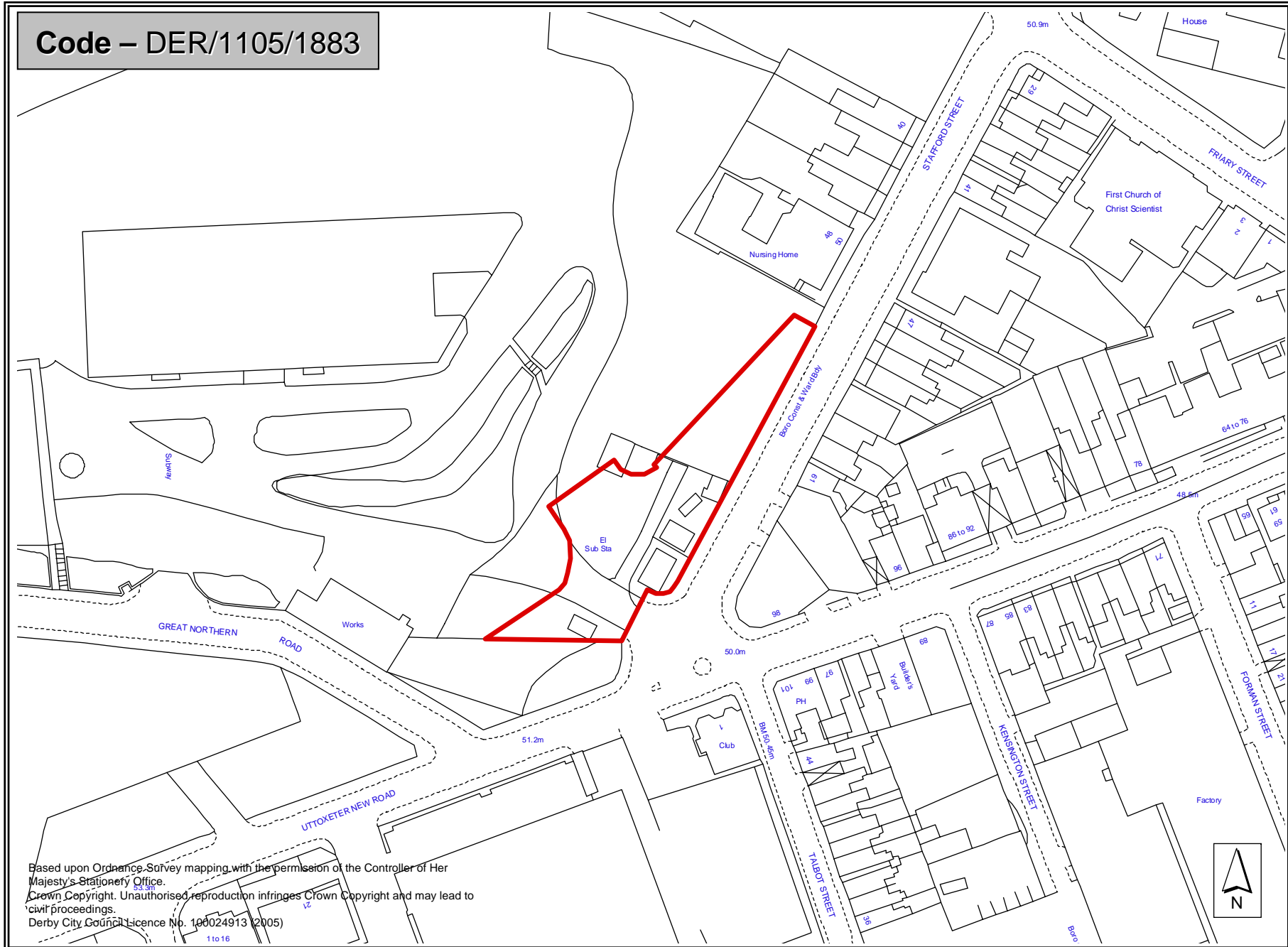
1 Code Nos: DER/1105/1883
 DER/704/1380

DER/704/1380 – To be reported to a future meeting.

11.3 Reason for conditions

To be reported to a future meeting

Code – DER/1105/1883



B1 APPLICATIONS

1 Code No: DER/1105/1830

Type: Full

1. **Address:** 201 Slack Lane (Transcycle Limited)
2. **Proposal:** Variation of condition on planning permission DER/798/827 to allow picking operations between 19.30 and 07.30 hours from Monday to Friday.
3. **Description:** This full application refers to the existing Transcycle works on Slack Lane. The site abuts the south side of Slack Lane, and there are dwelling houses on the opposite side of the highway. Permission is sought to vary a condition on planning permission DER/798/827, to allow picking operations inside the building to be carried out between 19.30 and 07.30 hours from Monday to Friday only.

The operation in question involves the sorting of waste material by up to eight members of staff within the existing building. The applicant has indicated that the operation would take place from 19.30 until 7.30 behind closed doors and closed site gates. Staff vehicles would arrive at the site at 23.30 (shift change) and there would be no more than eight traffic movements at that time. There would be no other vehicle movements during the proposed extended hours, and no additional vehicle movements during normal daytime hours.

4. **Relevant Planning History:** DER/798/827 – Variation of operational hours Monday to Friday (Lorries and Picking operations) 18.00 to 19.30 hours. Picking operations only behind closed doors and closed gates – granted conditionally.
5. **Implications of Proposal:**
 - 5.1 **Economic:** The proposal would provide local employment opportunities.
 - 5.2 **Design and Community Safety:** None.
 - 5.3 **Highways:** None.
 - 5.4 **Disabled People's Access:** Not applicable.
 - 5.5 **Other Environmental:** None.

B1 APPLICATIONS (cont'd)

1 Code No: DER/1105/1830

6. Publicity:

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

7. Representations: I have received four letters of objection and these ... are reproduced. The main concerns of the objectors are:

- the current use is noisy and causes disturbance
- considerable all-day disturbance from lorries
- Slack Lane has increasingly become heavily used
- the proposal will cause noise all night
- property values will decline
- disturbance and noise already noted early in the morning.

8. Consultations:

DCS (Health) – concern that the extension of hours will lead to complaints of noise pollution. This is due to the site being in a residential area. An assessment of the noise impact at nearby residential properties must be undertaken and submitted for approval. This should include a noise abatement scheme if ambient noise levels will be increased at nearby properties by the noise from the site between 19.30 and 07.30 hours. Any abatement scheme must be approved and implemented before the development proceeds.

9. Summary of policies most relevant: CDLPR policies.

- EP11 - Development in Existing Business and Industrial Areas
- EP14 - Employment with Potential off-site effects
- E14 - Pollution

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

9. Officer Opinion: The current use of this site as a major waste transfer operation has now been established for a number of years, and, despite some initial problems, is considered to be a considerable improvement to the previous long established use as on intensive road haulage operation.

I have noted the points raised by the Environmental Health Officer, and those raised by the objectors and have attempted to balance them

B1 APPLICATIONS (cont'd)

1 Code No: DER/1105/1830

against the proposal put forward by the applicant. The applicant has indicated that the use would be contained within the building behind closed doors, and that no further lorry movements would be required during the hours 19.30 – 0730. The discussions I have had with the applicant indicate that, in his opinion, there would be no additional operational noise from the building at night, and a few car movements only.

The Transcycle works is an important provider of local employment in the locality, and exists reasonably well in quite close proximity to residential properties. On the basis of the information before me, I am inclined to recommend that permission for the proposed relaxation of the condition be approved for a temporary period of 12 months only, in order to enable the Local Planning Authority to fully determine the degree of impact, if any, on residential amenity. I am not willing to agree to any further lorry movements during the hours of 19.30 - 07.30 because of the impact that noise could have on the amenities of residents.

What is proposed is a low-key operation, involving only eight people, within an existing building. I therefore support the proposal, but initially only for 12 months.

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 provisions of the Adopted City of Derby Local Plan Review policies in 9 above and all other material considerations and is an acceptable use for a temporary period to enable the full impact of the proposal to be assessed.

11.3 Conditions

1. The use hereby permitted shall cease on 28 February 2007 unless, prior to that date, the Council has, on an application made to it for that purpose, approved the use for a further period.
2. The extension of hours hereby agreed does not include Bank Holidays and is in respect of Monday-Friday only.
3. There shall be no lorry access to the site between the hours of 19.30 and 07.30 hours.

B1 APPLICATIONS (cont'd)

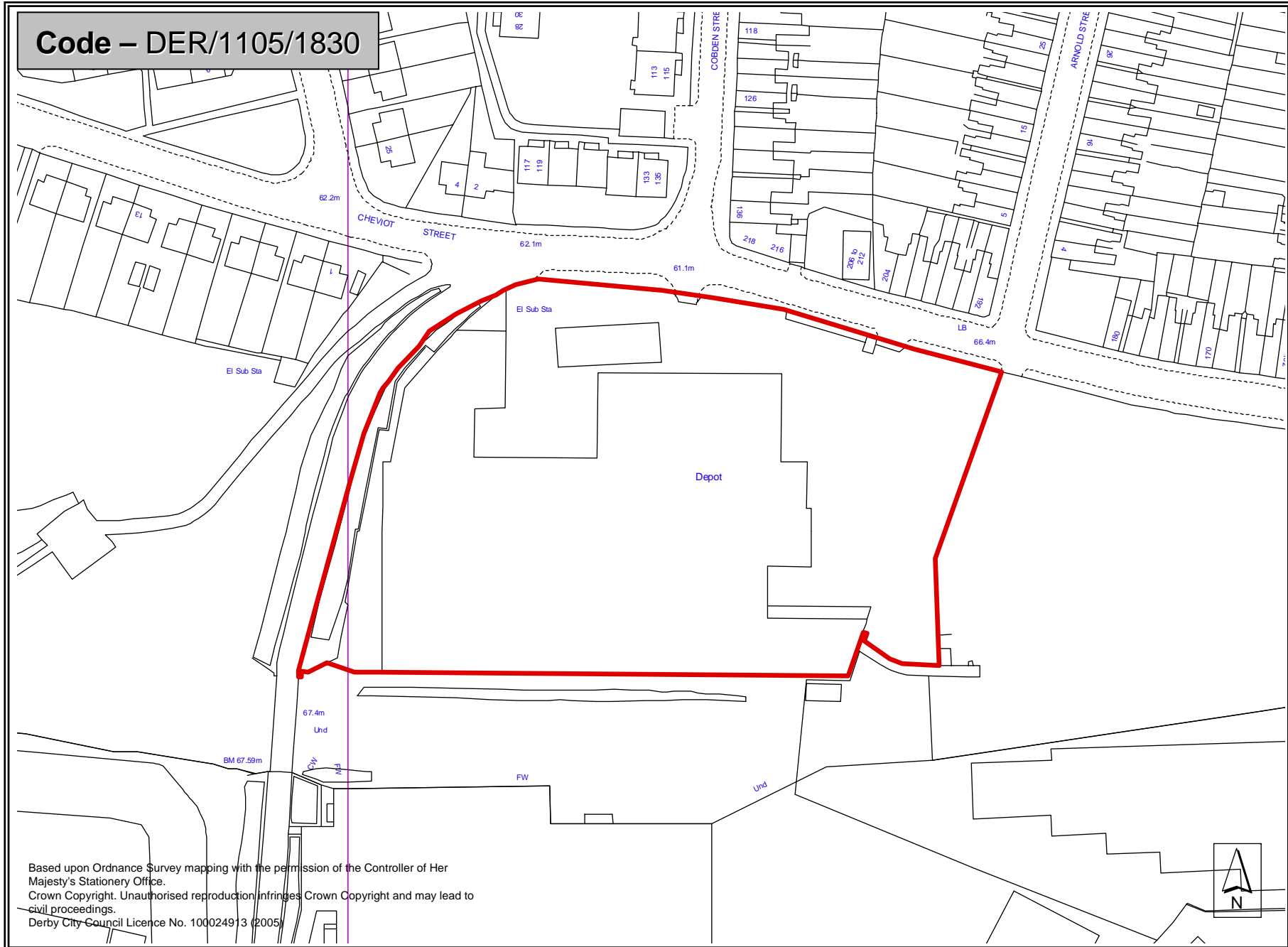
1 Code No: DER/1105/1830

4. A noise monitoring exercise shall be undertaken for the adjoining residential properties to establish the existing background noise levels. A noise impact assessment shall then be submitted to the Local Planning Authority, which includes these background levels and a noise abatement scheme, should ambient noise levels increase at those nearby properties as a result of the extended operation of the premises. Once the use hereby approved is brought into operation a further noise monitoring exercise shall be undertaken for those adjoining residential properties to establish the impact, if any, of the operation. The noise impact assessment shall be submitted to the Local Planning Authority within two months of the extended operation of the premises being brought into use and any abatement scheme, as agreed as necessary, shall be implemented before the extended operation continues.

11.4 Reasons

1. In order to enable the Local Planning Authority to determine the impact, if any, of the use on levels of residential amenity....policy E14.
2. For the avoidance of doubt....policy EP11.
3. For the avoidance of doubt, and in the interests of residential amenity....policy EP14
4. In order to enable the Local Planning Authority to determine the impact, if any, of the use on levels of residential amenity....policy E14.

Code – DER/1105/1830



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

B1 APPLICATIONS (cont'd)

2 Code No: DER/1105/1886

Type: Full

1. **Address:** Land adjacent to 85, and rear of, 79-85 Stanley Street
2. **Proposal:** Construction of eight apartments
3. **Description:** This full application seeks permission for the erection of a two storey building, together with rooms in the roofspace, to provide eight two bedroom apartments, together with surface parking for eight cars. The application site is situated to the rear of Nos. 79-85 (odd) Stanley Street, and Nos. 22-40 (even) Cobden Street. Vehicular and pedestrian access would be from Stanley Street, alongside No. 85 Stanley Street.

The proposed building would be of a traditional pitched roof design, with fenestration on the front and rear elevations, and dormer windows to serve the units within the roof space. The building would be faced in traditional red brickwork, and mid-grey roof tiles. No details of joinery work are included at this stage. There would be three units on the ground and first floors, and two within the roof space.

The application site is surrounded by predominantly two-storey terraced housing, typical of this part of the city. The site slopes slightly to the south towards the properties in Stanley Street. Some amenity space would be provided to the rear of the proposed building, with space also provided for bin storage. Access to the site would be by controlled access gates, set back from the highway edge in Stanley Street. The site has recently been cleared, and is vacant land comprising 0.15 hectares in area.

4. **Relevant Planning History:** None
5. **Implications of Proposal:**
 - 5.1 **Economic:** None
 - 5.2 **Design and Community Safety:** I have no objections to raise in respect of the design of the proposal. The key issue is the relationship of the proposal to existing nearby terraced housing.
 - 5.3 **Highways:** I have requested that the footway fronting the proposed building is increased in width to 1.5 m, with a slight reduction in vehicle manoeuvring space. I will also condition the provision of secure cycle parking. The proposed access onto Stanley Street is acceptable.
 - 5.4 **Disabled People's Access:** I have requested that one of the ground floor units be designed to mobility guidelines. The remainder of the

B1 APPLICATIONS (cont'd)

2 Code No: DER/1105/1886

building will have a degree of accessibility in compliance with the Building Regulations.

5.5 Other Environmental: None.

6. Publicity:

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

7. Representations: I have received eight letters of objection. These are available in the Members' rooms. The main points raised by the objectors are:

- vehicular access and parking problems will be caused
- the proposed building is too large
- the proposed building is too close to existing houses
- existing sewage/drainage problems in the locality
- concerns over the boundaries to the site
- proposal is out of keeping with the locality
- removal of fine mature tree on site
- will access road become adopted by Council?
- proposal is contrary to the current Local Plan
- proposal will cause disturbance and air pollution
- the proposal will change the character of the area
- the site is not a brownfield site.

Any further representations will be reported orally at the meeting.

A supporting statement from the applicant is also available for Members' attention.

8. Consultations:

DCS (Health) – an adjacent site is potentially contaminated, but this does not warrant a full site investigation.

Police ALO – to be reported.

9. Summary of policies most relevant: Adopted CDLPR:

H20 - Lifetime Homes

B1 APPLICATIONS (cont'd)

2 Code No: DER/1105/1886

- H21 - Residential Development – General Criteria
- E20 - Landscaping schemes
- E26 - Design
- E27 - Community Safety
- T4 - Access, Parking and Servicing
- ST12 - Amenity

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

The guidance of PPG3 (Housing) is also relevant.

- 10. Officer Opinion:** This is quite a low-key, infill apartment scheme that is designed to provide reasonably priced accommodation in this locality. The relevant Local Plan policy is H21. In policy terms infill residential development is quite acceptable subject to a number of criteria. In this particular case, I have no objection to raise to a small apartment scheme of this type as it contributes to housing choice in the locality. The design of the building is quite conventional, and subject to the use of suitable facing materials is quite acceptable as is the vehicular/pedestrian access onto Stanley Street and the level of on-site parking. The key issue is that of space between buildings, and the relationship of a building of three floors to the terraced two storey properties in Stanley Street. The distance between the proposed building and the Stanley Street properties is between 20m and 23m, and this broadly falls within the Council's normal guidelines. I am mindful that the proposed building would be at a slightly higher ground level than that of the Stanley Street properties. The relationship of the proposed building to properties in Radbourne Street and Cobden Street is quite acceptable and again normal space requirements are met. In respect of the relationship to the Stanley Street properties, the distance/relationship between two and three storey properties is one that is duplicated throughout the City and I am unable to conclude that it would justify a refusal of planning permission. The issues of boundary treatments, boundary gates and landscaping can be adequately covered by appropriate conditions. I have noted carefully the points raised by objectors to this proposal, and would comment as follows:

- this type of infill development is in line with current government guidance regarding the economic uses of vacant land
- it is broadly in line with Local Plan policy H21

B1 APPLICATIONS (cont'd)

2 Code No: DER/1105/1886

- No highway objections are raised regarding access onto the highway, or provision of parking
- the Council's normal space standards between dwellings are met
- the degree of overlooking likely to occur into nearby residential curtilages is no worse than that duplicated in many residential schemes already built elsewhere in the City
- the houses in Radbourne Street and Cobden Street are a substantial distance away from the proposed apartment building
- no trees protected by TPO are affected, or have been removed.

Given the nature of the above points, I am forced to conclude that the proposal reasonably satisfies the requirements of Local Plan policy H21, and is broadly in line with the guidance of PPG3. While I acknowledge the concerns expressed by nearby residents, I have concluded that this is an appropriate economic use of an infill site within an established residential area. I do not consider that a refusal of permission could be sustained at appeal and, subject to the suggested conditions, I support the proposal.

11. Recommended decision and summary of reasons:

11.1 To grant permission with conditions.

11.2 Summary of reasons: The proposal has been considered in relation to the provisions of the City of Derby Local Plan Review and all other material considerations as indicated in 9 above. The proposal is acceptable as a residential infill scheme that would have no unreasonable effect on the surrounding established residential properties.

11.3 Conditions

1. Standard condition 09A (amended plans dated ...)
2. Standard condition 27 (external materials)
3. Standard condition 20 (landscaping)
4. Standard condition 22 (landscaping maintenance)
5. Standard condition 19 (means of enclosure)
6. Standard condition 30 (hard surfacing)
7. Standard condition 70 (cycle parking)

B1 APPLICATIONS (cont'd)

2 Code No: DER/1105/1886

8. In accordance with a scheme to be agreed with the Local Planning Authority one of the units shall be designed in accordance with the Council's mobility guidelines.

11.4 Reasons

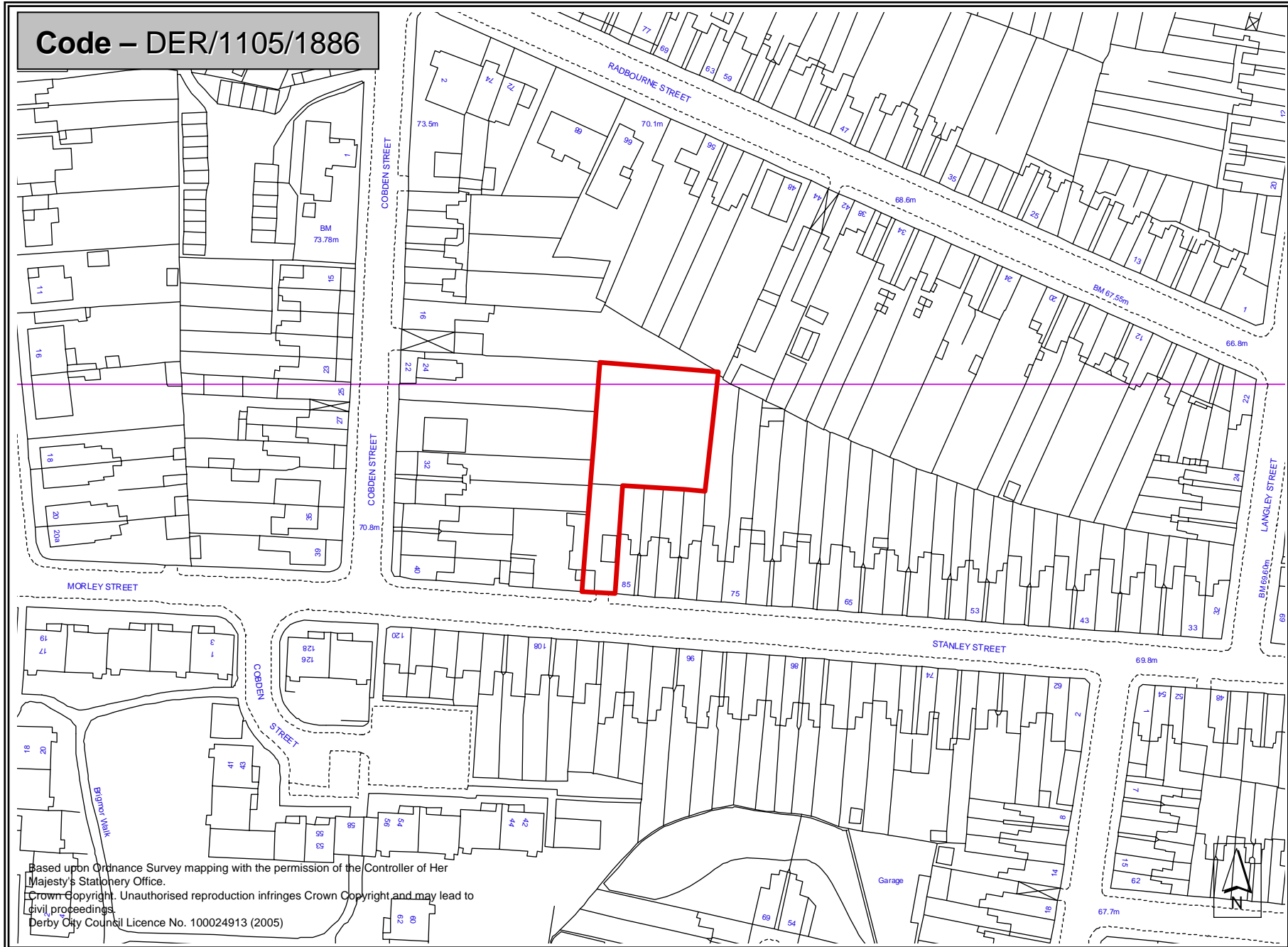
1. Standard reason E04
2. Standard reason E14 ... policy E26
3. Standard reason E18 ... policy E20
4. Standard reason E18 ... policy E20
5. Standard reason E14 ... policy H21
6. Standard reason E14 ... policy T4

7. In order to encourage the use of alternative modes of transport ... policy T4.

8. In order to provide a choice of housing to disabled people in the City ... policy H20.

11.5 S106 requirements where appropriate: None.

Code – DER/1105/1886



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

B1 APPLICATIONS (cont'd)**3 Code No:** DER/1105/1867**Type:** Full

1. **Address:** Site of 92-96 Chain Lane, Littleover
2. **Proposal:** Residential Development
3. **Description:** This outline application, with all matters reserved, seeks permission for residential development on this site on the north side of Chain Lane. The application site is at present occupied by three dwelling houses (two semi detached, one detached) and has a frontage width of 28m.

The site abuts residential curtilages to the north, west and east, and there are further residential properties to the south on the opposite side of Chain Lane. The properties to the north, in Dean Close, are bungalows at a lower ground level than Chain Lane itself. Access for both vehicles and pedestrians would be from Chain Lane, which is a busy Classified Road.

At this stage, no indication is given of the number of units to be erected on the site. The applicant has not indicated any desire to remove major trees from the site, and requirements for drainage of foul sewage and surface water would be linked to the existing services in Chain Lane.

4. **Relevant Planning History:** None relevant.
5. **Implications of Proposal:**
 - 5.1 **Economic:** None.
 - 5.2 **Design and Community Safety:** The application is in outline only.
 - 5.3 **Highways:** Chain Lane is a busy Classified Road but there are no objections to the principle.
 - 5.4 **Disabled People's Access:** Not applicable at this stage.
 - 5.5 **Other Environmental:** No indication is given of a wish to fell any trees.
6. **Publicity:**

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

B1 **APPLICATIONS** (cont'd)

3 **Code No:** DER/1105/1867

7. **Representations:** I have received 12 letters of objection, and these will be available in the Members' rooms. The main points raised are:

- the proposal would be out of keeping with the locality
- this is not a suitable location for an intensive scheme
- impact on road safety, pedestrian safety etc
- the properties to the rear of the site are bungalows
- adverse effect on property prices
- loss of light and privacy
- properties to the north (Dean Close) are at a lower ground level
- potential loss of mature hedge and trees on boundary
- adverse effect on wildlife
- potential drainage issues
- disruption likely to be caused while building takes place
- there should be no more developments on Chain Lane
- nine units are too many

8. **Consultations:**

DCS (Health) – no objections

STW – no objections subject to the provision of adequate disposal of surface water and foul sewage. There is a public sewer crossing the site, and no buildings should be erected or trees planted with 2.5 m of it. The applicant may wish to apply for a diversion of the sewers via STW.

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

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 CDLPR for the full versions.

10. **Officer Opinion:** The application site is situated within a long-established residential area and is at present occupied by the curtilages of three dwelling houses. There is no policy objection to a redevelopment of the site for residential purposes. Policy H21 allows for residential development on unallocated land, but subject to the following criteria:

- a minimum average density of 35 dwellings per hectare

B1 APPLICATIONS (cont'd)

3 Code No: DER/1105/1867

- urban forms, designs and layouts to facilitate higher density and energy efficiencies
- a high quality living environment and layout creating an interesting townscape and urban form
- good standards of privacy and security
- a satisfactory form of development and relationship to nearby properties, including no adverse effects by backland or “tandem” proposals.

This application is at present only at outline stage, and I am reasonably satisfied that, subject to the submission of satisfactory details, the requirements of the above criteria can be met. At this stage there is no indication given of the number of units that would form the reserved matters application. I would however require details that are in keeping with the overall character of the locality.

I am satisfied that reasonable access can be taken from Chain Lane for vehicles and pedestrians, and that there are no relevant tree issues at this stage. I have noted the numerous comments that have been raised by the objectors, but would comment that Policy H21 and would require that a form of development reasonably in keeping with the surrounding locality be forthcoming. Similarly, a number of objectors refer to the likelihood of nine units being built on the site. At the present time, all that is being applied for is the principle of residential development on the land and no indication is given of any details of a layout. That is an issue that will be dealt with at reserved matters stage. I have concluded that there are no valid grounds at this stage to justify a refusal of outline permission with all details reserved as submitted, but the subsequent reserved matters will need to relate reasonably to the surrounding pattern of development and that rules out a high density proposal.

11. Recommended decision and summary of reasons:

11.1 To grant outline permission with conditions.

11.2 Summary of reasons: The proposal has been considered in relation to the provisions of the City of Derby Local Plan Review and all other material considerations as indicated in 9 above. The principle of residential development is acceptable on this site, subject to the submission of acceptable reserved matters.

B1 APPLICATIONS (cont'd)

3 Code No: DER/1105/1867

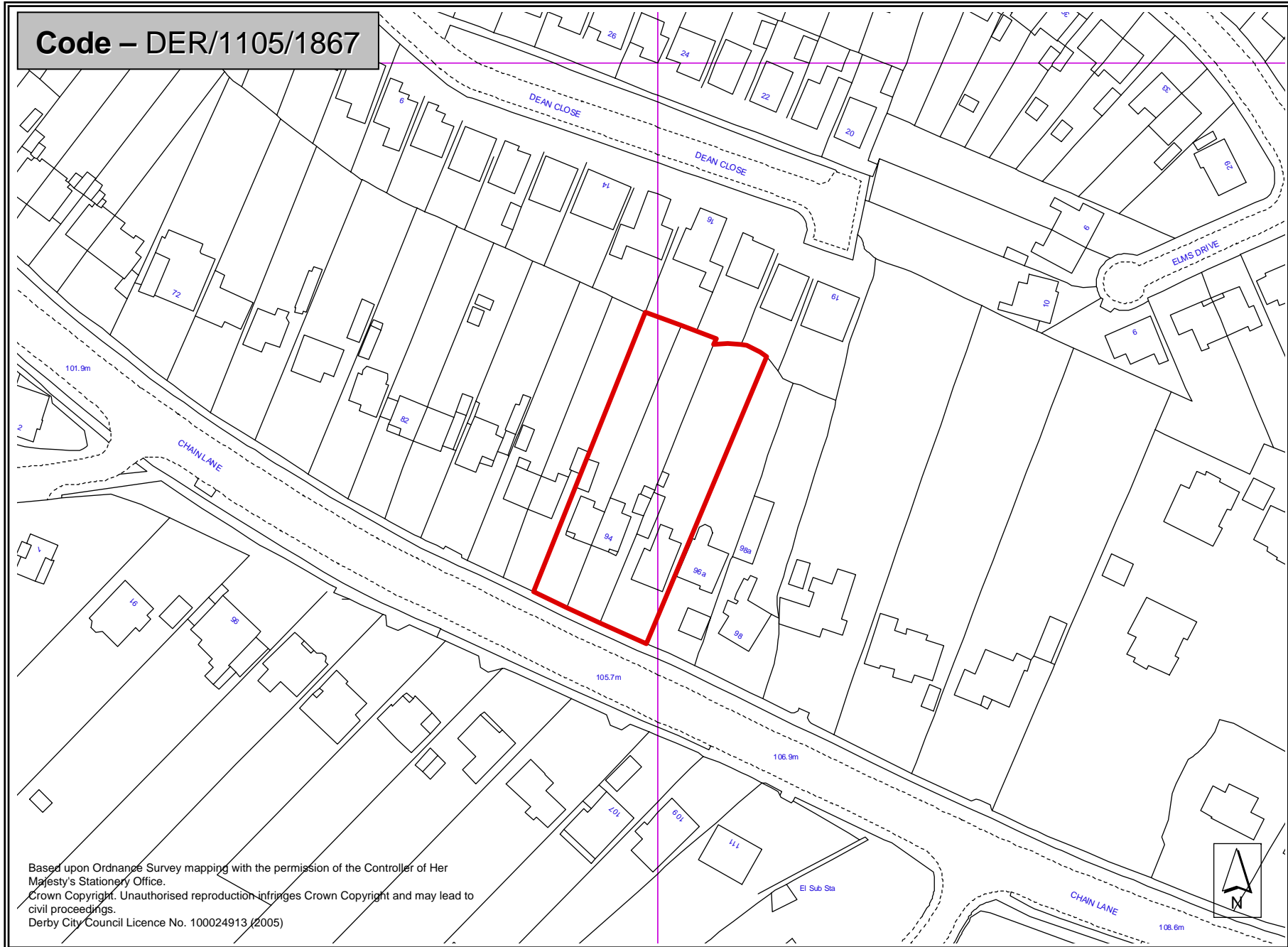
11.3 Conditions

1. Standard condition 01 (outline)
2. Standard condition 02 (time limit)
3. The reserved matters shall contain details for no more than nine units.
4. Standard condition 19 (means of enclosure)
5. The matters referred to in condition 1 shall also include details of existing and proposed ground and floor levels across the site

11.4 Reasons

1. Standard reason E01
2. Standard reason E02
3. This restriction does not imply the approval to any specific number, but beyond that number the development would need to make provision for facilities such as open space, mobility and affordable housing, transportation and education....policy H21
4. Standard reason E14 ... policy H21
5. In the interests of residential amenity of adjoining occupiers....policy H21

Code – DER/1105/1867



B1 APPLICATIONS (cont'd)

4 Code No: DER/305/533

Type: Reserved Matters

1. Address: Site of Derby College, Pride Parkway
2. Proposal: Erection of 336 houses and 261 flats, construction of roads and layout of public open spaces.
3. Description: I reported this item for instructions to the meeting held on 27 October 2005. Detailed consideration was deferred but I have pursued negotiations to the point where I consider that all significant matters have been resolved and I am re-reporting it on that basis.

The application seeks the approval of reserved matters following outline planning permission DER/1103/1080 which was reported to this Committee on 27 May 2004, with the permission issued, following Section 106 negotiations, on 22 October 2004. As submitted, it also sought the discharge of conditions 6 (ground remediation), 9b (flood damage limitation) and 11 (recycling facilities) of the outline permission.

The site has a total area of 15.5ha but part of this is devoted to major open space. The developable area is split amongst three developers with each providing a mix of houses and flats. Two of the three provide affordable housing as both houses and flats. A summary of the composition by type and developer in the latest version of the scheme, at the time of the preparation of this report, is as follows:

The total number of units is 597. These are split between three developers as follows: Barratt – 219; Kingsoak Homes – 220; Morris Homes – 158. In more detail each developer has:

Barratt

104 houses of 16 types) Market sale	
61 flats of 2 types;)	
27 houses of 2 types) Affordable units	
27 flats of 2 types)	Total 219

Kingsoak

88 houses of 12 types) Market sale	
77 flats of 3 types)	
27 houses of 3 types) Affordable units	
28 flats of 4 types)	Total 220

Morris

90 houses of 18 types) Market sale	
68 flats of 6 types)	
(No affordable units)		Total 158
		Grand total 597

B1 APPLICATIONS (cont'd)

4 Code No: DER/305/533

There are 336 houses and 261 flats with 488 market sale units and 109 affordable units. Of the affordable units, 22 are shared ownership and 87 for rental. The affordable units are 18.26% of the total, as required under the Section 106 Agreement.

Access is in the only practicable place, the existing college entrance where a culvert for the canal has been incorporated. An emergency vehicular access is being designed to follow the towpath route to rise up to London Road.

In very general terms the layout takes the form of an internal loop road incorporating natural traffic calming, branching from an internal roundabout, with some culs-de-sac off it. Higher densities are towards Pride Parkway and lower densities towards the boundaries of Alvaston Park to maximise numbers within a short walking distance of a bus route. Pedestrian / cycle connections with the park are made at several points. Incidental and major open space is provided, with major open space of 2.9ha at the north-east end of the site; this would form an extension to Alvaston Park. Also there is a corridor along the western edge which would establish a route for the canal restoration and two toddlers' play areas, in more formal landscaped areas, elsewhere.

Attempting a description more detailed than this of such a large scheme in words would be futile and I am therefore providing Members with a paper copy of the latest available version of the overall site layout, (Revision M). This incorporates full schedules of house types. Members will appreciate that it is not practicable to provide copies of 56 houses / flat types but they are of course available for inspection.

4. Relevant Planning History: As above.

5. Implications of Proposal:

5.1 Economic: None.

5.2 Design and Community Safety: There is an outstandingly wide variety of house and flat types, although all are drawn from the three developers' current standard ranges. There is always the danger when this approach is taken of an "identikit" layout that fits functionally but lacks an overall composition. The architect has moulded the different types together into a coherent whole. The outcome is not grand civic architecture, but this is not a location where there is any established style to fit into and the Local Planning Authority should not be unduly prescriptive in such areas. The result is a scheme that moves from a high-density inner city style to a more suburban approach further away

B1 APPLICATIONS (cont'd)

4 Code No: DER/305/533

from Pride Parkway. The higher-density parts are characterised by the use of blocks designed specifically to turn corners and by curved terraces, something rarely seen in Derby. The relative isolation of the site from other residential areas makes the achievement of its own design character essential.

Community safety needs raise some special features as the site is somewhat divorced from other residential areas and surrounded by a major road, railway and parkland. Part of the open space, if it comes to fruition, will be the restored canal. A community of some 597 dwellings should, however, be sufficient to create a socially sustainable community. The original details attracted criticism from the police in relation to security, particularly the opportunities for access to the rear of properties. These have been substantially designed out but see the paragraph directly below and also the police consultation response and my comment on it in "Officer Opinion".

I have given advice in relation to the boundaries of the site, which are virtually all onto public open space. The approach adopted is to make all connections visually wide to eliminate blind corners. Where dwellings face public open space but need a deterrent to casual trespass a 1.2m steel railing is used. On the comparatively short lengths where a solid screen is required this is in the form of a 1.8m wall. Generally this side of Alvaston Park will become visually well monitored.

5.3 Highways: The advice from the Department's Highways Officers is as follows:

"The transport issues relating to this site have been the subject of intensive negotiation with the applicants and their consultant, which has now reached the point that the transport officers feel that some mitigation measures are possible that will overcome the additional traffic congestion problems caused by the development. We have been particularly keen to assess the cumulative impact of the whole development of 597 homes rather than just the additional units in this application.

The key debate has been the effect of traffic on the nearby roundabout junction of Pride Parkway and London Road. The applicant has submitted an improvement scheme at this junction that, in principle, provides sufficient extra capacity for the extra traffic. There are some design details of this scheme that are still unresolved but Highways Officers are satisfied that a solution could be found within the highway boundary, subject to agreement. This will form part of the S106 Agreement. It should be noted that the mitigation measures include

B1 APPLICATIONS (cont'd)

4 Code No: DER/305/533

significant improvements to the London Road / Pride Parkway junction in order to form 3 lanes of traffic on each of the London Road arms of the junction.

The access junction with Pride Parkway will have sufficient capacity for the development traffic, although the layout of the highway will need to be changed.

The internal road layout has still not been finalised but there are no fundamental problems with the design so we feel that this can be done at a later stage. As the internal estate roads will be adopted, these will have to meet the Council's standards as Highway Authority. There could be problems with people trying to enter the estate for football parking and we shall have to work with the developer to prevent this.

The houses will all be within walking distance of a good bus service for the majority of the day, now that Arriva has re-routed a bus service through Pride Park, although there is no evening or Sunday service on this route.

There are significant off-site works arising from this development and we must ensure that we have secured these in the consent that is granted. These include:

- Amendments to the main access to facilitate connection to the internal estate roads, including changes to direction signing and pedestrian/cycle facilities
- Emergency access link to London Road
- Cycle and pedestrian links to Alvaston Park and the new school site
- Improvement works to the London Road / Pride Parkway roundabout."

5.4 Disabled People's Access: This is available throughout the site, except for upper levels of the flats. Disabled persons' parking will require some minor adjustment of communal parking areas to provide extra-width spaces.

5.5 Other Environmental: As a former landfill site, ground conditions raise questions of structural stability and contamination, which were addressed at outline stage by the then applicant's specialist consultants. The current application has a fresh Geotechnical and Environmental Assessment Report (not a document under the EIA Regulations). Its conclusions are that the development will, in relation to ground conditions, not harm any nearby areas but that normal technical precautions in relation to foundation systems on former landfill sites should be followed. (See EA comments).

B1 APPLICATIONS (cont'd)

4 Code No: DER/305/533

Recommendations include passive gas protection and venting measures. Where cultivatable gardens are provided an enhanced isolation layer system will be required and more topsoil will be applied.

There is an intermittent but high noise level generated from the railway. The local topography, which comprises a deep trench on the railway boundary, makes mounding impractical. There is a somewhat different public perception of railway, as compared to road, noise. It is seen as little problem by day but potentially worse at night when the isolated short burst of noise can disturb sleep. Relatively few units face the railway and these will be protected by acoustic insulation in the fabric of the building and mechanical ventilation.

6. Publicity:

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

7. Representations: None has been received.

8. Consultations:

EA – considers that the Flood Risk Assessment is inadequate and that more work needs to be done in relation to the contaminated groundwater and the risks of leaching to the river. Advises that the conditions relating to site investigation and remediation should not be discharged at this time.

Derby and Sandiacre Canal Society - two letters have been received, not objections but suggesting ways in which the scheme could relate better to a future canal both visually and in terms of using the canal as a balancing reservoir.

DCorpS (EH&TS) – no objection subject to the ground remediation works being implemented.

Chief Exec (Housing) – is now satisfied with the affordable housing provision. I comment on this in detail in “Officer Opinion”.

DCommS (Parks) – criticised the original relationship of both major and incidental open space to the housing, and the size and distance from the nearest houses to toddlers’ play areas. The amended plan addresses these although not to the full extent that is desired.

B1 APPLICATIONS (cont'd)

4 Code No: DER/305/533

Police ALO – criticised the original version which was felt to contain many features that gave burglary opportunities and failed to meet Secured by Design principles. Comments on the latest amended plan are that most features are acceptable but that concern remains over the width of accesses to the park. This raises significant design issues and I comment on it in “Officer Opinion”.

Derby Cityscape – criticises the lack of design statement explaining the rationale behind the master-plan and questions the development’s commitment to retaining landscape features, promoting sustainability and supporting a balanced community.

DWT – believes that a sustainable urban drainage system could be used on this site. Asks for a detailed ecological survey.

- 9. Summary of policies most relevant:** A comprehensive list of policies from the adopted CDLP and the CDLP review is given in the report on the outline application to the meeting of 27 May 2004. Those still relevant to this reserved matters application are set out below.

Adopted CDLP Review:

- ST6 - Social inclusion
- ST9 - Design and the urban environment
- ST10 - Protection of the environment
- ST12 - Amenity
- ST14 - Infrastructure
- ST15 - Implementation
- STx1 - Comprehensive development
- H19 - Affordable housing
- H20 - Lifetime homes
- H21 - Residential development-general criteria
- E8 - Wildlife corridor
- E11 - Trees
- E12 - Renewable energy
- E19 - Development close to important open land
- E20 - Landscaping schemes
- E26 - Design
- E27 - Community safety
- L1 - Protection of parks and public open space
- L3 - Public open space standards
- L10 - Former Derby Canal
- L12 - New Community Facilities
- T4 - Access, parking and services

B1 **APPLICATIONS** (cont'd)

4 **Code No:** DER/305/533

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

Also relevant are the Council's Supplementary Planning Guidance on Public Open Space adopted in March 1998 and on affordable Housing adopted in September 2004.

10. **Officer Opinion:** Very substantial progress has been made since October on the principal matters then outstanding of affordable housing, traffic implications and, to a lesser extent, public open space.

The outline permission established the principle of residential development on this site. Whilst all details were left for later approval, the master plan provided at that time was substantially acceptable in that condition 4(a) required the eventual details substantially to follow its principles.

The current scheme offers the opportunity to create a viable and distinct community that is well related to the urban form of that part of the City with adequate highway connections, adequate access to public transport and exceptionally good access to major public open space with the district park enhanced by its extension into the northern part of the application site.

There have been conflicts of objectives amongst different agencies and some of these are reflected in the consultation returns. Previously unresolved points concerning the number of affordable houses, the off-site implications and possible additional financial arrangements for highway / transport-related matters have been solved and, similarly, payment in lieu of the shortfall in POS provision that has arisen from the increase in unit numbers. I will cover the more physical matters first before turning to those matters that arise mainly from the Section 106 obligations.

Layout and design

The layout is quite acceptable from a functional viewpoint. The multiple-connection approach to access to the park offers the probability of the most successful yet scheme for the assimilation of new residential development with an existing park. However, see comments under "Community Safety" below.

The northern and eastern fringes of the site are of a fairly conventional suburban form but are competently handled with good presentation to the park. The major part of the site, with the medium to higher density properties, achieves some innovative urban design features in the

B1 APPLICATIONS (cont'd)

4 Code No: DER/305/533

creation of crescents with curved terraces and complementary symmetrical landscaping.

Public Open Space and Landscaping

The park expansion is a significant benefit, as is the protection of the canal route, detailed comment on which I give below. I have no doubt that a payment in lieu in respect of the shortfall that arises from the increased numbers is the most appropriate solution and would serve the public interest far better than a reduction in numbers until a balance is reached.

Much of the criticism of the details, including comments from DWT and Derby Cityscape, concerns the loss of most of the existing tree cover. Normally I would not support such a loss but there are special circumstances here. The trees date from a comprehensive scheme following the erection of the college in the 1960s and were designed to complement the arrangement of college buildings. Apart from the obvious commercial penalty, retention would make the achievement of any sensible urban form impossible. One would be left with disjointed housing groups separated by tree lines and groups that related to a demolished built form and with a density level that would probably be below Local Plan targets.

More significantly, this is contaminated land and the remediation has to be comprehensive. Omission from remediation of all areas beneath tree canopies would be impractical and would fail to protect future residents. The development has to be done therefore on the basis of totally renewed planting.

Drainage and Canal

The amended plans do, I feel, create a satisfactory visual relationship between the new housing and the linear public open space that would form the restored canal. Rear garden boundaries have been minimised and most of the linear open space is overlooked by dwellings.

The Society's drainage suggestions are attractive but I feel that they require much work to be done to demonstrate practicality owing to the current lack of any permission for canal restoration and the complications of the contaminated ground. The practicality and cost have to be assessed and a view has to be taken on relevance to the provision of public open space.

B1 APPLICATIONS (cont'd)

4 Code No: DER/305/533

The EA's criticisms of the drainage remediation approach are being addressed. I consider that the discharge of conditions 6 and 9(b) should be separated from the current reserved matters application and the applicants have agreed to that.

Community safety

The views of the police are that most of their reservations on the earlier versions have been addressed. This is one area where there is a clear conflict of objectives amongst consultees. It is an unfortunate fact that the safest form of development in terms of security against burglary is where there is just one public side to each house plot. This results in detached and semi-detached houses with driveways down the side or terraced houses or flats with blocks of parking in front, all arrangements that result in vehicles dominating the street scene.

It is easy to dismiss an interesting and innovative layout as confusing and rear access / rear parking is the only way to avoid the usual miserable product of street scenes dominated by parked vehicles. My view is that the architect's approach should be supported; he has modified the scheme in stages and the present version is a reasonable compromise between different objectives.

There is an outstanding divergence of opinion concerning the pedestrian connections with the park. The police view is that

"all pedestrian / cycle entrances should be narrowed to the minimum DDA compliant space possible and estate entrances positioned to benefit from full surveillance capabilities directly in front of a house in a sight line of a capable residential guardian. Any entrances that can be removed should be. Entrance points should not prescriptively be positioned in the centre of an access but where an offender feels subconsciously that he is under observation the minute he enters a defined area to create the impression that the development is private and that access is controlled."

Maximum surveillance is fully supported but the disadvantage of narrowing entrances is that a "turnstile" situation is created. Potential mischief makers can lurk beside the entrance point and intimidate legitimate users. With a wider opening the temptation and the ability to congregate at a constricted point is reduced. There is also the more general point that it is not logical to separate, by fencing, two areas of land (highway and public open space) to which the public have right of access at all times.

B1 APPLICATIONS (cont'd)

4 Code No: DER/305/533

I do feel that this particular piece of advice looks at the matter rather from the viewpoint of people on the park who are not residents of the proposed development and might be tempted to enter the residential area to carry on their “leisure” activities. The matter needs to be looked at from the other side. The location, frequency and width of the openings is intended to make it easy for residents to use the park as their local open space; indeed all of the park extension is the developer’s major open space contribution and should be readily available to new residents. I think that it is likely that, with 597 units on the site, most people on the western side of the park will be residents anyway and will quite legitimately need to go back and forth.

There is a fundamental difference between two approaches, one of designing a layout that merges imperceptibly into adjacent landscaping and the other of creating areas distinct both visually and functionally, between which is a physical and visual barrier. In practice all layouts will not be at the extremes but will have elements of both approaches, it is just that there will be difference of emphasis. There will always be a considerable leaning towards separation, if for no other than the commercial reality of developers wishing to maximise their landholding. The ability to create the impression of imperceptibility on the boundary requires a lot of design skill and will always be somewhat debased.

At Wilmorton, I feel that the balance that has been reached through successive revisions of the layout is reasonable. The developers are confident that it will create an attractive and secure environment for their customers and I do not think that the LPA can press for further changes. I accept that it is reasonable to require security features to be provided before the dwellings that they protect are occupied.

Community facilities

The outline permission allowed for features such as a community centre or a local shop but such were not requirements. Community provision has been made in the form of a contribution to the new Lakeside School which is now to be larger to cater for the educational needs of the development and which will be used for community activities. The developers have taken the view that a local shop would be of doubtful viability and that it may be better for the shops that exist at Wilmorton to be used for local needs. I would not challenge that.

I now turn to Section 106 matters.

B1 APPLICATIONS (cont'd)

4 Code No: DER/305/533

Affordable Housing

The Section 106 agreement requires 18%, in at least two separate locations and of types to the satisfaction of the City Council as Housing Authority. The initial submission met the 18% with 109 out of 598 units. The arrangement now agreed achieves that. There are 488 market sale units and 109 affordable units. Of the affordable units 22 are shared-ownership and 87 for rental. The affordable units are 18.26% of the total. One beneficial consequence of the uplift in numbers is that an extra 31 affordable units are achieved.

Highway and Transport Implications

In relation to the specific points raised by Highways Officers, the off-site emergency link to London Road will need to be processed by a separate application but its provision is assured by a condition of the outline permission. Clearly the City Council, as land owner, has to allow such construction over its own land. The junction with Pride Parkway is already a highway and its necessary re-arrangement will be done as an improvement to an existing highway under a Section 278 Highways Act Agreement or similar. Certain internal paths link to others off-site, (that is in the park) whilst others simply discharge people onto the grassed areas.

The internal road system is acceptable in principle; remaining queries over the treatment of shared surfaces and the prevention of abuse by vehicles can be dealt with under Section 38 Highways Act negotiations. Acceptable ways have been identified to deal with the off-site impacts. It has been established that additional capacity can be extracted from the Pride Parkway / London Road roundabout by a judicious re-arrangement of kerbing, refuges and lane markings. Further refinement is required but the work can be carried out within the highway with no material impact on adjacent frontagers. The cost will be borne by the developer and will form part of a fresh Section 106 Agreement.

Public Open Space shortfall

4.763ha of POS is provided. At outline stage there was a clear over-provision on the basis calculated on a figure of 435 *dwelling houses*. On the basis of 597 units in the proportions of the bedspaces provided in 336 houses and 261 flats, total POS needs come to 5.122ha, comprising 1.887ha incidental and 3.235ha major, so there is a 0.359ha shortfall.

B1 APPLICATIONS (cont'd)

4 Code No: DER/305/533

It would be possible to achieve parity on site by, for example, taking out around eight of the detached houses and devoting the land so released to open space. On a site with such excellent access to public open space, both existing and proposed, I take the view that the public interest would be better served by negotiating a contribution in respect of the shortfall.

There are substantially different costs associated with incidental and major POS. As this development is, unusually, providing its major POS on site, and because the canal corridor is effectively incidental open space that would change function to major at a later date, we avoided differentiating major and incidental. Therefore, it is not possible to say which category the shortfall is in. I have suggested to the agent that the sensible choices are between a 50/50 split and this has been accepted. Agreement has now been reached that a contribution to public realm enhancement will be made in recognition of the shortfall

Conclusions

This major scheme will make a substantial contribution to the City's housing needs. To meet Structure Plan targets 790 dwellings a year are required and this site, where the units are likely to become ready over a three-year period, can contribute 25% of those needs for that period. It is in a sustainable location as regards access to transport and public facilities and in many ways combines the advantages of inner-city and peripheral sites.

As a very major scheme it is not surprising that negotiations should be protracted, but I consider that those deficiencies present in the first version of the scheme have now been designed out, or will be dealt with by the terms of a new Section 106 Agreement.

Many conditions imposed on the outline permission will regulate the development. Some additional ones will be needed to cover the amended plans and the provision of security features.

11. Recommended decision and summary of reasons:

- 11.1 A. To confirm** that the scheme in its present form is acceptable:
- B. To authorise** the Assistant Director – Regeneration to finalise negotiations on a new Section 106 Agreement and to issue an approval of reserved matters, subject to conditions to be determined by him, on the completion of the Agreement in (3) below.

B1 APPLICATIONS (cont'd)

4 Code No: DER/305/533

- C. **To authorise** the Corporate Director of Corporate and Adult Social Services and Deputy Chief Executive to enter into an Agreement, that will:
- (a) secure the cost of the identified highway alterations, and
 - (b) secure a contribution in lieu of the POS shortfall based on a 50/50 split between incidental and major for valuation purposes.
- D. **To note** that the discharge of conditions 6 and 9(b) of the outline permission will be dealt with separately to this current application and **to authorise** the Assistant Director – Regeneration to discharge these conditions once the agreement of the Environment Agency has been secured.

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 applicable to an application for the Approval of Reserved Matters where the principle has been established by the outline permission. The proposed development will provide a substantial number of dwellings in a sustainable location close to existing public facilities and well served by public transport. As a brownfield site, it will make a substantial contribution to the Local Planning Authority's targets for the provision of housing on re-used land in line with the objectives of PPG3.

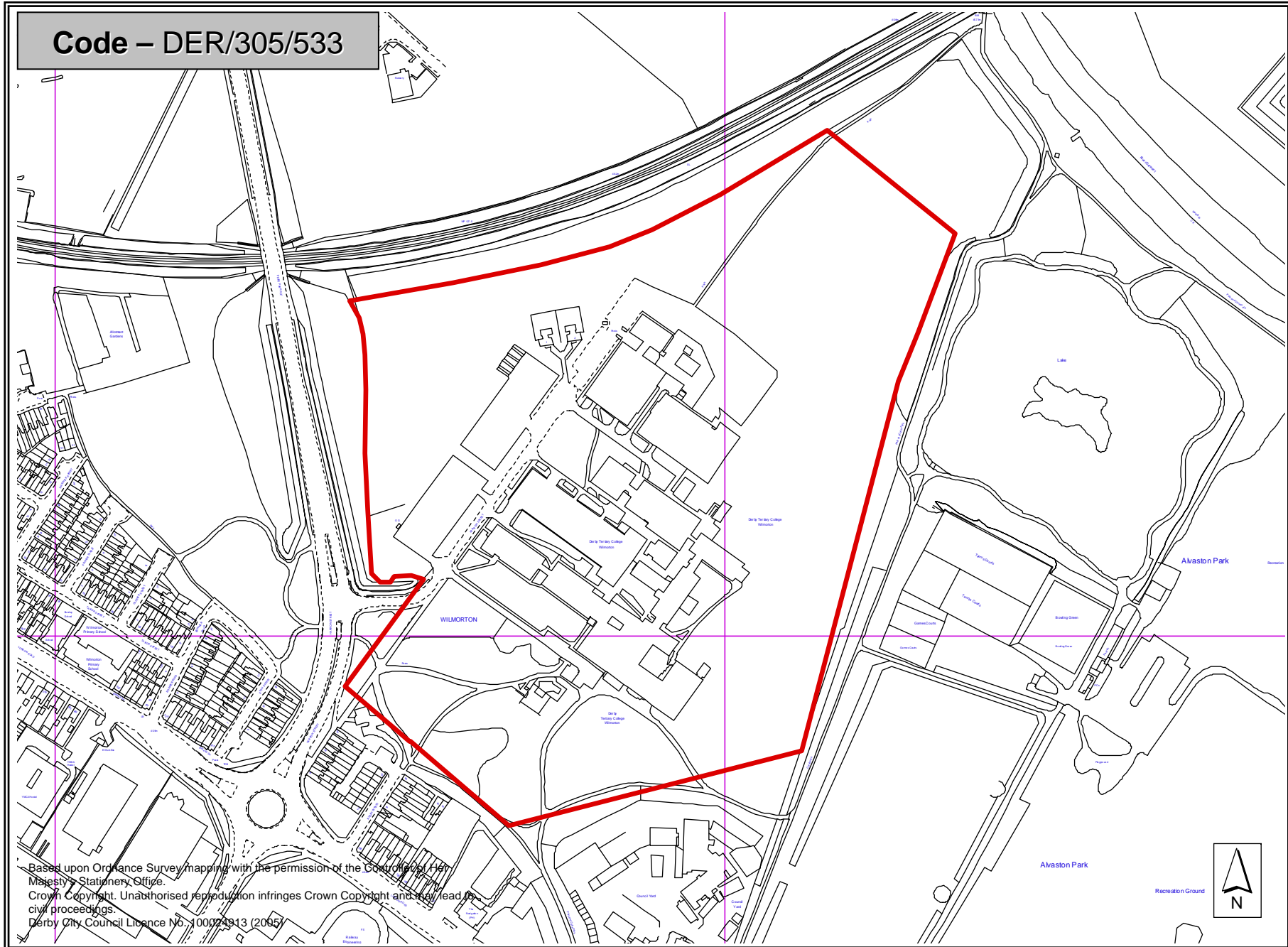
In detail the Local Planning Authority considers that the development will result, either in itself, or through the conditions imposed, or the terms of the Section 106 Agreements linked to the outline application and to this application, in a more beneficial outcome in relation to the proposals and policies of the adopted CDLP Review. It will not adversely affect the amenities of nearby residential properties and will enhance the character of the area.

11.3 Conditions) To be determined by AD - R as set out at the end of

11.4 Reasons) "Conclusions" in Officer Opinion and in recommendation 11.1(B) above.

11.5 S106 requirements where appropriate: A supplementary Section 106 Agreement will be necessary to cover the matters in C(a) and (b) above.

Code – DER/305/533



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

B1 APPLICATIONS (cont'd)

5 Code No: DER/1105/1874

Type: Full

1. **Address:** Site of University of Derby, Mickleover Campus, off Western Road, Mickleover (including land off Chevin Avenue)
2. **Proposal:** Erection of 476 dwellings, relocated playing fields and public open space together with scout buildings and changing rooms
3. **Description:** The application site is approximately 21.1 hectare of land, which is occupied by the University of Derby who have indicated that they intend to close this campus site in Mickleover. Access to it is currently via Chevin Avenue, a residential street located to the south of the site. Land adjoining the sites southern and western boundaries is predominantly in residential use. To the north are open fields and Murray Park School and to the east of the site is the A38. The University buildings are clustered towards the south west corner of the site and comprise buildings of between 1 and 3 storeys in height. All of the buildings are proposed to be demolished as part of this scheme apart from the swimming pool which would be retained. To the east of the University buildings are three outdoor sports pitches which are proposed to be re-located on land at the northern end of the site. The Bramble Brook, which is designated for its high natural history importance, bisects the site from east to west and 8 hectares of the application site to the north of the brook comprises open fields containing two further sports pitches. A substantial belt of trees extend along the sites eastern boundary and provide a buffer between the site and the A38.

This application proposes comprehensive development of the site, principally for residential purpose. 476 residential units are proposed to be located on the land to the south of Bramble Brook and would comprise a mixture of apartments, terraced, semi-detached and detached dwellings. The residential layout has been designed around a central area of linear public open space which would extend north-south through the southern part of the site and would accommodate a children's play area and a piece of public art. New development on the southern section of the site also involves the erection of a scout hut, which would be located in the south-west corner adjacent to the retained swimming pool and would replace an existing scout hut, proposed to be demolished as part of the previously approved new access proposals for the site.

Land to the north of Bramble Brook is allocated as Green Wedge and is proposed to be retained as public open space and adopted by the City Council. Along with the relocation of the three sports pitches into this area, this application proposes new changing room facilities and a car park for 53 vehicles. The car park would be accessed via a road extending from the new residential area to the south and across the

B1 APPLICATIONS (cont'd)

5 Code No: DER/1105/1874

Bramble Brook. Within this area of open space the application also proposes a second children's play area and a new balancing pond, which would be located in the north east corner of the site.

Access to the site has already been granted planning permission and would involve the formation of a new road into the southeast corner. A new junction controlled by traffic lights would be formed with Uttoxeter Road and cul-de-sacs formed at the end of Western Road and Chevin Avenue.

4. Relevant Planning History:

DER/505/758 – Formation of new access road – granted 24 June 2005
DER/203/302 – Formation of new access road – refused 17 April 2003

5. Implications of Proposal:

5.1 Economic: This large housing development will generate local employment in the construction and related industries.

5.2 Design and Community Safety: The proposed site makes good use of natural surveillance with well-defined routes and links. The use of large off street parking courtyards can be problematic but sensible use of small parking areas with good natural surveillance as used within this development is exactly as recommended in PPG3. Generally the cycle routes and the small child play areas are well overlooked. Many of the houses have been designed facing onto the movement links. Where the paths join onto traverse routes into the estate there may be potential for congregation and anti-social behaviour but a good landscaping scheme can overcome these problems. Some areas within the layout have been defined by railings, which are preferable as they are less susceptible to vandalism and graffiti. There are shared rear access footpaths to a number of the plots and these require lockable gates wherever possible in order to deter misuse of them.

I have no objections to the design of this scheme. The central linear area of public open space which the housing layout has been designed around, will offer the development an attractive central focal point. The applicants have submitted a landscape strategy for this area, which proposes a mixture of sensitive hard, and soft landscaping which should make it an attractive and well used space. Good mixes of house types have been proposed across the site and overall, the development offers varied and interesting street scenes.

5.3 Highways: There are no objections to the internal road layout and cycle / pedestrian footpaths, subject to the use of appropriate surfacing

B1 **APPLICATIONS** (cont'd)

5 **Code No:** DER/1105/1874

materials. Access and parking provision has been modified to meet the Councils requirements.

A transport assessment was submitted with the planning application and the Council agree with the methodology that has been used to assess the impact of this development on the highway. The Transport Assessment indicates that the development would have implications for congestion levels at nearby junctions but the information submitted by the applicants does not offer sufficient mitigation measures for this. The applicants are addressing this issue and an update on any further information that may be submitted by the applicants and the views of Highways colleagues on that information will be reported orally at the meeting.

5.4 Disabled People's Access: 10% of dwellings to be designed to the mobility guidelines and 10% of affordable housing to be designed to Housing Corporation wheelchair standard. These are to be secured through the Section 106 Agreement. Building regulation guidance will control accessibility of community facilities and dwellings.

5.5 Other Environmental: A wildlife corridor is located on the eastern side of this site alongside the A38. Although there will be some tree loss, this scheme proposes the retention of this area and it would continue to offer a buffer between the site and the A38.

The Bramble Brook is protected as an area of high natural history value and the brook and existing vegetation that surround it are retained as part of this scheme. A cycle track that is proposed to extend to the south of the brook would provide a buffer between the brook and the proposed residential development.

6. **Publicity:**

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

7. Representations: Twenty two letters of objection have been received in response to this application and copies will be available in the Council Chamber Foyer. Any further representations received will be made available for Member's consideration. Objections to the proposals and the main issues raised are as follows:

B1 APPLICATIONS (cont'd)

5 Code No: DER/1105/1874

Site development

- No more green space should be lost in Mickleover.
- There is too much development already taking place in the area.
- The development lacks local facilities including a primary school, shops and a doctor's surgery and will put undue pressure on existing local facilities.
- The development will put increased pressure on existing drainage systems in the area.
- The site should remain in educational use.
- The development lacks facilities for local young people.
- The development will increase noise and pollution in the area.
- The development would result in too much tree loss on the site.

Highway concerns

- Uttoxeter Road is already busy and dangerous.
- The development will lead to increased problems on roads that are already congested.
- Along with other developments in Mickleover, this proposal will lead to congested roads in the area.
- One entry / exit into the site is insufficient and too many dwellings are proposed for a single access.
- The development will increase congestion on Arundel Avenue as it will be made into a shortcut for people travelling to the district centre.
- The City Council should ensure that Chevin Avenue does not become a through road.
- The transport assessment that was submitted with the planning application for access to the site was insufficient and planning permission for the access should not have been granted. This site therefore is not allocated for housing in the Local Plan.

B1 APPLICATIONS (cont'd)

5 Code No: DER/1105/1874

- The access road to the site should be constructed first to ensure that construction traffic does not use Chevin Avenue.

Residential amenity issues

- Concerns over boundaries between existing and proposed dwellings.
- Concerns over the siting of affordable housing units alongside existing dwellings.
- Too much affordable housing is proposed on the site.
- Loss of privacy, view and property value.
- Modern buildings are out of character with existing dwellings on Chevin Avenue and would be out of character with the existing street scene.

Leisure facilities

- Activities at the scout hut will compromise the amenities of nearby residents.
- The swimming pool should be managed by the City Council and not a private company as it may be prone to closure.
- If the developers are required to keep a swimming pool it should be available for public use.
- Existing leisure facilities such as the swimming pool will not be available for use whilst construction works are taking place.
- A lack of security around the scout hut and swimming pool car park will lead to anti-social behaviour.
- Chevin Avenue will be used for parking by those accessing the swimming pool and scout hut.

8. Consultations:

DCorpS (Health) – a PPG24 noise assessment should be carried out to determine the impact of traffic noise from the A38 on the dwellings. A scheme of sound insulation or other appropriate noise mitigation should be agreed with the Council before the development proceeds.

B1 APPLICATIONS (cont'd)

5 Code No: DER/1105/1874

Severn Trent Water – no objections subject to details of drainage being sought by condition of planning permission.

DCommS (Arboricultural Officer) – to be reported.

Countryside Agency – no objections raised to the submitted scheme.

DWT - object to the application on the following grounds:

- additional information regarding the bat survey work which has been undertaken should be provided by the Applicant
- there has been insufficient assessment of the impact of the development on surface drainage, water quality which will discharge to the Bramble Brook wildlife site.

The planning design should incorporate a more comprehensive surface water drainage scheme than that currently proposed. Such a scheme could potentially address issues of concern regarding the quality of water discharge into Bramble Brook and biodiversity loss.

EA – make a holding objection to the development due to insufficient information relating to flood risk and biodiversity for the following reasons:

- the application makes reference to a pipe crossing, culverting and outfall in the vicinity of Bramble brook. Any proposed modifications to the Brook should be submitted in detail for further comment before permission is granted.

The flood risk assessment submitted provides no detail to support the statement that there is little or no flood risk at this site.

Sport England – to be reported

Primary Care Trust – to be reported

English Nature – to be reported

9. **Summary of policies most relevant:** This site is allocated under policy H3 in the CDLP review. Policy H3 states that the City Council will seek to enter into an obligation under Section 106 of the 1990 Act to provide or undertake the following on this site:

- a. the erection of affordable housing units on the land based on a figure of 30% of anticipated site capacity, subject to the application of the criteria set out in policy H19
- b. the retention of public swimming pool facilities on the site

B1 **APPLICATIONS** (cont'd)

5 **Code No:** DER/1105/1874

- c. the dedication, and laying out to the City Council's satisfaction, of the remaining part of the campus to the north of Bramble Brook as public open space, including the satisfactory replacement of lost playing fields and other sports facilities
- d. a pedestrian-cycle link to the proposed cycleway-walkway along the brook and a contribution to implementing this scheme.

H3 - University Campus - Mickleover
H19 - Affordable housing
H20 - Lifetime Homes
H21 - Residential development – general criteria
E2 - Green wedges
E8 - Wildlife corridor
E10 - Enhancing the natural environment
E19 - Development close to important open land
Ex3 - Biodiversity
E11 - Trees
E26 - Design
E27 - Community safety
L3 - Public open space standards
L4 - Public open space requirements in new development
T15 - Protection of footpaths, cycleway and routes for horse riders
T1 - Transport implications of new development
L12 - New community facilities

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

10. **Officer Opinion:** Following the adoption of the City of Derby Local Plan Review at the end of January this year, the section of this site located to the south of Bramble Brook is allocated for housing under Local Plan policy H3. Residential use of this area of the site has therefore already been open to public consultation, considered by an Inspector at the Local Plan Inquiry and considered by the City Council's Cabinet at various stages through the Local Plan process. In principle, residential use of this part of the site is therefore acceptable in land use terms.

The northern section of the site is allocated as Green Wedge. The Bramble Brook, which separates the residential land from the Green Wedge, is a site of high natural history importance and towards the sites eastern boundary is a wildlife corridor. In assessing the appropriateness of the submitted scheme there are therefore a number of policies within the Local Plan Review that need to be given clear consideration.

B1 APPLICATIONS (cont'd)

5 Code No: DER/1105/1874

Access into the site

Policy H3 requires that any scheme for residential development on this site will incorporate satisfactory access arrangements. Members may recall that at the Planning Control Committee meeting of 23 June 2005. Planning permission was granted for a new single access road into the south-east corner of the site with restricted access available at the end of Chevin Avenue for emergency vehicles only. The main access to the site would remain unaltered from the approval apart from minor alterations to the Chevin Avenue / Western Road junction which are proposed as part of this application. These alterations include the widening of the junction at the end of Western Road for the purpose of improving visibility. The minor improvements to this junction are considered acceptable in amenity and highway terms. The approved access to the site has been raised as a concern by many of the objectors to this application who suggest that it is inadequate and would lead to increased access and congestion problems in the area. The layout for the access to this site is approved and the Transport Impact Assessment that was submitted with that application assumed a development of 500 dwellings on this site. This application proposes 476 residential units, which clearly is within the scope of the traffic assessment. There are currently outstanding issues relating to mitigation for the wider increase in congestion created by this development as highlighted by the transport assessment. It is anticipated that this issue will be resolved prior to the application being reported to the Committee and Members will be updated at the meeting.

Footpath / Cycleway links to this site are proposed to be incorporated via the main access route into the site and via the new cul-de-sac at the end of Chevin Avenue. The submitted scheme proposes the formation of a footpath / cycle path alongside Bramble Brook, in between the brook and the built form of the proposed housing development. The land extending beyond Bramble Brook to the west, in between the application site and Brisbane Road, is outside of the applicants ownership. Contributions towards the continuation of a pedestrian / cycle link across this land so that it would join up to the cycle / footpath alongside the brook is required as an objective of policy H3 and a contribution towards this link will be secured through the Section 106 Agreement. The layout of the development on the site and the position of the cycle / footpath alongside the brook make this link feasible and I am satisfied that this requirement of policy H3 has been met and that the link can reasonably be accommodated. The plans to continue this cycle/footpath link through to Brisbane Road will open up access to the site from surrounding areas to the west. The linear north/south open space that is proposed to extend through the new housing layout would

B1 APPLICATIONS (cont'd)

5 Code No: DER/1105/1874

also provide a clear link through the development for cyclists and pedestrians. It will provide a link between Chevin Avenue, the new access road and surrounding areas of Mickleover, to the Bramble Brook and the public open space to the north of it. Overall, I am satisfied that the submitted scheme provides clear footpath and cycle links to this site, which will allow access to and from it into the more established residential areas and facilities in Mickleover generally.

The design of the residential layout does not allow for buses to access the development. However, there are existing and proposed bus stops in close proximity to the site on Western Road, Brisbane Road and Uttoxeter Road that would be within reasonable walking distance of all the new residential units. A financial contribution is also proposed to be incorporated into the Section 106 Agreement towards public transport as well as walking and cycling in order to mitigate for this lack of public transport accessibility on site. The applicants have also indicated their intention to formulate a green travel plan that would encourage the use of public transport, cycling and walking as well as a car sharing scheme.

Housing Layout

Local plan policy H3 requires a minimum of 400 dwellings on this site and the submitted scheme meets this criterion by proposing 476. The layout for the residential development on this site has been designed around a linear section of public open space that would extend northwards through the centre of development. Incorporated into the public open space are a cycle / pedestrian footpath, a children's play area and a designated area for a piece of public art. Houses that are proposed to extend alongside either side of this open space have been designed to take advantage of this setting and overlook this boulevard. This would not only provide an attractive setting for the dwellings and the development generally but will also offer the open space significant natural surveillance ensuring that the space feels safe and welcoming. This feature of the development will provide it with a central focal point and in my opinion the scheme offers an attractive feature for this site.

The proposed dwellings and apartments range between 2 and 4 storeys in height and a good mix of dwelling styles have been accommodated across the site. Tight bends and t-junctions have been used throughout the internal road layout in order to slow vehicle speeds down and offer increased pedestrian safety. Rear parking courts have been used wherever possible to reduce the extent of car parking viewed from the street and I consider that this has achieved a development that will have attractive street frontages. Additional windows have been added to dwellings where possible, in order to offer

B1 APPLICATIONS (cont'd)

5 Code No: DER/1105/1874

surveillance of the rear parking areas. Boundary treatments can be controlled by condition to ensure areas are secure and private but also open to views from outside where necessary. Amendments to the layout have been sought to ensure that adequate garden spaces have been provided and satisfactory distances are achieved between principal windows. Normal space standards have been met when considering the distances between the windows in the new residential units and the gardens and windows of existing properties to the south and west of the site. Within the site itself, a reduction in those distances have been accepted on some plots in order to ensure good surveillance of accesses and parking areas and to offer design improvements to some of the street scenes.

This site shares a boundary with the A38 and although some consideration of the noise implications of the road on the new residential units to the east has been undertaken, a full detailed noise assessment should be carried out and this can be required by condition of planning permission. These dwellings do however have some protection from the road, provided by the wildlife corridor that acts as a buffer between the site and the road. Overall, I consider that the development offers a satisfactory standard of living accommodation within all of the residential units proposed, meeting the criteria set out in Local plan policy H21. I am satisfied that the development will not offer unacceptable massing, overshadowing or loss of privacy for the occupiers of existing neighbouring dwellings.

Views into this site from outside are limited and the majority of the new residential buildings will not be viewed in the context of an existing street scene. The scheme proposes the felling of a number of mature trees on the site and members will be made aware of our Arboricultural Officers views on this application at the meeting. The development does however, propose significant tree planting including areas alongside existing dwellings, which in the future, will add to the amenity of the area generally.

The development does have implications for Chevin Avenue, given that it is to be made into a cul-de-sac with houses and an apartment block located at the end of it. Local residents have objected to the application on the grounds that the buildings would be out of character with the existing street scene of Chevin Avenue. Amendments to the original layout have been sought to ensure that the new buildings at the end of Chevin Avenue have an appropriate relationship to neighbouring properties in terms of mass, overlooking and overshadowing. The buildings will offer modern additions to this street scene and given the mass of the three storey apartment block, the buildings will not specifically reflect the character and style of the traditional two storey

B1 APPLICATIONS (cont'd)

5 Code No: DER/1105/1874

pairs of semi-detached dwellings that extend along Chevin Avenue. However, given that the principle access to the University campus site is currently via Chevin Avenue, any development proposals for this site will have implications for its street scene. The area at the end of the street currently opens up to a group of University buildings of various heights and styles and on balance, I do not consider that the buildings proposed in this scheme would offer changes that are so detrimental to the existing situation at the end of Chevin Avenue, that they would offer grounds for refusal of planning permission.

Affordable Housing

Local Plan policy H3 requires provision of 30% of the units on this site to be affordable. Of the 476 units proposed, 130 are to be affordable. This amounts to a percentage of 27.3% but the developers have given justification as to why a reduced provision should be acceptable on this site. They advise that the value of the site directly influences the land value and funds that will become available to the current site owners. The current owners are the University of Derby and a reduction in the site's land value would reduce the funds available for the University to input into improved education provision in other areas of the City. The applicants also argue that as part of the Section 106 proposals, they are initially required to take over the management of the existing swimming pool on the site. This requirement adds extra cost onto the developer and in considering these cost implications, the developer argues that the 2.7% reduction in affordable units on the site is reasonable. As the retention of the swimming pool and the implications of the land value for the University would be considerations for any developer on this site, I consider that they offer valid justifications for a slight reduction in provision. Affordable housing requirements in policy H19 suggest between 20 and 30% as being appropriate and this site clearly moves towards the top end of that requirement. Policy H19 also suggests one of the criteria for assessing affordable housing requirements is the economics of provision. In view of this I am satisfied that the applicants' grounds for a reduced provision are justified and feel that a 27.3% provision of affordable units on site, to be acceptable in policy terms.

The application proposes a good mix of 1 and 2 bed flats and 2, 3 and 4 bed dwellings as affordable units. The number of units to be provided for rented accommodation through a registered social landlord and those to be provided for shared ownership will be agreed and confirmed through the Section 106 Agreement. Some local residents have raised objections to their proposed siting, suggesting that they should not be located alongside the boundaries of existing dwellings. However, it is not possible to insist on affordable units being located in

B1 APPLICATIONS (cont'd)

5 Code No: DER/1105/1874

certain positions on the site. They are properties proposed for residential use and are appropriately located alongside other dwellings in residential use. In my opinion, they have been incorporated well into the development as they have not been limited to one area within the site and have been integrated well with other dwellings in the layout. In my opinion, the proposals offer a good range of affordable housing to meet the needs of the local area.

Leisure Facilities

As required by Local Plan policy H3, the existing swimming pool on this site is proposed to be retained. The proposals put forward in this application also include the provision of a parking area specifically for the pool. The existing and proposed future use of the pool has been discussed at length between the applicants and the City Council and it is clear that the pool is currently not open on a daily basis for general public use. Initially, the applicants will manage the swimming pool and they stress that the emphasis of use in the future should be on a community programme basis rather than a fully operating public facility as this does not take place at the moment. Objectors to this application have argued that the swimming pool should be managed by the City Council in order to ensure its future and that it is open to the general public. This is not a requirement of Local Plan Policy and is not the intention at this time although it is anticipated that the pool may be transferred over to the City Council in the future and the cost implications of this will be negotiated through the Section 106 Agreement. Policy H3 requires that public swimming pool facilities are retained on site and these proposals would meet with that objective.

As the three playing fields that are currently located on the south eastern section of the site are to be relocated alongside the existing pitches to the north of Bramble Brook, there will be no loss of leisure facilities on the site. In total five pitches will remain. One of the existing pitches appears to be disused currently and a new track will offer an improvement on its condition. This scheme also includes the provision of new changing rooms and a car park. Subject to the approval of further details, which can be sought by condition of planning permission, relating to earthworks to achieve acceptable gradients on the pitches and landscaping around the car parking area, I consider the siting of the pitches and the changing rooms building to be appropriate. Falling under the category of outdoor sport and recreation, they would be appropriate additions to an area identified as a green wedge under Local Plan policy E2. The single storey design of the changing room building and the siting of the building and car park towards the south west corner of the green wedge would ensure that they do not compromise the open character of the area. Once

B1 APPLICATIONS (cont'd)

5 Code No: DER/1105/1874

completed, these facilities will be transferred over to the City Council and open for public use. With these proposals, I consider that this application offers improved leisure facilities for the local area without compromising the openness of the green wedge and is welcomed in this respect.

Community Facilities

The provision of a replacement scout hut is required on this site as a condition of the permission that has been granted for the new access to the site. A new scout hut building has been incorporated into the scheme and would have its own dedicated gated parking area and amenity space. Its location alongside the existing swimming pool is appropriate as it keeps the community facilities on site, together. The building has been clearly designed to meet the needs of the scouts whilst taking into consideration the buildings security when not in use. It is a high pitched single storey building and although it will sit towards the rear of existing dwellings on Chevin Avenue and Western Road it should not appear overly dominant beyond existing boundary treatments. I have noted the concerns raised by neighbouring residents relating to possible noise nuisance from the use. However this is a community facility and I consider it is important that it is located close to the population that it is intended to serve. Amendments to two dwellings that are located alongside the parking area for the scout hut and the swimming pool have been sought to ensure clear surveillance of the car park when the facilities are not in use and this should help to make the area safer and less open to misuse. This area of the site currently contains University campus buildings with its associated activity and I do not consider the scout hut would offer local residents a significant reduction in privacy or amenity. The provision of access gates to the scout hut building and its parking area should also ensure that they are not misused when the scouts are not in the building and this should offer further protection to the amenity of those that live adjacent to the site. Overall, I consider that the proposal offers a clear improvement to an existing scout hut facility.

In developing this site, there are no provisions for any other community facilities on site such as shops, doctor's surgeries or a school. Many local residents have expressed concern that for this reason, the development would place unnecessary pressure on existing local facilities. Local plan policy does not require such facilities to be provided on site but the implications for local facilities have been taken into consideration. An education contribution is to be sought through the Section 106 Agreement for the provision of primary and secondary school places in local schools, which would be the usual requirement for a development of this kind. Devonshire Drive neighbourhood centre

B1 APPLICATIONS (cont'd)

5 Code No: DER/1105/1874

is also located within 800m of the site, which is indicated by Central Government as a reasonable walking distance for people to get to facilities. If shops were to be located on this site there would be concerns as to their possible implications for the vitality and viability of the Devonshire Drive centre and housing development in this location may actually serve to increase the vitality and viability of this centre over time. In light of this I feel the provision of shopping facilities on this site would be contrary to Local Plan policy.

Wildlife Corridor / Area of Important Natural History Value

The new road to the changing rooms and the new cycle / pedestrian footpath proposed to extend alongside Bramble Brook will both cross the Brook at different points. A pipe will also be needed over the Brook to carry surface water from the residential site into a new balancing lagoon which is proposed to be constructed towards the eastern end of the main area of public open space, to the north of the brook. The implications of these crossings and the discharge of surface water into the brook were considered as part of an environmental impact assessment, submitted with this planning application. The environmental assessment looked at key issues relating to the site as a whole including ground conditions, cultural heritage, ecology, landscape and visual impact, air quality, noise and vibration and traffic and transport. They offered assessment of the implications of the submitted scheme on the wildlife corridor and natural history importance of the Bramble Brook. Currently, objections remain outstanding to the scheme from the Environment Agency and Derbyshire Wildlife Trust. However, the developers have submitted further information to the Environment Agency, which they are presently considering and Members will be updated at the meeting.

Policy H3 requires that the any scheme on this site should incorporate environmental protection zones, to retain the wildlife corridor and the setting and nature conservation value of Bramble Brook. I am satisfied that this scheme has incorporated satisfactory buffers between these areas of the site and the built form of the development. The environmental implications of this scheme have been made clear in the environmental impact assessment as well as in the flood risk assessment submitted with the application, and I am satisfied that the scheme meets the objective of Local Plan policy H3. However the suitability of the scheme is I feel, subject to confirmation from the Environment Agency that they no longer have objections to it. Without this assurance it is not certain that the wildlife and natural history value of this site is not compromised by the development.

B1 APPLICATIONS (cont'd)

5 Code No: DER/1105/1874

Conclusion

There are outstanding issues relating to highway matters, flood risk and biodiversity that the developers are currently seeking to resolve and members of the Committee will be updated on these matters at the meeting. Subject to those issues being resolved, I am satisfied that the submitted scheme fulfils the objectives set out for this site in Local plan policy. I have given careful consideration to the issues raised by local residents but consider the detailed scheme alongside the provisions of the section 106 agreement, offer an attractive development for this site without compromising its natural features and wildlife value. The development will provide a good mix of new housing for the local area as well as attractive areas of public open space and improved leisure and community facilities. I am satisfied that the development meets the aims of Local plan and Central Government policy and is therefore an appropriate scheme for this site.

If the Committee concur with my conclusions, that the submitted scheme offers an acceptable development for the Mickleover Campus site, it will be necessary to notify the Secretary of State, to afford him the opportunity to consider the application, as the proposal, although on an allocated site, is to be built on a greenfield site greater than 5 hectares and therefore falls within the requirements of paragraph 39 of PPG3 Housing.

11. Recommended decision and summary of reasons:

11.1 Members are recommended **to resolve** that the Secretary of State for the Office of the Deputy Prime Minister be notified that the City Council is minded **to grant** conditional planning permission, subject to the applicants entering into an agreement under Section 106 of the Town and Country Planning Act 1990 to secure the objectives set out in 11.5 below.

11.2 Summary of reasons: The proposal has been considered against adopted City of Derby Local Plan Review policies and all other material considerations as summarised at 9 above and is an acceptable form of development in highway, amenity, street scene and environmental terms.

11.3 Conditions

1. Standard condition 09D (amended plans received)
2. Standard condition 27 (external materials)
3. Standard condition 19 (means of enclosure)
4. Standard condition 20 (landscaping)

B1 APPLICATIONS (cont'd)

5 Code No: DER/1105/1874

5. Standard condition 22 (landscaping condition 4)
6. Standard condition 24A (vegetation protection)
7. Standard condition 30 (hard surfacing)
8. Standard condition 38 (drainage)
9. Standard condition 51 (service runs and trees)
10. Standard condition 53 (hedgerow retention and protection)

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order) no fences, walls or gates shall be erected on plots 179-190 (consecutive) 219 - 230 (consecutive) 241 – 252 (consecutive) 263 – 275 (consecutive) 277 – 285 (consecutive) 295 – 314 (consecutive) 321 – 337 (consecutive) 368 – 370 (consecutive) 374, 375, 475, and 476 without the prior permission in writing of the Local Planning Authority.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order) no enlargement or addition including any alteration to the roof of the dwellings on plots 179 – 190 (consecutive) 219 – 230 (consecutive) 263 – 275 (consecutive) 295 – 299 (consecutive) 308 – 314 (consecutive) 321 – 325 (consecutive) 368 – 370 (consecutive) 374, 375 and 476 shall be undertaken without the prior permission in writing of the Local Planning Authority.

13. The children's play areas shall be provided in accordance with the City Councils approved standards and these facilities shall be provided before the neighbouring houses are occupied.

14. Notwithstanding the details on the approved plan, precise details of new planting, treatment of hard and soft landscaping, lighting and street furniture, in the areas to be designated as public open space shall be submitted to and approved in writing by the Local Planning Authority before development commences unless otherwise agreed in writing by the Local Planning Authority.

15. A detailed management plan for the Bramble Brook and the hedgerows proposed to be retained at the north of the site and the landscape buffer along the eastern boundary of the site shall be submitted to and approved in writing by the Local Planning Authority before development commences, unless otherwise agreed in writing by the Local Planning Authority.

16. Precise details relating to the method of construction of the pedestrian / cycle path extending to the south of Bramble Brook

B1 APPLICATIONS (cont'd)

5 Code No: DER/1105/1874

and the road proposed to extend across Bramble Brook, shall be submitted to and approved in writing by the Local Planning Authority before development commences, unless otherwise agreed in writing by the Local Planning Authority.

17. A detailed vegetation and topographical survey shall be carried out alongside Bramble Brook taking into consideration the route and level of the proposed pedestrian / cycle path. The survey shall be submitted to and approved in writing by the Local Planning Authority, before development commences, unless otherwise agreed in writing by the Local Planning Authority.
18. Precise details relating to the proposed changes to land levels in order to achieve acceptable gradients on the relocated sports pitches shall be submitted to and approved in writing by the Local Planning Authority before development commences, unless otherwise agreed in writing by the Local Planning Authority.
19. Precise details indicating the design, method of construction, proposed planting and levels of the new balancing pond shall be submitted to and approved in writing by the Local Planning Authority, before development commences, unless otherwise agreed in writing by the Local Planning Authority.
20. Before development commences, a detailed noise assessment establishing the impact of traffic noise from the A38 on the proposed new dwellings and details of proposed measures to mitigate for any identified noise implications, shall be submitted to and approved in writing by the Local Planning Authority before development commences, unless otherwise agreed in writing by the Local Planning Authority.
21. The first phase of the development of the site shall be the construction of the access road from an extension to Western Road into the site to prevent general construction traffic from using Chevin Avenue. This new access shall be available for use at all times for access to the site, including for construction traffic, before construction of any dwelling unit is commenced. Upon completion of this site access the existing site access via Chevin Avenue shall be permanently closed in accordance with a scheme to be submitted to and agreed in writing by the Local Planning Authority.

11.4 Reasons

1. Standard reason E04
2. Standard reason E14....policy H21

B1 APPLICATIONS (cont'd)

5 Code No: DER/1105/1874

3. Standard reason E14....policy H21
4. Standard reason E10....policy H21
5. Standard reason E10....policy H21
6. Standard reason E24....policy E11
7. Standard reason E09....policy H21
8. Standard reason E21
9. Standard reason E29....policy E11
10. Standard reason E30....policy E10

11. To enable the Local Planning Authority to exercise control in the interests of the visual amenity of the development and its open space areas....policy H21.

12. To enable the Local Planning Authority to exercise control in the interests of the visual amenity of the development and its open space areas....policy H21.

13. To ensure that the Councils standards for children's play equipment are met and in the interests of the amenities of future residents....policy H21.

14. Standard reason E09....policy H21.

15. To ensure that detailed assessment of important landscape features on the site are undertaken to ensure their protection and future maintenance....policy E10.

16. The drawings submitted with the application are not sufficiently detailed for the Local Planning Authority to be able to assess and control the impact of the construction of the road and footpath upon the natural history value of Bramble brook....policy E10.

17. To enable the Local Planning Authority to protect trees and other vegetation during the course of construction works in order to protect the visual and environmental amenity of the area....policy E10.

18. To enable the Local Planning Authority to protect trees and other vegetation during the course of construction works in order to protect the visual and environmental amenity of the area....policy E11.

19. The drawings submitted with the application are not sufficiently detailed for the Local Planning Authority to be able to control adequately the appearance of the development and its impact upon the green wedge....policy E2.

B1 APPLICATIONS (cont'd)

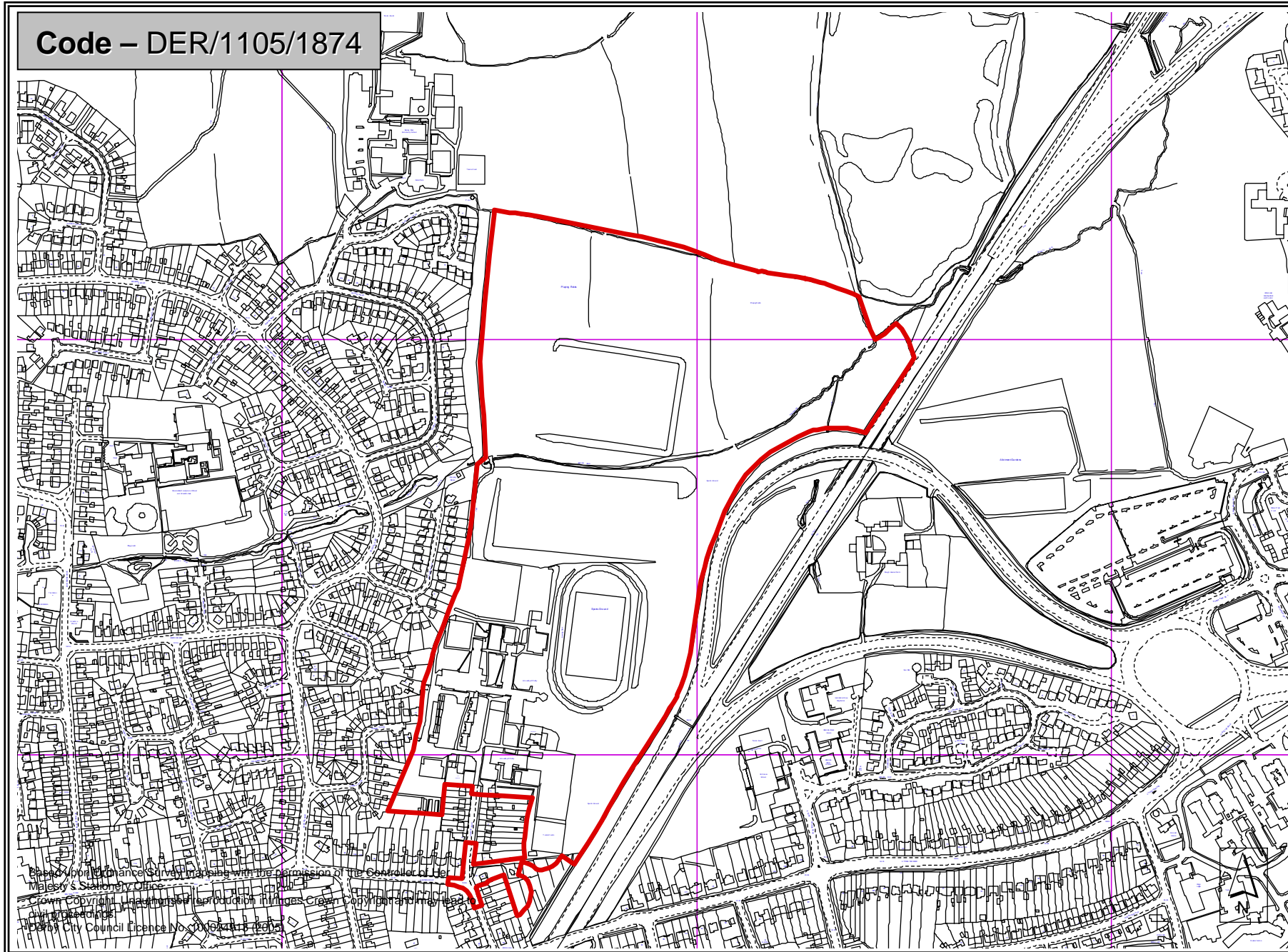
5 Code No: DER/1105/1874

20.To protect the amenities of future occupiers of the residential properties....policy H21.

21.In the interests of residential amenity and highway safety as Chevin Avenue is not suitable for unrestricted access by construction traffic....policy H21.

11.5 S106 requirements where appropriate: Affordable housing, mobility housing, public open space, major open space and replacement pitches, education, swimming pool, scout hut, highways including an extended cycle link, and public art.

Code – DER/1105/1874



D1 SPECIAL ITEMS

1 ENFORCEMENT REPORT

Speedy Tyres, 1102-1104 London Road, Alvaston

Members will recall that at the meeting on 24 November 2005, it was reported that the Owner of the property at 1102-1104 London Road had been convicted, in his absence, for failing to comply with the requirements of a Breach of Condition Notice and that this was his second conviction for this offence.

This report is to outline the current planning position and request authorisation to pursue further enforcement action to achieve a satisfactory resolution to the problem.

Location

The property in question is located on the south western side of London Road between the junctions of Wisgreaves Road and Warren Street. The premises have a large outside area including an area of hard standing to the west side, which extends around to the rear of the property and to the access onto Warren Street. Two photographs of the site are displayed for Members information.

Use and Ownership

In planning terms the authorised use of the premises is as a tyre sales and fitting depot and has been in use as a tyre and exhaust fitting station for a substantial period of time.

The premises is currently owned and occupied by Mr Zahir Ahmed who resides in Kirk Langley. Mr Ahmed is also the proprietor of the Speedy Tyres business based at the premises.

History

In October 2002, an enforcement notice was served on both the Owners and Occupiers of the property in relation to an unauthorised first floor extension that had been built above the existing ground floor tyre workshop. This Notice required the demolition of the first floor extension and was served because it is causing a loss of visual amenity to the area and is an incongruous feature in the street scene.

On 27 November 2002, a planning application was submitted by the father of the current Owner, which in effect retained the unauthorised first floor extension but with the addition of a pitched roof. The proposed addition of the pitched roof was an important element in making the unauthorised structure visually acceptable.

That application was granted on 25 July 2003, under code DER/1102/1773, but was subject to two conditions.

D1 SPECIAL ITEMS (cont'd)

1 ENFORCEMENT REPORT

The first of which required that the proposed development be commenced within one month of the approval date that is by 25 August 2003 and completed within four months of the approval date, that is by 25 November 2003. The purpose of the condition was to ensure full compliance with the approved plans. A copy of the approved plans, is displayed, for Members information.

Following a site visit on 10 December 2003, it was established that the Owner was in breach of Condition 1 of DER/1102/1773 as the work to erect the proposed pitched roof had not been started.

On 23 February 2004, a breach of condition notice was served on the Owner. The Notice required that the development be completed in accordance with the permission before the expiry of the time for compliance. The Notice specified a period of five months for compliance, which expired on 23 July 2004. A site visit in August 2004 revealed that the required work had not been started and on 26 August 2004, prosecution proceedings were issued at St Mary's Gate Magistrates Court, Derby for first hearing on 6 October 2004.

During September 2004 it became apparent that the Owner had no Building Regulations Approval for the work to install the pitched roof. The Owner was contacted by the Building Consultancy and as a result an application for Building Regulations Approval was received on 11 October 2004 under code, BR/04/8914/RG.

The first hearing at Southern Derbyshire Magistrates Court on 6 October 2004 was adjourned, at the written request of the Owner, until 25 November 2004.

On 25 November 2004 the Owner pleaded guilty and was convicted for non-compliance with the breach of condition notice.

On 15 April 2005, a Building Inspector wrote a letter to the Owner advising that the application, BR/04/8914/RG, had been approved subject to the foundations of the existing tyre workshop being exposed for inspection by the Council. No response was received to this letter.

On 3 May 2005, an Enforcement Officer wrote to the Owner telling him that he continued to be in contravention of the breach of condition notice and advised that he comply with the Building Consultancy's request to expose the foundations to enable them to be inspected. The Owner was further advised that failure to expose the foundations within 28 days of the letter may result in further prosecution proceedings being considered. No response was received to this letter.

On 6 June 2005, an Enforcement Officer wrote another letter to the Owner advising him that the 28 day period had expired and evidence

D1 SPECIAL ITEMS (cont'd)

1 ENFORCEMENT REPORT

for further prosecution action was being obtained. No response was received to this letter.

Following advice from the then Director of Corporate Services, an Enforcement Officer wrote two letters on 15 July and 25 July 2005 to the Owners registered home address and 1102-1104 London Road respectively, requesting he attend a formal tape recorded interview carried out under caution. No response to either letter was received.

On 15 September 2005, prosecution proceedings were issued at St Mary's Gate Court, Derby for first hearing on 3 November 2005.

On 3 November 2005, the Owner was convicted, in his absence, for non-compliance with the Breach of Condition Notice.

In addition to the letters that have been written to the Owner, efforts have also been made to contact him on his mobile telephone and during several visits to the site, when an Enforcement Officer has left their business card. Generally, no response from the Owner has been received, however, on one occasion he did return a call and left a message stating that he had been advised not to speak directly to an Enforcement Officer and that his solicitor would be making contact by letter. To date, no letter has been received.

On 25 November 2005, an Enforcement Officer made a site inspection and met the Owner, however, no proposals, to date, have been put forward by the Owner on how he intends to resolve the matter.

Officer opinion

Despite the enforcement action outlined above, work to erect the pitched roof has still not been carried out. Recent discussions with the Owner have given no indication of him remedying the breach of planning control.

When enforcement action was taken initially, the flat roofed form of the first floor extension was considered to be an incongruous feature within the street scene that had a detrimental affect on the visual amenity of the area and as such was contrary to policy EMP22 and E31 of the then existing City of Derby Local Plan. This still remains the case. The Local Plan has now been replaced by the City of Derby Local Plan Review. The corresponding policies in the Review document are, EP13 and ST12 in place of EMP22 and policy E26 in place of E31. In substance these policies stay the same as in the previous City of Derby Local Plan document and as such the breach of planning control remains unacceptable in policy terms.

I consider that there are four possible options available to the Council in seeking to remedy the breach in planning control. These are:

D1 SPECIAL ITEMS (cont'd)

1 ENFORCEMENT REPORT

1. To negotiate a resolution with the Owners
2. To take further prosecutions for non compliance with the breach of condition notice
3. To carry out works in default, either under the breach of condition notice or under the initial enforcement notice
4. To take Injunction proceedings, under the breach of condition notice and/or under the initial enforcement notice.

These options have been considered by me in consultation with the Director of Corporate and Adult Services.

1. *Negotiations with Owner* - To date this has not proved successful. Given the history of the matter, particularly the fact that prosecution proceedings have not resolved such, further negotiations are unlikely, by themselves, to achieve a solution acceptable to the Council, particularly in the short term.
2. *Continue to prosecute the Owner for non-compliance with the Breach of Condition Notice* – This option remains a possibility for as long as the Owner continues to fail to comply with the requirements of the Breach of Condition Notice by not completing the planning permission, DER/1102/1773, in accordance with the approved plans. However, prosecution is essentially a punitive measure leading to a fine at most and cannot, in itself, compel the owner to carry out the required work. It has been tried twice against the current Owner. Although further prosecutions or the threat of such may persuade the Owner to remedy the breach, the past history must put doubt on the likely success of pursuing this route.
3. *Carry out the required work ourselves either under the breach of condition notice or under the initial enforcement notice and recharge the cost to the Owner.* – The works required are far more than a simple land clearance exercise. They would entail the employment of specialist professionals to prepare a specification of work, obtain quotations and supervise a quite difficult building operation on the basis of compulsory entry to the site whilst the occupier was trying to carry on his business below. It therefore presents a number of difficulties. Whilst it is always a possible future option it is not one I would recommend at this time.
4. *Obtain an injunction from the Civil Courts - under the breach of condition notice and/or under the initial enforcement notice* – The local planning authority has power under section 187B Town and Country Planning Act 1990 (as amended) to apply to the court for

D1 SPECIAL ITEMS (cont'd)

1 ENFORCEMENT REPORT

an injunction to restrain breaches of planning control where it is considered necessary or expedient.

Whilst it is a civil remedy the power is to a degree more draconian than that provided by a criminal prosecution in that failure to comply is a contempt of court and could lead to an unlimited financial penalty and/or imprisonment.

Of the four options, attempting to resolve matters by way of negotiation or the threat of prosecution has not to date been successful. Carrying out the works in default, due to the complexity of the works is viewed as not a desirable option, save as a last resort.

Therefore, I consider that the current preferable option is to enforce by means of injunction.

In considering whether an injunction is appropriate the local planning authority have to be satisfied that it is necessary or expedient. In addition circular guidance 10/97 states that there should be clear evidence of a breach and the authority should consider all relevant circumstances including (any known) personal circumstances and whether the use of an injunction is proportionate in relation to the breach.

The purpose of the injunction will be to either secure the removal of the unauthorised structure, in accordance with the original enforcement notice, or secure the alteration of the structure in accordance with the approved planning permission to which the breach of condition notice relates and thus remedy the breach.

The breach itself is longstanding. There has been a continuous failure by the Owner to comply, despite the prosecution proceedings. I am satisfied that left to the Owner the breach will continue and that nothing short of an injunction will effectively secure him to comply.

In planning terms the breach remains unacceptable and there are no changes in policy terms that are likely to alter such.

The property is currently in business use. Securing compliance will have some effect on the running of the business, although it is considered that this will be temporary. There is currently no information to suggest that the business would not be able to operate during that period. By securing that the Owner arranges the works, rather than the Council doing them in default, the impact is likely to be lessened.

In recent discussions with an Enforcement Officer, the Owner, Mr Ahmed, has suggested that he may not be able to afford to carry

D1 SPECIAL ITEMS (cont'd)

1 ENFORCEMENT REPORT

out the required works. He has not provided evidence to substantiate the suggestion.

Overall, I consider that seeking an injunction can be justified as both necessary and expedient and it is a proportionate remedy in the circumstances.

RECOMMENDATION: To authorise the commencement of injunctive action, for the purposes set out in the report, under the initial enforcement notice and/or the subsequent breach of condition notice, subject to the Director of Corporate and Adult Services being satisfied with the sufficiency of the supporting information.