



DERBY CITY COUNCIL

PLANNING CONTROL COMMITTEE
30 July 2009

ITEM 7

Report of the Corporate Director - Regeneration

Land at Corner of City Gate and London Road, Derby

RECOMMENDATION

- 1.1 This report brings together 6 areas directly linked to the investigation by the Corporate Director – Regeneration and Community, into complaints regarding the conduct of officers in dealing with planning applications for this site which was reported to the committee meeting of 30 May 2009.
- 1.2 Six areas are reviewed under the following headings and are reported below:
 - 1.1 Ombudsman – closure of complaints
 - 2.1 Revocation/modification report Site A, City Gate Business Park, City Gate
 - 3.1 Trevor Roberts report
 - 4.1 Assessment of remaining 60
 - 5.1 Member Panel ReviewActions already taken
- 1.3 The purpose of this report is to ensure that Members are fully aware of all the relevant pieces of work to ensure a comprehensive understanding of each strand and how they interrelate.

SUPPORTING INFORMATION

2. To note the content of this report and to make resolution at appropriate stages:
 1. Ombudsman – closure of complaints: to note the report.
 2. Revocation/modification report Site A, City Gate Business Park, City Gate: to resolve not to make an order revoking or modifying the permissions granted under applications code numbers DER08/07/01586, DER06/08/00895 and DER05/08/00784.
 3. Trevor Roberts Associates report: to note the report and its conclusions.
 4. Assessment of remaining 60: to resolve to accept the recommendations on each of the 60 applications referred to in the report.
 5. Member Panel Review: to note the report.
 6. Actions already take: to note the report.

REASONS FOR RECOMMENDATION

3. Having found that mistakes had been made in implementing the Council's procedures, Officers and Members of Planning Control Committee need to ensure that action is undertaken immediately. The Ombudsman's final closure as a local settlement subject to qualifying criteria and the independent Trevor Roberts report are external agencies reporting on the matter. The revocation/modification report is an assessment of the case with revocation action in mind and taking into account the objections raised by the additional public notification, the reasons for my recommendation not to make such an order can be found in the conclusion to that report. The assessment of the remaining 60 is an officer assessment of the level of scrutiny that each was subject to and what, if any, additional substantive material planning considerations might have been made. The Member panel review and Actions already taken indicate how we are reacting to the mistake to address and ensure that it doesn't happen again.

4.1 Ombudsman – closure of complaints

Members will be aware that the Ombudsman has investigated the complaints raised and may be aware that she has formally issued closing letters to the complainants. The Ombudsman will be monitoring compliance with the proposed settlement as indicated at 4.2 below. We accepted that there was maladministration in the way we had publicised the planning application for the City Gate development. At the previous meeting we did apologise for any inconvenience and frustration that this has caused. We have reviewed and changed our own working practices to prevent the error happening again. The Ombudsman noted that we have carried out a review of how this error might have affected other similar applications and that we will be reporting the results of this review to the Planning Control Committee (PCC) under the heading above 4. Assessment of remaining 60.

- 4.2 In relation to this complaint, the Ombudsman noted that we had begun the process to consider whether or not there are planning reasons to revoke the permission we had given, and in order to carry out this process openly, we agreed the following settlement with the Ombudsman, to:

1. Carry out a formal revocation decision making process that will allow all relevant planning considerations to be fully considered. That we would use publicity procedures that exceed those required by law for major developments. We will give those who wish to comment on the development an opportunity to put their views forward before the PCC makes its decision. *(That consideration process follows this part of the report.)*
2. Keep the Ombudsman directly informed, and notify all residents that they can keep themselves informed by viewing the planning file or look for updates on the Council's planning website; *(this has been done.)*

3. Before the PCC makes its decision on whether or not to revoke the permission it has given, the Council will commission a planning report from an independent expert. The report will cover all relevant planning considerations. It will be distributed to the members of the PCC, to the Ombudsman and published on the Council's planning website. *(The Trevor Roberts report referred to above forms this part of the settlement and follows my report into the possible revocation of permission.)*
4. The Council's Planning Case Officer's report will be distributed and published in the same way as the independent planning expert. *(All reports have been publicised alongside the Committee papers)*
5. The Council will invite the Ombudsman to attend the PCC meeting that will decide whether or not to revoke the original application and will report its decision to the Ombudsman and to those who have made representations relating to consideration of the revocation decision.
6. The Council intends to bring this matter to the PCC meeting on 30 July, but has agreed that in any event it will complete this process within 3 months.

Revocation/modification report Site A, City Gate Business Park, City Gate

5. This report follows on from my report to the Planning Control Committee meeting on 28 May 2009 which explained the circumstances leading to the situation when it was resolved that before considering revocation/modification action the local residents should be given an opportunity to comment on the development and for those comments to be taken into account. This decision was made as a result of the absence of the necessary advertisement in the press to publicise the development. The required report follows this introduction.

Trevor Roberts report

6. An independent report was commissioned, in agreement with the Ombudsman, to undertake the following:
 1. Look at the three planning application files for the current permissions, and confirm whether the case officer's recommendation and the delegated decision in each case was correct.
 2. Look at the representations that the Council will have received by the closing date of 6 July, and assess whether any of these would be material planning considerations that would lead officers to recommend anything other than approval to Planning Control Committee.
 3. Prepare a report to Planning Control Committee confirming their findings, and whether these concur with those of the case officer preparing the current report to Committee.

The full report and its conclusions is reproduced after the revocation/modification report.

Assessment of remaining 60

- 7.1 The remaining 60 applications that weren't subject to the necessary press notice were mostly publicised in other manners and unlike the City Gate applications were subject to varying levels of public scrutiny. The report comprises an individual assessment of each of the 60 and includes for reference summary pages that indicate the level of scrutiny from Committee, Member briefing, neighbour notification and site notice.
- 7.2 60 of these applications had public consultation in other forms, 54 of them having site notices posted. These applications can be summarised as follows:
- 11 applications were taken to PCC (9 had site notices and neighbour notification letters, 1 had a site notice only and 1 had a neighbour notification letters only).
 - 1 application, which had a site notice, received objections and therefore was reported to Ward Members using the briefing note process.
 - 6 applications received either letters of comment or support as a result of a site notice, neighbour notification or both
 - 10 applications had site notices and neighbour notification, and 4 applications had neighbour notification letters sent out, but no representations received on these applications
 - 27 applications had site notices erected but no neighbour notification letters, and no representations were received.
 - 1 application had no neighbour notification letter, no site notice, nor an advertisement. This was a Reserved Matters application for a storage and distribution, Class B8, development on the Courtaulds part of the Raynesway Distribution Park Development.
- 7.3 Having reviewed the 60 applications my overall conclusion is that I am satisfied that there are no material matters that are likely to arise that would have altered the original determinations and I am also satisfied that unlike the City Gate application the failure to advertise did not have any significant impact on the level of public scrutiny that each of those applications received.

Member Panel Review

8. Members will also be aware of the work of the cross-party panel of PCC Members (Councillors Wood, Bolton and Harwood), who have been looking at procedures with a view to streamlining, and to making the involvement of Ward Members more constructive and complete. PCC Members may recall extending the remit of that Member Panel to look at the implications of the City Gate applications and complaint, to review the actions already undertaken by officers, and to recommend other possible changes to Committee. The Panel has reviewed the 60 applications and any observations will be reported orally at the meeting.

Actions Already Taken

9. Having accepted that mistakes have been made by officers, I would remind Members that certain actions were already in hand, and that others have been put in hand immediately, to improve our procedures and to ensure that such mistakes will be avoided in the future:

- I have already referred to the work of the PCC Member Panel.
- The weekly planning applications list now identifies the Ward for each application.
- A new procedure is being arranged so that Ward Members will receive an email notifying them of each application received in their Ward.
- Training for Development Control planners and support staff into the correct procedures for dealing with Delegated Decisions; this took place in-house on Thursday 14 May.
- The computer record now has mandatory fields that prompt action and link to the web site record in the interests of transparency.

I have also started a comprehensive review of all procedures used in dealing with planning applications, to ensure that we are fully complying with legislation throughout.

For more information contact: Background papers: List of appendices:	Paul Clarke Tel. 255942 e-mail paul.clarke@derby.gov.uk Planning application files Report from Trevor Roberts Associates Correspondance with Ombudsman Appendix 1 – Implications Report on reconsideration of planning applications Copies of previous decision notices Report from Trevor Roberts Associates
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IMPLICATIONS

Financial

1. See attached report.

Legal

2. See attached report.

Personnel

3. None.

Corporate objectives and priorities for change

4. The issues raised in this report have implications for delivery excellent services, performance and value for money.

Appendix A
Site A, City Gate Business Park, City Gate
Revocation/Modification Report

APPLICATIONS (cont'd)

Code No: DER08/07/01586, DER06/08/00895 and DER05/08/00784

1. **Site /Location:**
Site A, City Gate Business Park, City Gate, Derby
2. **Development Proposal:**
Erection of residential care and treatment facility and formation of vehicular access
3. **Matter for Consideration:**
This report is brought to Committee to consider whether to make a revocation or modification order in relation to three previous grants of permission for the erection of a residential care and treatment facility and a vehicle access at site A City Gate Business Park City Gate Derby and in the case of approving such an order to further consider whether to make a discontinuance order requiring removal of any development that has taken place on site under those permissions.

This report follows on from my report to the Planning Control Committee meeting on 28 May 2009 which explained the circumstances leading to the situation (copy attached as appendix 1) at which it was resolved that before considering revocation/modification action the local residents should be given an opportunity to comment on the development and for those comments to be taken into account. This decision was made as a result of the absence of the necessary advertisement in the press to publicise the development. A summary of the comments received from this consultation can be found in part 6 of this report.

Legal Considerations

Section 97 Town & Country Planning Act 1990 (TCPA) gives a local planning authority the power to make an order revoking or modifying a planning permission if it appears to them that it is expedient to do so, which if confirmed by the Secretary of State has the effect of revoking or modifying the permission.

In considering whether it is expedient to make such an order the authority must have regard to the development plan and any other material considerations.

The power may be exercised only up until any permitted operational development or change of use is completed and revocation has no effect against any operation already carried out.

The Secretary of State who has similar powers under section 100 TCPA to modify or revoke a permission, restating government policy on the use of such power, advised in a ministerial statement of December 1989 that in terms of the use of the power:

APPLICATIONS (cont'd)

Code No: DER08/07/01586, DER06/08/00895 and DER05/08/00784

“... practice has been to use this power rarely. He has taken the view that the power should be used only if the original decision is judged to be grossly wrong, so that damage is likely to be done to the underlying public interest”

Beyond those cases identified in the above paragraph the only specific area which the Secretary of State identified as being one that he may well be prepared to exercise his powers was where he considered consistency was needed between a local planning authorities decisions in different cases in order to ensure that similar circumstances give rise to similar decisions.

The Secretary of State then went on in his statement to emphasis that planning committees need to be governed by material planning considerations a view clearly supported by His Honour Richards J in *R v Secretary of State ex parte Alnwick District Council* (1999) who in terms of use of that power stated

“It is wholly consistent with the statutory purpose that decisions under s97 and s100 should be guided only by planning considerations”

Section 102 TCPA is very similar to Section 97 but rather than revoking a planning permission it gives a local planning authority power to make an order where it appears to them expedient in the interests of proper planning of their area having regard to the development plan and any other material considerations to make an order requiring cessation of use and/or the removal or alteration of any buildings or works that have been carried out whether lawful or not. As with an order made under section 97 to be effective requires the order to be confirmed by the Secretary of State.

An owner/occupier who objects to the making of an order under Sections 97 or 102 can request the matter be dealt with by public inquiry.

If Orders under Section 97 or Section 102 of the Act are confirmed by the Secretary of State the owner/occupier of the land or person affected will normally be entitled to compensation under sections 107 or 115 TCPA.

Permissions

The site to which the permissions relate is approximately 0.54ha in area on what was vacant land at the corner of City Gate and London Road.

APPLICATIONS (cont'd)

Code No: DER08/07/01586, DER06/08/00895 and DER05/08/00784

The site forms part of the City Gate Business Park. The PDSA pet hospital lies to the south east of the site and there are larger industrial (B8/B2) units to the south west. A mixture of business and residential uses lie beyond fronting London Road.

Three permissions for development of the Site for the erection of a residential care and treatment facility and the formation of a vehicle access have been granted.

Copies of each of these permissions are attached at appendix 2

The first DER/0807/01586 was granted on 11 December 2007. Two further permissions, being variations of the original approved scheme, were subsequently granted, DER/06/08/00895 and DER/05/08/00784 both on 16 September 2008.

It is the third permission that is currently being implemented.

Original Approved Scheme DER/08/07/01586

The first permission is for two blocks one 'L-shaped' and one rectangular up to three storeys in height, providing 48 bedrooms; secure garden areas, landscaping and car parking.

The rectangular block nearest to London Road to be the administration building with the 'L-shaped' block sited to the rear being predominately residential.

Secure garden areas and compounds are provided between the blocks within walled areas.

Various landscaping is to be provided with a lake and fountain feature on the corner of London Road and City Gate entrance. This is the subject of conditions 8 and 9 regarding the provision of landscaping.

22 car parking spaces, 2 for disabled persons nearest to the entrance to the main building, are to be provided in one block to the north eastern corner of the site.

Vehicular access and servicing is to the south west of the site from the City Gate Road with a single access/egress point. Pedestrian access is directly off London Road.

A copy of the planning permission is attached at appendix 2 but in summary the 12 conditions can be summarised as covering the following details:

APPLICATIONS (cont'd)

Code No: DER08/07/01586, DER06/08/00895 and DER05/08/00784

Foul and surface water drainage, ground contamination, maintenance of visibility splays, means of enclosure, materials, landscaping, disabled person's access provision, cycle storage and a travel plan. A Section 106 agreement requiring a contribution to highway works was also completed.

The Second Permission DER/06/08/00895

This permission is a variation to the original scheme in the following respects:

- reducing bedrooms from 48 to 43.
- A new link block is proposed, located to the east of the open space between administration block and the residential block. with the dimensions 18.8m x 12.2m and 3.6m in height acting as a walkway between the residential units and the administrative building which will not only provide a covered walkway between the blocks but also a staff restaurant, maintenance office and plant room. The link will be fronting City Gate at the south of the site adjacent to the PDSA. It was proposed at single storey in comparison to the two and three storey buildings previously approved. The space had currently been proposed to have a 3.0m wall dividing the area from the car park however the proposed new link is of a similar height to the proposed original wall.
- The central open space is enlarged to extend to the west.
- The site boundary along London Road has been revised. A small area adjacent to the footpath of London Road is not within the site. This does have minor implications for pedestrian access but does not affect the overall layout.
- Cycle storage has been relocated away from its former location adjacent to the footpath of London Road and next to the service area which reduced the waste storage area by approximately half.

A copy of the planning permission is attached at appendix 2 which is similar to the first permission but in addition condition 4 and 12 replace earlier ones and require a widening of the access road off City Gate Road and details of surfacing treatment of the visibility splay. A Section 106 agreement requiring a contribution to highway works and a travel plan was also completed.

APPLICATIONS (cont'd)

Code No: DER08/07/01586, DER06/08/00895 and DER05/08/00784

The Third Permission DER05/08/00784

This is the permission which is currently being implemented.

This permission is a variation to the original scheme in the following respects:

- reducing bedrooms from 48 to 46.
- A new link block is proposed, located to the east of the open space between administration block and the residential block. The space had currently been proposed to have a 3.0m wall dividing the area from the car park however the proposed new link is of a similar height to the proposed original wall. with the dimensions 18.8m x 12.2m and 3.8m in height acting as a walkway between the residential units and the administrative building. This will not only provide a covered walkway between the blocks but also a staff restaurant, waiting room and meeting rooms. The link will be fronting City Gate at the south of the site adjacent to the PDSA. It is proposed at single storey in comparison to the two and three storey buildings previously approved. The proposed maintenance store and plant room are to be situated in the previously approved secure garden area to the east of the site and dimensions are as follows 15m x 14.8m and 3.8m in height. Minor amendments have been made to compounds that are within walled areas. A sports barn has been proposed along the City Gate frontage linking up the two previously approved separate blocks. This spans 26m and is single storey with a curved frontage that acts as an attractive feature to the building.
- The central open space is enlarged to extend to the west.
- The site boundary along London Road has been revised. A small area adjacent to the footpath of London Road is not within the site. This does have minor implications for pedestrian access but does not affect the overall layout.
- Cycle storage has been relocated away from its former location adjacent to the footpath of London Road and next to the service area which has reduced the waste storage area by half.
- There has been an additional single storey extension closing the west end of the central space opposite the link block known as the sports barn. This is an unheated covered activity space.
- Finally a small single storey maintenance store and plant room is proposed on the east elevation of the 'L shaped' treatment facility.

APPLICATIONS (cont'd)

Code No: DER08/07/01586, DER06/08/00895 and DER05/08/00784

A copy of the planning permission is attached at appendix 2 which is similar to the first permission and reproduces the second permission in respect of conditions 4 and 12 requiring a widening of the access road off City Gate Road and details of surfacing treatment of the visibility splay. A Section 106 agreement requiring a contribution to highway works and a travel plan was also completed.

This is the permission that is being implemented.

4. Additional Relevant Planning History:

DER/01/06/00163- Removal of Condition 2 of Planning Approval DER/08/05/01332 to remove signage requirement - Granted Conditionally March 2006

DER/08/05/01332- Erection of Storage, Distribution and Showroom Buildings with facilities for Trade Sales - Granted Conditionally November 2005.

5. Assessment of Planning Merits of the Permissions:

5.1 Economic:

The development is anticipated to employ some 86 members of staff working shifts.

5.2 Design and Community Safety:

The site is surrounded by a mix of buildings and land uses and each of the approved developments would not be out of place with the surrounding developments on the fringe of this residential area. During the first permission officers negotiated appropriate improvements to the building to reflect its location on a prominent corner of the City Gate Business Park, improvement also reflected in the two subsequent approved applications.

I am satisfied that the design and scale of each of the new buildings would be appropriate, relating well to the London Road street scene at the entrance to the business park.

All three schemes include landscaping areas to the principle frontages although these are limited in width on part of the City Gate frontage and London Road frontage.

The additional link proposed as part of the second and third permissions will mainly be visible from City Gate and I am satisfied that this will not have a detrimental impact in the street scene.

APPLICATIONS (cont'd)

Code No: DER08/07/01586, DER06/08/00895 and DER05/08/00784

The sports barn proposed as part of the third permission will be a prominent feature from the City Gate frontage however this is an attractive feature that I consider to be in keeping with the previously approved applications.

A consistent theme in the applications is the proposed landscaping on the corner of City Gate entrance which will provide an interesting feature on this prominent corner and entrance to the business park.

I am satisfied that in terms of design that all three of the approved schemes, would result in an enhancement of the character and appearance of this area.

In terms of community safety, in planning terms there is a difference between residential accommodation and care for people in need of care on the one hand, and the provision of secure residential accommodation on the other. The former comes within use Class C2 of the Town & Country Planning (Use Classes) Order 1987 (as amended) and the latter comes within use Class C2A which specifically includes prisons and young offenders institutions and secure hospitals. From the information in the application and that subsequently supplied, the proposal falls within use Class C2 not C2A.

Although not a material planning consideration I must point out that that the operator has confirmed an intention to register the buildings as 'a low secure residential care facility under the Care Standards Act'.

5.3 Highways:

There have been no Highway objections to any of the three approved schemes

In terms of the first scheme the concerns raised by Highways related to visibility splays and cycle storage which were adequately addressed by conditions 5 and 11 and to parking provision which was subsequently adequately revised.

A Section 106 agreement requiring a contribution to highway works was also completed.

The two subsequent applications made a number of differences to first scheme including changes to the access from the public highway. The effect being that the access is positioned in a more satisfactory position than in the first permission. The proposed width however was considered unacceptable as was the cycle storage however these concerns have been addressed by way of conditions 4 and 11.

APPLICATIONS (cont'd)

Code No: DER08/07/01586, DER06/08/00895 and DER05/08/00784

A Section 106 agreement requiring a contribution to highway works and a travel plan was also completed for both schemes.

- 5.4 Disabled People's Access:** Disabled people's parking location and numbers are satisfactory. The building should be fully accessible and is controllable by Building Regulations.
- 5.5 Other Environmental:** - none
- 5.6 Police** – Had no issues with the principle of this land use or with the building footprint in relation to any of the three proposals. Would like to see some fairly minor windows on secondary elevations. Plus an appropriate boundary treatment to define the site and make more secure. This was addressed by condition 6 in the first application and condition 5 in the second and third applications.
- 5.7 EA** – In terms of all three developments they had no objection in principle to the proposed development subject to 2 conditions which were addressed by condition 2 and 4 in the first application and condition 1 and 3 in the second and third applications.
- 5.8 Env Health (Pollution Control)** – raised the issue that the site has potential to be contaminated therefore suggested that before development was commenced a preliminary site investigation report would need to be submitted to and approved by the LPA. This was the subject of conditions on all 3 permissions. Conditions 3 and 4 in the first application and condition 2 and 3 in the second and third applications address this point.

6. Summary of Responses from Recent Public Consultation:

Neighbour Notification letter	429	Site Notice	
Statutory press advert and site notice	Yes	Discretionary press advert and site notice	
Other			

The public consultation carried out for the purpose of this report is outlined above. In terms of neighbour notifications individual letters were sent to every property within a 300m radius of the application site. This exceeds what would have been required by regulation and under the Council's Statement of Community Involvement in terms of publicity for the original applications.

- 7. Representations:** in total we have received some 55 letters of objection. All copies will be available to view in the Chamber Foyer.

APPLICATIONS (cont'd)

Code No: DER08/07/01586, DER06/08/00895 and DER05/08/00784

The objections to the proposals can be summarised as follows:

- Late notification
- Mental hospital – detrimental effects on Wilmorton as a place to live and raise children
- Residential streets will be less safe and less attractive for people to live
- Putting vulnerable mental people in a residential area is not ideal
- Too close to private dwellings, businesses and schools
- No supportive infrastructure
- Land at Kingsway should be used for such a mental facility
- Over intensive use of the site; large overbearing massing effect of the development
- Reduces visibility at junction of City Gate and London Road
- Inappropriate use of this location for a secure mental health unit near to residential property, on a main road, near a railway line
- Industrial / commercial land not residential
- Loss of privacy due to CCTV cameras, security lighting and high fencing
- Proximity of car park to adjacent residents – noise nuisance
- Dumping possible violent, sex offenders or murderers in the community
- Application description is misleading it is a secure mental unit
- Site is too noisy due to PDSA, London Road and railway line in close proximity
- Football match days parking already causes congestion and therefore there wont be enough visitor parking
- Fear of patient escape – being at large in the community
- No garden or open space for patients to enjoy
- Ground contamination given previous land uses
- Too far away from City Hospital facilities in times of need
- Looks like a prison rather than one for people who need therapeutic interventions and treatment
- Six other facilities in the area – YMCA, bail hostel wet/dry houses = a tolerant community. But wrong area to bring vulnerable people who need gradual rehabilitation
- Too close to the electric wires and track at Bombardier rail
- Inadequate car parking provision

APPLICATIONS (cont'd)

Code No: DER08/07/01586, DER06/08/00895 and DER05/08/00784

8. Summary of policies most relevant: Adopted CDLPR Policies:

GD1	-	Social Inclusion
GD3	-	Flood Risk
GD4	-	Design and the urban environment
GD5	-	Amenity
R1	-	Regeneration Priorities
H13	-	Residential Development
EP5	-	Bombardier
E10	-	Renewable energy
E13	-	Contaminated land
E17	-	Landscaping schemes
E23	-	Design
E24	-	Community safety
T1	-	Transport implications of new development
T4	-	Access, parking and servicing
T10	-	Access for disabled people

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

9. Officer Opinion:

In considering making a revocation or modification order the Committee will need to consider with specific regard to the development plan and any other material considerations, whether there exist any grounds in terms of the planning merits of the development significant enough to justify revocation or modification of any of the permissions?

The site of the proposal is specifically allocated under policy EP5 (a site specific policy) for business B1 uses and a range of other uses including Residential Institutions (C2). The non-B uses should occupy no more than 1 hectare along the frontage of London Road. When combined with other non-B uses the proposal takes the area developed to just under 1 hectare and therefore would not prejudice future business or industrial development in the area. The uses specified by the applicant are consistent with both the description of development on the application form and with uses within in Class C2 of the Town and Country Planning Use Classes Order and, therefore, the proposal fully accords with Policy EP5.

Policy R1 (a general policy) also identifies the site and its wider surroundings as a Regeneration Priority for employment uses. The proposal would again meet this key theme of the Local Plan Review being a vital component of its sustainability agenda.

APPLICATIONS (cont'd)

Code No: DER08/07/01586, DER06/08/00895 and DER05/08/00784

Therefore in land use terms all three applications are fully consistent with the relevant development plan policies.

The main planning issues that arose in consideration of these applications related to issues of accessibility design and scale and amenity for the purpose of creating a satisfactory form and design of development and a high quality living environment.

Accessibility

Policies T1, T4 and T10 are relevant here and supportive of accessible development. The site is reasonably well related to public transport networks and well related to the road network. The site has potential for staff and visitor trips by public transport, private car and by foot and cycle. There are no objections from the Highway Officer to the access arrangements or layout of the parking area and spaces provided that these have been reduced to 22 and that suitable disabled persons spaces are included. As such, I am satisfied that with the imposition of the conditions and requirements imposed by the planning obligations the development would be accessible and accords with the relevant policies.

Design and scale

Policies GD4, GD5 and E23 are appropriate considerations with regard to design and scale. The site is surrounded by a mix of buildings and land uses and all three of the proposed developments would not be out of place with the surrounding developments. The building to the south east of the site is a small single storey building but some distance from the proposed buildings on the application site and separated from it by landscaping on both plots. I am also satisfied that the design and scale would be appropriate, relating well to the London Road street scene and the rest of this business park. In the subsequent applications the footprint of the covered a greater proportion of the site but I do not feel that this would be unduly detrimental to the site or street scene. The principle frontages of all three developments have landscaping areas particularly at the junction with City Gate and London Road which will provide an interesting feature on this prominent corner and entrance into the Business Park. In terms of design, I am satisfied that each proposal would make a positive contribution to the appearance of the area being of a modern single, two and three storey flat roof design.

Amenity

With regard to amenity policies GD5, H13, E23 and E24 are all relevant. The principle of such residential development at this brownfield site is acceptable subject to the development providing a satisfactory form and design of development and a high quality living environment. I am satisfied, due to the nature of this development and the proposed layout on all three of the proposed developments that a satisfactory form and

APPLICATIONS (cont'd)

Code No: DER08/07/01586, DER06/08/00895 and DER05/08/00784

design of development and reasonable level of living quality can be created in the context of the proposed usage.

All of the proposed developments would be partially visible from Ellesmere Road dwellings and Dickinson Street but given the distance of some 47m between the residential boundaries and the development site across the PDSA and adjoining land I do not think that there would be any unacceptable impact upon residential amenities. The buildings on the site are quite centrally located so I do not feel that the amenity of the surrounding uses would be affected. The PDSA hospital to the south and the buildings immediately neighbouring the site would be some distance away and would not, in my view be unreasonably affected.

Responses from the public

There are a number of comments made which are not material planning considerations such as concerns about previous consultation and publicity arrangements, complaints about how the proposal is described or lack of details about future occupiers, the effect on property values and concern about the possible activities of residents of the proposed centre. Members will be aware that these should be taken into account in reaching a decision on any planning application. The Trevor Roberts report already comments on these and I therefore propose to focus upon those comments that are material concerns as follows:

Location prove harmful to actual residents: many objectors suggest that a parkland setting closer to the City Hospital would be more appropriate yet do not advance robust argument as to why this site should be refused permission.

Direct impact on local residents: as referred to above I do consider that the distance between residential property and the development site at some 47m across intervening land would not result in unacceptable impact upon residential amenities.

Appearance: the building holds a prominent position at the entrance to the Business Park and improvements were made to the scheme during consideration of the first application which was subsequently followed through into the second and third applications. As referred to above in terms of design, I am satisfied that each proposal would make a positive contribution to the appearance of the area.

Traffic, parking and highway matters: despite concerns about the number of spaces provided on site I must reiterate that to accord with CDLPR policy and government guidance the first application for 48 bedrooms was subject to amendments reducing the number of parking

APPLICATIONS (cont'd)

Code No: DER08/07/01586, DER06/08/00895 and DER05/08/00784

spaces. This reduction has consistently been applied through the second and third applications even with the number of bedrooms reducing to 43 and 46 respectively. There are no objections from the Highway officer to the development.

All these issues were previously taken into account when granting the planning permissions.

Conclusion

In conclusion (whilst failure to notify in the press is regrettable) all three developments comply fully with the adopted Local Plan. There is nothing in terms of material planning considerations by which to conclude that in planning terms that the original decisions on any of the three permissions were wrong in any respect,

Whilst noting the concerns of the local residents received as a result of our recent consultation, nothing new has been raised in terms of planning considerations to justify revoking or varying any of the original planning decisions.

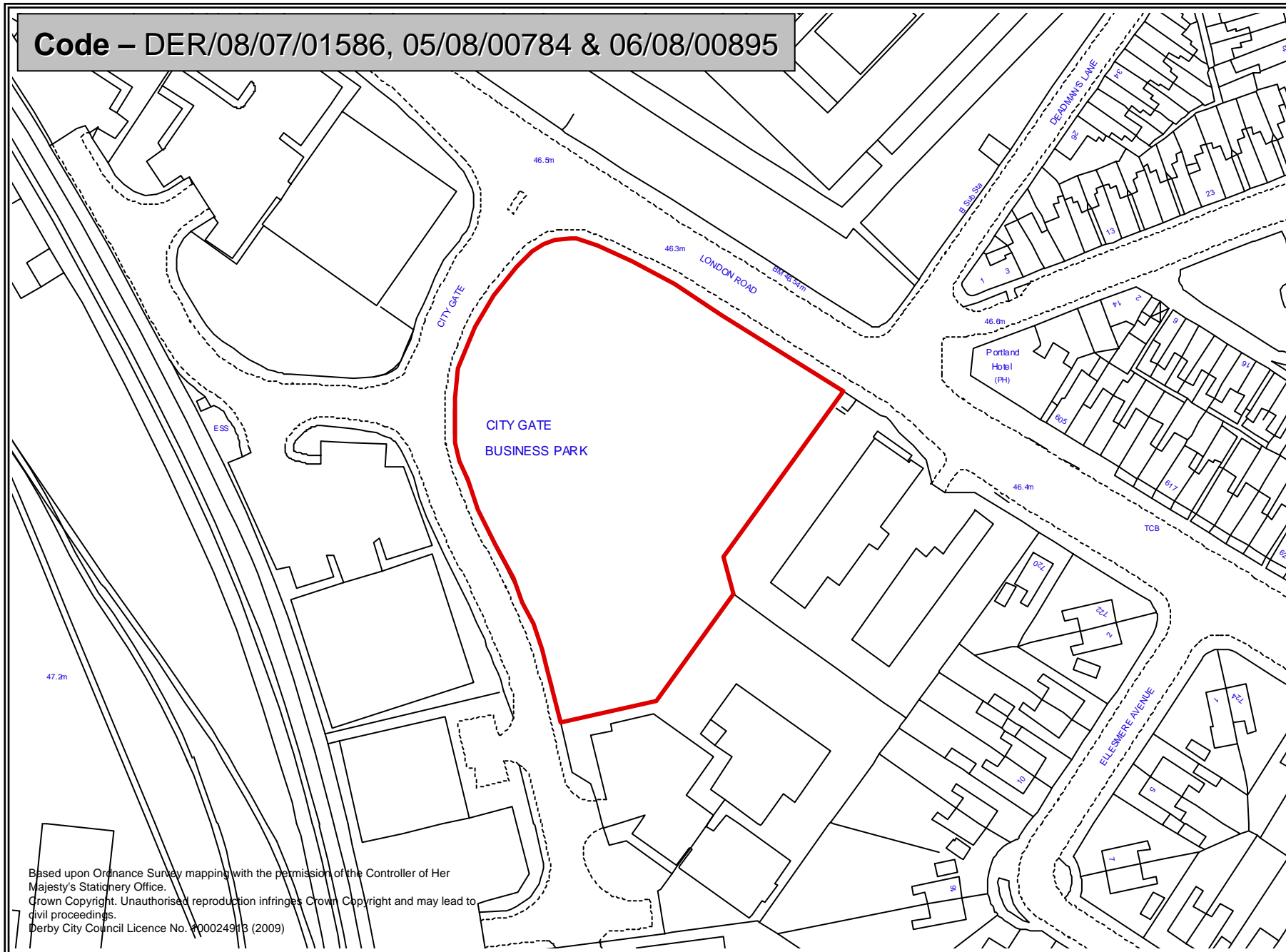
Moreover given the conclusions of the report by Trevor Roberts Associates on all three applications which supports my conclusion I do not consider that making a revocation or modification order could be justified in relation to any of the three permissions.

If members disagree with my recommendation and determine to make a revocation or modification order for any of the three permissions they will also need to consider whether it is expedient in the interests of proper planning of the area to make an order requiring removal of the existing works. .

10. Recommended decision

- 10.1** Not to make an order revoking or modifying the permissions granted under applications code numbers DER08/07/01586, DER06/08/00895 and DER05/08/00784

Code – DER/08/07/01586, 05/08/00784 & 06/08/00895



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Appendix B
Site A, City Gate Business Park, City Gate
Planning Control Committee Report
28 May 2009

Land at Corner of City Gate and London Road, Derby

SUMMARY

- 1.1 This report summarises the investigation by the Corporate Director – Regeneration and Community, into complaints regarding the conduct of officers in dealing with planning applications for this site, the outcome of his deliberations, and the implications of this for the Council.
- 1.2 The Director's initial investigation concluded that all procedures had been properly followed, but he subsequently reviewed part of this investigation and found that this was not the case, and that mistakes had been made in handling the first of the three applications.
- 1.3 This has been reported by the Director in two published reports, and has been referred to the Ombudsman. The purpose of this report is to ensure that Members are up to date with the matter so far and to inform Members of the actions taken and proposed.

RECOMMENDATION

- 2.1 To note the content of this report and to await the findings of the Ombudsman's investigation.
- 2.2 For the Committee to consider at a future meeting whether to revoke the main planning permission (DER/0807/01586) for the development but before doing so to give the local residents an opportunity to comment on the development and for those comments to be taken into account.
- 2.3 To extend the remit of the Planning Control Committee Member Panel, to look at the implications of this matter for our procedures in terms of Delegated Decisions, and the advertising, promoting and reporting of applications to Committee.

REASONS FOR RECOMMENDATION

- 3.1 Having found that mistakes had been made in implementing the Council's procedures, Officers and Members of Planning Control Committee need to ensure that action is undertaken immediately.

SUPPORTING INFORMATION

Background

- 4.1 Members will be aware that the Director has recently investigated complaints into the conduct of officers in dealing with planning applications for a Residential Care and Treatment Facility at City Gate and the corner of London Road. This was in relation to three planning applications which were granted permission under Delegated Powers (see paragraph 5 of Appendix 2), and which subsequently drew complaints from two Alvaston Ward Members and from a large number of local residents.
- 4.2 On Friday 8 May, the Director published the findings of his investigation into these complaints, attached as Appendix 2. He concluded that the Council's adopted procedures for consultation and delegation had been followed properly. However, the case had thrown up concerns about the adequacy of these procedures, and the Director recommended that Planning Control Committee should consider whether its procedures should be amended in the light of the issues raised.
- 4.3 On Monday 11 May, after reflecting on discussions with two of the Ward Members for Alvaston, the Director felt it necessary to investigate further the consultation procedures themselves. He then found that the first City Gate application should have been advertised in a local newspaper. This mistake stemmed from an inconsistency between officers' interpretation of agreed Council consultation procedures, and those actually required by statute. He published an addendum report on 15 May, attached as Appendix 3.

Consultation Arrangements

- 4.4 The current consultation arrangements on planning applications were agreed by Planning Control Committee in July 2005, and went beyond the minimum requirements set out by statute.
- 4.5 The statutory requirement for publicity for 'major applications' (residential schemes of 10 or more dwellings or employment schemes of more than 1 ha site area or 1000 sq.m floorspace) are defined as follows:

'If the development proposed is major development the application shall be publicised by giving requisite notice:

(a)

(i) by site display in at least one place on or near the land to which the application relates for not less than 21 days, **or**

(ii) by serving the notice on any adjoining owner or occupier,

and

(b) by local advertisement'.

- 4.6 The Council's adopted procedure went beyond the minimum by requiring neighbour notifications to go to any residential occupiers within 15 metres of the application site rather than neighbours adjoining the site. The requirements for site display and local advertisement remained the same as the statutory requirement.
- 4.7 The report was accompanied by a checklist of procedures to be followed in relation to different types of planning application. The report itself was correct, but the schedule within the report contained mistakes. The schedule did not identify that adverts in local newspapers would be required for any 'major applications'. However, at that time, the list of planning applications received was published each week in the Derby Trader, paid for by the Council. This included all planning applications, and hence we were complying with the legal requirements regarding publicity.
- 4.8 In July 2006, my Head of Development Control and I put forward the proposal that the adverts in the Derby Trader should stop. On the grounds that this was not a cost effective way of promoting and publicising, and that we would still be meeting our statutory requirement for publicity. This was agreed with the Chair of Planning Control Committee and the Cabinet Member for Planning and Transportation. Given the mistakes referred to in the paragraph above, this was obviously incorrect, and by stopping our advertising of all of our applications every week in the Derby Trader, we were then failing to advertise properly those relevant major applications.
- 4.9 The first City Gate application fell into this category where this mistake was made. My Officers have checked all 'major applications' approved since July 2006, to see whether the same failure to advertise applies. This checking has found 60 applications which have resulted in planning permission being granted, without there having been a press advertisement. 59 of these applications had public consultation in other forms, 53 of them having site notices posted. These applications can be summarised as follows:
- 11 applications were taken to PCC (9 had site notices and neighbour notification letters, 1 had a site notice only and 1 had a neighbour notification letter only).
 - 8 applications received representations and therefore were reported to Ward Members using the briefing note process.
 - 16 applications had neighbour notification letters sent out, but no representations received on these applications.
 - 24 applications had site notices erected but no neighbour notification letters, and no representations were received.
 - 1 application had no neighbour notification letter, no site notice, nor an advertisement. This was a Reserved Matters application for a storage and distribution, Class B8, development on the Courtaulds part of the Raynesway Distribution Park Development.

We will complete our analysis of these applications and report our findings to the PCC Member Panel and then back to PCC itself.

Options

- 4.10 As the last of the four relevant applications, for 18 additional car parking spaces (see paragraph 5.4 of Appendix 2), has not been determined it is proposed to go back and notify nearby residents in writing and then refer the matter to the PCC to consider and make a decision.
- 4.11 It is acknowledged, however, that the fundamental objection of residents is to the principal of the development and that has already been granted permission (see paragraphs 5.1 and 7 of Appendix 2). It is, though, open to the Council to revoke that permission and/or require the removal of the limited amount of work that has already been carried out.
- 4.12 The difficulty with such an approach is twofold. Firstly when deciding whether to make a revocation order the Council is statutorily obliged to have regard to the development plan and other material planning considerations and on the face of it the proposed development is fully compliant with the development plan and to date I am not aware of other material planning considerations which justify a departure from those policies. However, it may be that, given the opportunity, local residents may raise new planning considerations.
- 4.13 The second problem is that both a revocation order and an order requiring removal of the existing works would have to be confirmed by the Secretary of State unless owner/occupier of the land agrees. Where he disagrees the owner/occupier has the right to an inquiry before the Secretary of State decides the issue.
- 4.14 Despite these problems it is considered that residents should be given an opportunity to comment on the proposed development, and that such comments should be taken into account by the PCC when at a future meeting it considers whether to revoke the permission for the first application and order the removal of the work already undertaken.
- 4.15 Other possible “remedies” could include making an apology or compensation to the residents most seriously affected by the proposed development.

Ombudsman Involvement

- 4.16 This matter has already been referred to the Ombudsman, an action which the Director welcomed. The Ombudsman has been sent a copy of this report and her views on the various options open to the Council will be taken into account. Her formal investigation will start in early June.

Member Panel Review

- 4.17 Members will also be aware of the work of the cross-party panel of PCC Members (Councillors Wood, Bolton and Harwood), who have been looking at procedures with a view to streamlining, and to making the involvement of Ward Members more constructive and complete. Their initial proposals for changes to the Delegated Powers arrangements had been approved by PCC, but have not yet been presented to Council.

- 4.18 PCC Members may wish to extend the remit of that Member Panel to look at the implications of the City Gate applications and complaint, to review the actions already undertaken by officers, and to recommend other possible changes to Committee.

Actions Already Taken

- 4.19 Having accepted that mistakes have been made by officers, I would note that certain actions were already in hand, and that others have been put in hand immediately, to improve our procedures and to ensure that such mistakes will be avoided in the future:

- I have already referred to the work of the PCC Member Panel.
- The weekly planning applications list now identifies the Ward for each application.
- A new procedure is being arranged so that Ward Members will receive an email notifying them of each application received in their Ward.
- Training for Development Control planners and support staff into the correct procedures for dealing with Delegated Decisions; this took place in-house on Thursday 14 May.
- The computer record now has mandatory fields that prompt action and link to the web site record in the interests of transparency.
- I have also started a comprehensive review of all procedures used in dealing with planning applications, to ensure that we are fully complying with legislation throughout.

Ombudsman Recommendations

- 4.20 The Ombudsman may recommend other reviews and/or training, and the Director will obviously give serious consideration to these.

OTHER OPTIONS CONSIDERED

- 5.1 There are no other options that can be considered at this stage.

For more information contact:	Name Richard Williams 01332 255974 email richard.williams@derby.gov.uk
Background papers:	None
List of appendices:	Appendix 1 – Implications Appendix 2 – Investigation Report Appendix 3 – Addendum Report

IMPLICATIONS

Financial

- 1.1 There are no financial implications arising directly from this report, but there would be in the case of revocation of planning permission.

Legal

- 2.1 Section 97 Town & Country Planning Act 1990 (The Act) gives a local planning authority the power to revoke or modify a planning permission by order if it appears to them that it is expedient to do so but it must have regard to the development plan and any other material considerations before making such an order and it would have to be confirmed by the Secretary of State.
- 2.2 Section 102 of the Act is very similar to Section 97 but rather than revoking a planning permission it gives a local planning authority power to require any buildings or works to be removed or altered.
- 2.3 If Orders under Section 97 or Section 102 of the Act are confirmed by the Secretary of State the owner/occupier of the land becomes entitled to compensation.

Personnel

- 3.1 There are no personnel implications arising directly from this report.

Equalities Impact

- 4.1 There are no equalities implications arising directly from this report.

Corporate objectives and priorities for change

- 5.1 This contributes to the Council's priority of 'Giving you excellent services and value for money'.

**LAND AT CORNER OF CITY GATE AND LONDON ROAD, DERBY
PLANNING APPLICATIONS FOR
RESIDENTIAL CARE AND TREATMENT FACILITY**

INTRODUCTION

1. This is the report of my investigation into the complaints received from two Alvaston Ward Members into the conduct of officers in dealing with planning applications for a residential care and treatment facility at the above address.
2. There were initially two letters of complaint to Council officers, both dated 24 March 2009, which prompted the Chief Executive to ask me to investigate this matter:
 - To Ray Cowlshaw and Michael Foote
 - To myself

There was also a letter of complaint to the Leader and Deputy Leader of the Council, also dated 24 March (Appendix 1.3). Most of the complaints in this letter are also covered in the two letters to officers referred to above. The other complaints are regarding the response of Councillor Lucy Care to queries from the Derby Telegraph, upon which I shall not comment.

3. There have also been a number of other items of correspondence on this matter, as follows:
 - A petition from Wilmorton Residents.
 - Individual letters from Wilmorton Residents
 - Local Government Ombudsman complaints from Wilmorton Residents.
 - Emails from Wilmorton residents to Richard Williams and Paul Clarke, as well as to Councillor Lucy Care.

The issues raised in the complaint letters described above, cover procedural and planning matters.

4. The complaints can be summarised as follows:

Complaint 1

‘The planning application was delightfully vague in respect of the type of facility being planned’.

Complaint 2

‘The application was dealt with by officers in such a way as to contravene the Council’s Constitution’.

Complaint 3

'The Ward Councillors were not consulted beyond the planning applications appearing in the Planning Application Weekly List'.

Complaint 4

'Lack of notices to publicise the application, resulting in no consultation being undertaken with residents or local Councillors'.

Complaint 5

The use is inappropriate and contrary to planning policy for this area. Residential use on an industrial estate is inappropriate.

Complaint 6

More general planning related objections regarding:

- The nature of the end use and it possibly changing later
- Antisocial behaviour from the use
- Adequacy of parking provision
- Overlooking/loss of light
- Possible land contamination

APPLICATION HISTORY AND PROCESS

5. There have been four planning applications for this development. These are:
 - 5.1 08/07/01586 - Application for the erection of residential care and treatment facility and formation of vehicular access, applicant Montpellier Estates (Appendix 2.1).
 - 5.2 06/08/00895 - Erection of residential care and treatment facility and formation of vehicular access (amendment to previously approved planning application 08/07/01586) applicant Cygnet Healthcare Ltd (Appendix 2.2).
 - 5.3 05/08/00784 - Erection of residential care and treatment facility and formation of vehicular access (amendment to previously approved planning application 08/07/01586) applicant Montpellier Estates Ltd (Appendix 2.3).
 - 5.4 02/09/00120 - Provision of additional 18 car parking spaces, applicant Cygnet Healthcare Ltd (Appendix 2.4).
6. In the case of each of the first three applications the following process was followed:
 - 6.1 A notice informing of the application was posted on the public highway adjacent to the site.
 - 6.2 The application details appeared in the published weekly list of planning applications circulated to all Members, the press and other interested parties and posted on public notice boards around the city.

- 6.3 Technical consultations were carried out.
 - 6.4 Planning Control Committee (PCC) was asked if Members wished to make a site visit. In each case the Chair and Committee agreed that as the site is on a main road, and could be easily located and visited by Members in their own time, there was no need for a formal Committee visit.
 - 6.5 The Chair and Vice Chair were consulted to agree the use of delegated powers to grant planning permission with the completion of a S106 Agreement.
 - 6.6 A decision to approve the applications was made under officer delegated powers.
- 7. The first application was for two blocks up to three storeys in height, with 48 bedrooms, secure garden areas, landscaping and car parking. It was submitted on 11 September 2007 and approved on 11 December 2007.
 - 8. Applications two and three were for modifications to the first permission, the second for 43 bedrooms, the third for 46 bedrooms and a Sports Barn. It is the third proposal which is being built. Applications two and three were submitted together in May 2008. The applicant's preference was for the third application but submitted the second in parallel in case the third was considered unacceptable.
 - 9. The final application also falls within officers delegated powers but awaits the outcome of this investigation.

CONSULTATION AND DELEGATION ARRANGEMENTS

- 10. The current consultation arrangements on planning applications were agreed by Planning Control Committee in July 2005. They extend the consultation/advertising requirements set out by statute ie the Council's arrangements are more extensive than those required by law.
- 11. The Council's agreed publicity arrangements require that any residential occupiers within 15 metres be notified, or that a site notice be erected at the site, and that the application appears in the 'pink sheets' - the weekly list of planning applications received.
- 12. The consultation and publicity arrangements used in the case of the City Gate applications were as required by the Council's agreed procedures referred to above. A site notice was posted and the applications appeared in the weekly list. No neighbour consultations were carried out because there are no residential occupiers within 15 metres of the site.
- 13. The Council's Scheme of Delegation relating to planning matters is contained within the Council's Constitution, agreed by Full Council. This includes the delegations to Planning Control Committee and those to my Assistant Director – Regeneration.

14. The delegation agreement only requires that a planning application be referred to Planning Control Committee for a decision if there are four or more objections, or where the proposal is contrary to Local Plan policy, or if any Member of the Council asks for it to be so referred. All other decisions are delegated to the Assistant Director.
15. In the case of the City Gate application there was one letter of support. No Member asked for the matter to be referred to Committee. The proposals are consistent with Local Plan policy.
16. As stated in paragraphs 6.4 and 6.5, Planning Control Committee Members were asked if they wanted a committee site visit and the Chair and Vice Chair were asked to agree to a delegated decision, given that a S106 Agreement was required.
17. The decision to determine these applications under officer delegated powers was, therefore, consistent with the Council's delegation scheme.

REASONS FOR APPROVAL

18. The case officer's appraisal of the applications considers accessibility, design and scale, the principle of developing a brownfield site and visual impact on surrounding property, and concludes that the proposals are acceptable. The site is allocated in the Local Plan under policy EP5 for 'B' (Business) uses including residential institutions (Class C2) so the development is consistent with Local Plan policy.
19. Officers did seek clarification on the likely occupation of the premises but were advised that the applicants had no end user signed up, so they could not be precise. However, various pieces of supporting information from the applicants shed some light on the likely uses:
 - 19.1 Montpelier Estates Transport Assessment (August 2007) - in paragraph 3.6 it states 'Residents of the site are likely to include people with brain injury, learning disorders, eating disorders, substance abuse and mental/physical issues'.
 - 19.2 Letter from Turley Associates (18 December 2007) in support of the first application states 'We can confirm that they will be providing much needed services to accommodate patients with learning disabilities and others with mental health problems ... the development has been designed to ensure that a secure environment is created to meet the needs of groups such as these.' The letter also states that the operator intends to register the buildings as 'a low secure residential care facility under the Care Standards Act'.
 - 19.3 Planning statement prepared by Leith Planning in support of the third application - Section 12 includes a reference to accommodation which states 'The proposed development is a low secure and step-down unit providing residential care within a therapeutic environment. The proposal includes therapy and recreational facilities for patients, administration and support facilities, and access roads, car parking and landscaping'.

20. These uses are consistent with both the description of development on the application form and with uses within in Class C2 of the Town and Country Planning Use Classes Order and are, therefore, also consistent with Local Plan policy LP5.

FINDINGS

21. **Complaint 1**

‘The planning application was delightfully vague in respect of the type of facility being planned’.

My Findings

The three planning applications each referred appropriately to the type of development as ‘a residential care and treatment facility’. Whilst this may not appear to be specific, these terms do have relevance in planning law and I will comment on that later. Officers then reproduced the applicant’s description in placing the application on the pink sheets and on the site notice. The description of the development on the application form is not in the control of officers. It is a valid description and the applicant is entitled to use it and to have the application determined on that basis.

22. **Complaint 2**

‘The application was dealt with by officers in such a way as to contravene the Council’s Constitution’.

My Finding

The applications were all dealt with by officers in accordance with the Council’s Constitution.

23. **Complaint 3**

‘The Ward Councillors were not consulted beyond the planning applications appearing in the Planning Application Weekly List’.

My Finding

The Ward Councillors were not consulted beyond the applications appearing in the ‘pink list’, a copy of which they receive, but this is standard procedure in accordance with the Council’s Constitution.

24. **Complaint 4**

‘Lack of notices to publicise the application, resulting in no consultation being undertaken with residents or local Councillors’.

My Finding

The applications were correctly publicised by way of site notices and the pink list, and there was no requirement under the Council’s agreed consultation procedures for neighbour notification letters, nor for any additional consultation with residents or local Councillors.

25. **Complaint 5**

'The use is inappropriate and contrary to planning policy for this area. Residential use on an industrial estate is inappropriate.'

My Findings

The application meets the requirements of Adopted Local Plan Policy EP5 and is, therefore, appropriate for this site.

26. **Complaint 6**

'More general planning related objections ... '.

My Findings

These principal development control issues were considered during the planning process as contained in the officer reports reproduced in Appendix 2.

THE APPROVED USE OF THE BUILDING AND THE USE NOW PROPOSED

27. On the basis that complainants are concerned about the detailed use of the building, I have had further conversations with the operator, Cygnet Healthcare, who have advised that there will be three buildings on site. Two will be 'low secure' buildings to provide residential care to people with mental health conditions that make them vulnerable if left unsupervised. A third will be a Rehabilitation Centre, preparing people who need 'life skills' coaching, ready for an imminent return to the community, and to be able to then lead a relatively independent life. The level of security built into the premises is for the protection of the patients, mainly to avoid incidences of self-harm, and to ensure that they remain in care to complete their treatment.
28. In planning terms, there is a difference between residential accommodation and care for people in need of care on the one hand, and the provision of secure residential accommodation on the other. The former comes within use Class C2 of the Town & Country Planning (use Class Order 1981 (as amended) and the latter comes within use Class C2A which specifically includes prisons and young offenders institutions and secure hospitals (see Appendix).
29. From the information in the application and that subsequently supplied, I am firmly of the view that this proposal falls within use Class C2 not C2A. The fact that there is some security at the proposed centre does not change my opinion, as this is designed to prevent residents from harming themselves and not to protect the public nor does the fact that the facility will treat patients with mental illnesses change that opinion. In reaching this conclusion I am supported by decisions of the Planning Inspectorate and the Courts.
30. In this major respect therefore the City Gate proposal is different from the Bolsover application referred to in the Derby Evening Telegraph, where Cygnet Healthcare had a planning application considered by Bolsover District Council's Special Planning Control Committee on 7 November 2007. This application was for a Secure Residential Institution providing mental health care and was expressly stated to be a Class 2A use in the statement accompanying the planning application.

31. So, in planning terms the use now proposed for the City Gate facility is consistent with the description of development which appeared on the application form and which was used in consultation. Should the operator of the centre propose materially different uses for the building which fall outside the permission granted, then the Council is in a position to require a new planning application.
32. Clearly, however, this case has raised significant concern and I cannot feel comfortable that many of the letters of complaint and the press coverage have, for whatever reason, criticised the Council's planning process and the role of officers within it. It is important that the planning process is open and accountable and seen to be so. I hope that the fact that national planning policy sees the proposed use of the building as 'residential care' and not a high security use, may reassure complainants, but it may not.
33. The Council cannot change national planning policy, nor overturn the conclusions of planning case law. It can, though, decide how to apply its own procedures for consultation and delegation, and it is important that we are seen to have open and consistent decision making.
34. In this respect, I would refer to recent proposals to amend the current Planning Control Committee delegation scheme. These proposals have also generated some criticism for proposing to extend delegation to officers. The main purpose of these proposals, however, is to give more information to Members of the Council to know what applications have been received in their Wards and to enable them to engage in discussions in advance of those applications being determined, if they wish.
35. The proposed changes in the delegation scheme would include the following:
 1. Ward Members will receive an email directly from the planning case officer on receipt of an application in their Ward. This will invite them to talk to the officer and/or view the application in the office or on-line.
 2. The Ward will also be identified in a new column in planning applications received lists (the pink sheets).
36. We have also had discussions with the Head of Neighbourhood Management, Community Safety Partnership, regarding Neighbourhood Managers becoming more involved in assisting with the involvement of Members and neighbourhood interest groups in both pre-application and post-application discussions. Neighbourhood Managers already receive the pink lists, but we have agreed that they will help us at pre-application stage, wherever officers feel that an application is likely to be major or contentious, and would benefit from input, from interest groups.
37. Those recommendations were agreed and will now go forward to Full Council to decide whether to make those changes.

38. However, I would recommend that before they progress to Full Council, the Planning Control Committee's Member panel considers whether the proposed amendments to procedure already agreed would have addressed the issues raised in this case, or whether further amendments would be beneficial. The outcome of that review should then progress to Planning Control Committee and Full Council as originally intended.
39. I would wish to stress that any Member of the Council can, under the current procedures, already arrange for any application which would normally be delegated to officers, to be referred to Planning Control Committee for a decision. The purpose of the new proposals is to give more information to Members in order to make a judgement on whether referral to Committee would be helpful.

CONCLUSIONS AND RECOMMENDATIONS

40. I have concluded that:

- 40.1 Officers followed the Council's procedures properly in appraising and determining this application.
- 40.2 Officers' judgement in assessing the proposed uses as being consistent with those of a 'residential care and treatment centre' and within use Class 2 were correct and are supported by planning case law and Planning Inspectors' decisions.
- 40.3 Uses within Class C2 on this site are consistent with the Council's Local Plan policies.
- 40.4 The security involved at City Gate is designed to prevent its residents from harm rather than because there is any danger to society beyond the boundaries.
- 40.5 Any proposal to change to a secure facility akin to those in Class C2A would require a new planning permission.

41. I recommend that:-

- 41.1 The issue of consultation and delegation arrangements in cases like this should be referred to the Planning Control Committee's Member Panel – and in due course to Planning Control Committee and Full Council – for consideration alongside the recent proposals for amendment to the delegation scheme.
- 41.2 Because of the uncertainty which has been expressed by residents about the use of the City Gate facility, I would recommend that Cygnet Healthcare be invited to the Neighbourhood Board to describe their proposals in detail and how they propose to work with the local community.

Jonathan Guest
Corporate Director
Regeneration and Community Department

Relevant definitions from the Town and Country Planning (Use Classes) Order 1987 (and its subsequent amendments.)

C2 Residential institutions - Residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres.

C2A Secure Residential Institution - Use for a provision of secure residential accommodation, including use as a prison, young offenders institution, detention centre, secure training centre, custody centre, short term holding centre, secure hospital, secure local authority accommodation or use as a military barracks

ADDENDUM REPORT

Land at the corner of City Gate and London Road, Derby Planning application for a residential care and treatment centre

On Friday 8 May, I published the findings of my investigation into complaints about the processing of the above planning application. I concluded that the Council's adopted procedures for consultation and delegation had been followed properly but that the case had thrown up concerns about the adequacy of these procedures. I recommended that Planning Control Committee should consider whether its procedures should be amended in the light of the issues raised.

After reflecting on discussions with the Council Members for Alvaston who had lodged the initial complaints, and who I had briefed on my findings prior to publishing my report, I felt it necessary to investigate further the consultation procedures followed in this case.

I regret that I have now found that the City Gate proposals fall into a category of development (that is, where the amount of floorspace to be created is 1,000 square metres or more) which should, according to the consultation requirements specified in the Town and Country Planning (General Development Procedures) Order 1995, be advertised in a local newspaper. The floorspace of the three City Gate applications ranges from 2,900 to 3,500 square metres and no advertisement was published in a local newspaper.

The City Gate case has now been referred to the Ombudsman, a course of action which I have already welcomed. I shall make these additional findings available to the Ombudsman but felt it important that I should make you aware of them immediately. The Council will consider the findings of the Ombudsman investigation in due course.

This failure to advertise is clearly a mistake which officers have to accept responsibility for. However, I am conscious that one of the main concerns expressed about the City Gate application was that the description of development did not, by itself, alert Members or residents to the nature of the development.

It is worth noting that the requirement to advertise an application is triggered by the size of the proposed development and not the proposed use. Officers should have complied with this requirement to advertise but, had they done so, it would still have had the same description of development (residential care and treatment facility) and would have appeared in the public notices section of the newspaper which is not particularly accessible.

I am not confident that such an advertisement would have alerted Ward Members or members of the community to the proposals in a way which they felt that they should have been. I would therefore suggest that, as well as ensuring immediately that all the statutory consultation requirements are adhered to in future, my original recommendation – that Planning Control Committee look afresh at the consultation and delegation arrangements – still stands.

Appendix C
Site A, City Gate Business Park, City Gate
Decision Notices for
DER/08/07/01586, DER/05/08/00784 &
DER/06/08/00895

To: Turley Associates
33 Park Place
Leeds
LS1 2RY

TOWN AND COUNTRY PLANNING ACT 1990

PLANNING APPLICATION DECISION

Part 1: Application Details

Code No: DER/08/07/01586/PRI (please quote in correspondence)

Location: Site A, City Gate Business Park, City Gate, Derby

Proposal: ERECTION OF RESIDENTIAL CARE AND TREATMENT FACILITY AND
FORMATION OF VEHICULAR ACCESS

Part 2: Decision

Permission is **granted** subject to the conditions in Part 4

Part 3: Reason for Decision and Relevant Policies

The proposal has been considered against the following Adopted City of Derby Local Plan Review policies and all other material considerations and the proposal is acceptable in design, amenity and streetscene terms.

- | | | |
|-----|-----|--|
| 1. | GD1 | Social Inclusion |
| 2. | GD3 | Flood Protection |
| 3. | GD4 | Design and the Urban Environment |
| 4. | GD5 | Amenity |
| 5. | R1 | Regeneration Priorities |
| 6. | H13 | Residential Development - General Criteria |
| 7. | EP5 | Bombardier |
| 8. | E10 | Renewable Energy |
| 9. | E17 | Landscaping Schemes |
| 10. | E23 | Design |
| 11. | E24 | Community Safety |
| 12. | T1 | Transport Implications of New Development |
| 13. | T4 | Access, Parking and Servicing |
| 14. | T10 | Access for Disabled People |
| 15. | E13 | Contaminated Land |

Part 4: Conditions

1. This permission relates to the application as amended by the revised plans received on 12 November 2007 drawing numbers: 0640 FO5 Rev J and 0640 FO8 Rev A.
2. No development approved by this permission shall be commenced until a scheme for the provision of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall utilise Sustainable Drainage Principles and shall not result in an increase in the rate and/or volume of surface water discharge to the local land drainage system. The drainage works shall be completed in accordance with the details and timetable agreed.
3. Development shall not begin until:
 - a. Details of an investigative survey of the site have been submitted to and approved in writing by the Local Planning Authority. This investigative survey shall have regard for ground and water contamination, the potential for gas emissions and any associated risk to the public, buildings and/or environment.
 - b. The investigative survey has been carried out and a report submitted to include details of remedial measures to be taken to address any contamination or other problems; and both the report and the remedial measures have been approved in writing by the Local Planning Authority.
 - c. All necessary remedial measures have been completed in accordance with the approved details and
 - d. The applicants have certified to the Local Planning Authority that the measures taken have rendered the site free from risk to human health from the contaminants identified.
4. If any unexpected, visibly contaminated, or odourous material is encountered during redevelopment (given any previous desk study, site investigation and/or remediation work) remediation proposals for the material shall be agreed with the Local Planning Authority.
5. Before the first use of the development is permitted, visibility splays of 2.4 metres by 45 metres shall be provided at the junction of the access with City Gate. Any planting in these areas shall not be allowed to grow any higher than 0.6 metres above the carriageway level and shall be maintained in perpetuity.
6. Detailed plans showing the design, location and materials to be used on all boundary walls/fences/screen walls and other means of enclosure shall be submitted to and approved in writing by the Local Planning Authority before development is commenced and the development shall be carried out in accordance with such detailed plans.

7. Notwithstanding the details of any external materials that may have been submitted with the application, details of all external materials shall be submitted to and be approved in writing by the Local Planning Authority before development is commenced. Any materials that may be agreed shall be used in the implementation of the development unless otherwise agreed in writing with the Local Planning Authority.
8. No development shall be commenced until a landscaping scheme indicating the types and position of trees and shrubs and treatment of paved and other areas has been submitted to and approved in writing by the Local Planning Authority.
9. The landscaping scheme submitted pursuant to Condition 8 above shall be carried out within 12 months of the completion of the development or the first planting season whichever is the sooner, and any trees or plants which, within a period of five years from the date of such landscaping works, die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation. No vehicles shall be driven or parked on landscaping areas except for those vehicles necessary for the maintenance of those areas unless otherwise agreed in writing by the Local Planning Authority.
10. The principal entrance or entrances shall have level or ramped access. If ramped, the gradient shall not exceed 1:12 and doors shall have a minimum clear opening width of 800mm, all designed in accordance with BS 8300:2001, "Design of buildings and their approaches to meet the needs of disabled people".
11. The development shall not be taken into use until details of an enclosed lockable compound or store, preferably integral to the building, is provided for cycle storage on the site.
12. Within 12 months of the occupation of development the occupant shall carry out an employees' travel to work study and develop a commuter plan and submit these details to the Local Planning Authority. The terms and extent of the study and plan shall be agreed in writing with the Local Planning Authority but shall generally include home locations (by district or post code) of employees, their current mode of travel, factors influencing this, action taken or planned to be taken by the applicant to encourage car sharing and modes of transport other than the private car.

Part 5: Reasons for Conditions

1. For the avoidance of doubt.
2. To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal and in accordance with policy GD3 of the adopted City of Derby Local Plan Review.

3. No such details were provided, and in the interests of public health and safety and in accordance with policy E13 of the adopted City of Derby Local Plan Review.
4. To protect the environment and ensure the redevelopment of the site is reclaimed to an appropriate standard. In accordance with policy E13 of the adopted City of Derby Local Plan Review.
5. This is to ensure that adequate visibility is provided at the access to cater for the expected volume of traffic joining the existing highway network and in the interests of the general highway safety and in accordance with policy T4 of the adopted City of Derby Local Plan Review.
6. To achieve an appropriate sense of enclosure and a safe environment. In accordance with policy E23 of the adopted City of Derby Local Plan Review.
7. To ensure a satisfactory external appearance of the development in the interests of visual amenity and in accordance with policy E23 of the adopted City of Derby Local Plan Review.
8. To ensure a satisfactory external appearance of the development in the interests of visual amenity and in accordance with policy E17 of the adopted City of Derby Local Plan Review.
9. To ensure a satisfactory external appearance of the development in the interests of visual amenity and in accordance with policy E17 of the adopted City of Derby Local Plan Review.
10. To ensure that the development is accessible to disabled people and in accordance with policy T10 of the adopted City of Derby Local Plan Review.
11. To meet the parking needs of the development, to encourage and provide for varied means of transport to the site and in the interests of environmental amenity and in accordance with policy T4 of the adopted City of Derby Local Plan Review.
12. To encourage and provide for varied means of transport to the site and in accordance with policy T4 of the adopted City of Derby Local Plan Review and the advice in PPG13 (Transport) which seek to restrict the availability of commuter car park spaces and encourage the use of public transport.



Signed: _____
Authorised Officer of the Council

Date: 11/12/2007

Note to applicant:

This decision is made in respect of the development being constructed solely on the existing ground levels unless otherwise stated on the approved plans. Any changes to ground levels shall be agreed in writing by the Local Planning Authority before any such alterations are commenced.

To: Leith Planning Ltd
13 South Clifton Street
Lytham
Lancs
FY8 5HN

TOWN AND COUNTRY PLANNING ACT 1990

PLANNING APPLICATION DECISION

Part 1: Application Details

Code No: DER/05/08/00784/PRI (please quote in correspondence)

Location: Site A, City Gate Business Park, City Gate, Derby

Proposal: ERECTION OF RESIDENTIAL CARE AND TREATMENT FACILITY AND
FORMATION OF VEHICULAR ACCESS (AMENDMENT TO PREVIOUSLY
APPROVED PLANNING APPLICATION CODE NO. DER/08/07/01586)

Part 2: Decision

Permission is **granted** subject to the conditions in Part 4

Part 3: Reason for Decision and Relevant Policies

The proposal has been considered against the following Adopted City of Derby Local Plan Review policies and all other material considerations and the proposal is considered acceptable in policy terms.

1. GD1 Social Inclusion
2. GD3 Flood Protection
3. GD4 Design and the Urban Environment
4. GD5 Amenity
5. R1 Regeneration Priorities
6. H13 Residential Development - General Criteria
7. EP5 Bombardier
8. E10 Renewable Energy
9. E13 Contaminated Land
10. E17 Landscaping Schemes
11. E23 Design
12. E24 Community Safety
13. T1 Transport Implications of New Development
14. T4 Access, Parking and Servicing
15. T10 Access for Disabled People

Part 4: Conditions

1. No development approved by this permission shall be commenced until a scheme for the provision of foul and surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall utilise Sustainable drainage principles and shall not result in an increase in the rate and/or volume of surface water discharge to the local land drainage system. The drainage works shall be completed in accordance with the details and timetable agreed.
2. An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:
 - i. a survey of the extent, scale and nature of contamination;
 - ii. an assessment of the potential risks to:
 - human health
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land
 - ground waters and surface waters,
 - ecological systems
 - archaeological sites and ancient monuments
 - iii. an appraisal of remedial options, and options, and proposal of the preferred option(s)

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.
3. If any unexpected, visibly contaminated, or odorous material is encountered during redevelopment (given any previous desk study, site investigation and/or remediation work) remediation proposals for the material shall be agreed with the Local Planning Authority.
4. Development shall not begin until details of the access road off of City Gate have been amended to incorporate a 5.5m width as offered in application DER/08/07/01586. These details shall be approved by the Local Planning Authority; and the building shall not be occupied until that access road has been constructed in accordance with the approved details.

5. Detailed plans showing the design, location and materials to be used on all boundary walls/fences/screen walls and other means of enclosure shall be submitted to and approved in writing by the Local Planning Authority before development is commenced and the development shall be carried out in accordance with such detailed plans.
6. Notwithstanding the details of any external materials that may have been submitted with the application, details of all external materials shall be submitted to and be approved in writing by the Local Planning Authority before development is commenced. Any materials that may be agreed shall be used in the implementation of the development unless otherwise agreed in writing with the Local Planning Authority.
7. No development shall be commenced until a landscaping scheme indicating the types and position of trees and shrubs and treatment of paved and other areas has been submitted to and approved in writing by the Local Planning Authority.
8. The landscaping scheme submitted pursuant to Condition 7 above shall be carried out within 12 months of the completion of the development or the first planting season whichever is the sooner, and any trees or plants which, within a period of five years from the date of such landscaping works, die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation. No vehicles shall be driven or parked on landscaping areas except for those vehicles necessary for the maintenance of those areas unless otherwise agreed in writing by the Local Planning Authority.
9. The principal entrance or entrances shall have level or ramped access. If ramped, the gradient shall not exceed 1:12 and doors shall have a minimum clear opening width of 800mm, all designed in accordance with BS 8300:2001, "Design of buildings and their approaches to meet the needs of disabled people".
10. Within 12 months of the commencement of development the applicant shall carry out an employees' travel to work study and develop a commuter plan and submit these details to the Local Planning Authority. The terms and extent of the study and plan shall be agreed in writing with the Local Planning Authority but shall generally include home locations (by district or post code) of employees, their current mode of travel, factors influencing this, action taken or planned to be taken by the applicant to encourage car sharing and modes of transport other than the private car.
11. The development shall not be taken into use until details of an enclosed lockable compound or store, preferably integral to the building, is provided for cycle storage on the site.
12. Development shall not begin until details of the surface treatment of the publicly maintained forward visibility splay on the bend of City Gate, as previously shown on drawing No 0640/F05 on planning permission DER/08/07/01586, has been agreed in writing. This area must clear of landscaping as previously approved.

Part 5: Reasons for Conditions

1. To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal and in accordance with policy GD3 of the adopted City of Derby Local Plan Review.
2. No such details were provided, and in the interests of public health and safety and in accordance with policy E13 of the adopted City of Derby Local Plan Review.
3. If any unexpected, visibly contaminated, or odorous material is encountered during redevelopment (given any previous desk study, site investigation and/or remediation work) remediation proposals for the material shall be agreed with the Local Planning Authority.
4. Development shall not begin until details of the access road off of City Gate have been amended to incorporate a 5.5m width as offered in application DER/08/07/01586. These details shall be approved by the Local Planning Authority; and the building shall not be occupied until that access road has been constructed in accordance with the approved details.
5. To achieve an appropriate sense of enclosure and a safe environment. In accordance with policies E23 and T4 of the adopted City of Derby Local Plan Review
6. To ensure a satisfactory external appearance of the development in the interests of visual amenity and in accordance with policy E23 of the adopted City of Derby Local Plan Review.
7. To ensure a satisfactory external appearance of the development in the interests of visual amenity and in accordance with policy E17 of the adopted City of Derby Local Plan Review.
8. To ensure a satisfactory external appearance of the development in the interests of visual amenity and in accordance with policy E17 of the adopted City of Derby Local Plan Review.
9. To ensure that the development is accessible to disabled people and in accordance with policy T10 of the adopted City of Derby Local Plan Review.
10. To encourage and provide for varied means of transport to the site and in accordance with policy T4 of the adopted City of Derby Local Plan Review and the advice in PPG13 (Transport) which seek to restrict the availability of commuter car park spaces and encourage the use of public transport.
11. To meet the parking needs of the development, to encourage and provide for varied means of transport to the site and in the interests of environmental amenity and in accordance with policy T4 of the adopted City of Derby Local Plan Review.

12. For the avoidance of doubt and to afford adequate forward visibility at the bend on City Gate in the interest of general highway safety. This land would be continued to be maintained as public highway and in accordance with policy T1 of the adopted City of Derby Local Plan Review.



Signed: _____
Authorised Officer of the Council

Date: 16/09/2008

Note to applicant:

This decision is made in respect of the development being constructed solely on the existing ground levels unless otherwise stated on the approved plans. Any changes to ground levels shall be agreed in writing by the Local Planning Authority before any such alterations are commenced.

To: Leith Planning Ltd
13 South Clifton Street
Lytham
Lancs
FY8 5HN

TOWN AND COUNTRY PLANNING ACT 1990

PLANNING APPLICATION DECISION

Part 1: Application Details

Code No: DER/06/08/00895/PRI (please quote in correspondence)

Location: Site A, City Gate Business Park, City Gate, Derby

Proposal: ERECTION OF RESIDENTIAL CARE AND TREATMENT FACILITY AND
FORMATION OF VEHICULAR ACCESS (AMENDMENT TO PREVIOUSLY
APPROVED PLANNING APPLICATION CODE NO. DER/08/07/01586 TO
PROVIDE LINK EXTENSION AND MINOR ALTERATIONS)

Part 2: Decision

Permission is **granted** subject to the conditions in Part 4

Part 3: Reason for Decision and Relevant Policies

The proposal has been considered against the following Adopted City of Derby Local Plan Review policies and all other material considerations and the proposal is considered acceptable in policy terms.

- | | | |
|-----|-----|--|
| 1. | GD1 | Social Inclusion |
| 2. | GD3 | Flood Protection |
| 3. | GD4 | Design and the Urban Environment |
| 4. | GD5 | Amenity |
| 5. | R1 | Regeneration Priorities |
| 6. | H13 | Residential Development - General Criteria |
| 7. | EP5 | Bombardier |
| 8. | E10 | Renewable Energy |
| 9. | E13 | Contaminated Land |
| 10. | E17 | Landscaping Schemes |
| 11. | E23 | Design |
| 12. | E24 | Community Safety |
| 13. | T1 | Transport Implications of New Development |
| 14. | T4 | Access, Parking and Servicing |

Part 4: Conditions

1. No development approved by this permission shall be commenced until a scheme for the provision of foul and surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall utilise Sustainable drainage principles and shall not result in an increase in the rate and/or volume of surface water discharge to the local land drainage system. The drainage works shall be completed in accordance with the details and timetable agreed.
2. An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:
 - i. a survey of the extent, scale and nature of contamination;
 - ii. an assessment of the potential risks to:
 - human health
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land
 - ground waters and surface waters,
 - ecological systems
 - archaeological sites and ancient monuments
 - iii. an appraisal of remedial options, and options, and proposal of the preferred option(s)

This must be conducted in accordance with DEFRA and the Environment Agencys `Model Procedures for the Management of Land Contamination, CLR 11`.
3. If any unexpected, visibly contaminated, or odorous material is encountered during redevelopment (given any previous desk study, site investigation and/or remediation work) remediation proposals for the material shall be agreed with the Local Planning Authority.
4. Development shall not begin until details of the access road off of City Gate have been amended to incorporate a 5.5m width as offered in application DER/08/07/01586. These details shall be approved by the Local Planning Authority; and the building shall not be occupied until that access road has been constructed in accordance with the approved details.

5. Detailed plans showing the design, location and materials to be used on all boundary walls/fences/screen walls and other means of enclosure shall be submitted to and approved in writing by the Local Planning Authority before development is commenced and the development shall be carried out in accordance with such detailed plans.
6. Notwithstanding the details of any external materials that may have been submitted with the application, details of all external materials shall be submitted to and be approved in writing by the Local Planning Authority before development is commenced. Any materials that may be agreed shall be used in the implementation of the development unless otherwise agreed in writing with the Local Planning Authority.
7. No development shall be commenced until a landscaping scheme indicating the types and position of trees and shrubs and treatment of paved and other areas has been submitted to and approved in writing by the Local Planning Authority.
8. The landscaping scheme submitted pursuant to Condition 7 above shall be carried out within 12 months of the completion of the development or the first planting season whichever is the sooner, and any trees or plants which, within a period of five years from the date of such landscaping works, die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation. No vehicles shall be driven or parked on landscaping areas except for those vehicles necessary for the maintenance of those areas unless otherwise agreed in writing by the Local Planning Authority.
9. The principal entrance or entrances shall have level or ramped access. If ramped, the gradient shall not exceed 1:12 and doors shall have a minimum clear opening width of 800mm, all designed in accordance with BS 8300:2001, "Design of buildings and their approaches to meet the needs of disabled people".
10. Within 12 months of the commencement of development the applicant shall carry out an employees' travel to work study and develop a commuter plan and submit these details to the Local Planning Authority. The terms and extent of the study and plan shall be agreed in writing with the Local Planning Authority but shall generally include home locations (by district or post code) of employees, their current mode of travel, factors influencing this, action taken or planned to be taken by the applicant to encourage car sharing and modes of transport other than the private car.
11. The development shall not be taken into use until details of an enclosed lockable compound or store, preferably integral to the building, is provided for cycle storage on the site.
12. Development shall not begin until details of the surface treatment of the publicly maintained forward visibility splay on the bend of City Gate as previously shown on drawing No. 0640/F05 on planning permission DER/08/07/01586 has been agreed

in writing. This area must clear of landscaping as previously approved.

Part 5: Reasons for Conditions

1. To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal and in accordance with policy GD3 of the adopted City of Derby Local Plan Review.
2. No such details were provided, and in the interests of public health and safety and in accordance with policy E13 of the adopted City of Derby Local Plan Review.
3. To protect the Environment and ensure the development of the site is reclaimed to an appropriate standard. In accordance with policy E13 of the adopted City of Derby Local Plan Review.
4. This is to ensure that the access is a satisfactory width to allow for service vehicles and personal vehicles to pass safely.
5. To achieve an appropriate sense of enclosure and a safe environment. In accordance with policies E23 and T4 of the adopted City of Derby Local Plan Review
6. To ensure a satisfactory external appearance of the development in the interests of visual amenity and in accordance with policy E23 of the adopted City of Derby Local Plan Review.
7. To ensure a satisfactory external appearance of the development in the interests of visual amenity and in accordance with policy E17 of the adopted City of Derby Local Plan Review.
8. To ensure a satisfactory external appearance of the development in the interests of visual amenity and in accordance with policy E17 of the adopted City of Derby Local Plan Review.
9. To ensure that the development is accessible to disabled people and in accordance with policy T10 of the adopted City of Derby Local Plan Review.
10. To encourage and provide for varied means of transport to the site and in accordance with policy T4 of the adopted City of Derby Local Plan Review and the advice in PPG13 (Transport) which seek to restrict the availability of commuter car park spaces and encourage the use of public transport.
11. To meet the parking needs of the development, to encourage and provide for varied means of transport to the site and in the interests of environmental amenity and in accordance with policy T4 of the adopted City of Derby Local Plan Review.
12. For the avoidance of doubt and to afford adequate forward visibility at the bend on City Gate in the interest of general highway safety. This land would be continued to

be maintained as public highway and in accordance with Policy T1 of the adopted City of Derby Local Plan Review.



Signed: _____
Authorised Officer of the Council

Date: 16/09/2008

Note to applicant:

This decision is made in respect of the development being constructed solely on the existing ground levels unless otherwise stated on the approved plans. Any changes to ground levels shall be agreed in writing by the Local Planning Authority before any such alterations are commenced.

Appendix D

Site A, City Gate Business Park, City Gate

Trevor Roberts Associates Report

**REPORT ON PLANNING APPLICATIONS
AT CITY GATE, DERBY**

**Trevor Roberts Associates Ltd
1 Atlas House
St George's Square
Bolton BL1 2HB
tel: 01204 385678
email: mail@tra-ltd.co.uk
website: www.tra-ltd.co.uk**

15 July 2009



Introduction

Derby City Council have dealt with three planning applications at City Gate, Derby, which although for development defined as “major” by the General Development Procedure Order 1995 (as amended), were not advertised in the press as such. As a result, the Council has liaised with the Ombudsman and agreed to consider whether or not the applications should be revoked. The applications are to be put to the Planning Control Committee on 30 July 2009 for a decision to be made in respect of this matter.

Trevor Roberts Associates (TRA) has been asked by Derby City Council to undertake the following:-

1. look at the three planning application files for the current permissions, and confirm whether the case officer's recommendation and the delegated decision in each case was correct
2. look at the representations that the Council will have received by the closing date of 6 July, and assess whether any of these would be material planning considerations that would lead officers to recommend anything other than approval to Planning Control Committee
3. prepare a report to Planning Control Committee (this report) confirming our findings, and whether these concur with those of the case officer preparing the current report to Committee.

This assignment has been undertaken by TRA Senior Associate, **MIKE MUSTON**, BA(Hons) M.Phil MRTPI. Mike joined TRA in 2002 and has been a Senior Associate for the past five years. His work with TRA includes Councillor and Officer training, undertaking reviews of planning procedures and one-off bespoke assignments. Alongside this work, he runs his own planning consultancy business, which specialises in providing support for Local Authorities, including interim management, determining major and complex planning applications, defending appeals and providing advice on complex planning and planning-related legal issues. He also works as a Consultant Planning inspector.

TRA was established in 1984 and specialises in training and consultancy support for local government, principally in the area of town planning/development. Details of the services offered by TRA can be found online at www.tra-ltd.co.uk.

The three planning applications

Application 08/07/01586

The first planning application, 08/07/01586, was dated 15 August 2007 and was received on 17 August 2007. It was an application for full planning permission for a “residential care and treatment facility”. The submitted site plan showed that the building was to be erected on a prominent corner site in the City Gate Business Park, immediately adjoined by other commercial properties, but with residential properties a short distance away to the north-east and south-east.

A site notice was placed on the site and consultation undertaken, but no statutory notice was placed in a local newspaper. Various responses were received from consultees.

Highways

Said that the level of parking on site was too high – otherwise raised no objections subject to conditions.

Policy

Pointed out that Policy EP5 allowed residential institutions in this location, as long as uses outside the B employment classes amount to no more than a 1 hectare frontage along London Road. Combined with other non B class uses, this would take the area developed to just under 1 hectare. They concluded that the proposal was in line with Policy EP5.

Environment Agency

Raised no objections subject to conditions.

Building Control

Made comments but raised no objections.

Pollution section

Proposed a condition.

Police – Crime Prevention Adviser

Said that they had no issues with the principle of the land use but wanted minor changes, including additional windows on secondary elevations and changes to landscaping to create a clearer definition between the site and the public environment.

Consideration of the Application

Revised plans were submitted on 12 October 2007, showing a reduced amount of car parking, in accordance with the comments made by the Policy section.

The Case Officer requested amendments, principally involving a relocated car park and a building with more presence on the corner. Revised plans showing these changes were received on 12 November 2007.

The Chairman of the Planning Control Committee, Cllr Wood, was consulted on 5 December 2007, and he replied that he supported the proposal and was happy for it to be determined under delegated powers. This was done on 11 December 2007, and a Section 106 agreement requiring a contribution to highway works was also signed on 11 December 2007.

Main issues

In our opinion, the main issues in this case were:

- whether the location of a residential institution was acceptable on land within a Business Park
- the effect of the proposal on the character and appearance of the area
- the effect of the proposal on highway safety
- whether the proposal would demonstrably give rise to crime or a fear of crime.

Acceptability in principle

Whilst the location is on a Business Park, the possibility of uses in this area outside the Business Use Classes is specifically dealt with by Policy EP5, which says that uses outside the B employment classes that result in no more than a 1 hectare frontage along London Road may be acceptable. Combined with other non B class uses, the proposal would take the area developed for non B Class uses to just under 1 hectare. The site is well within the city limits and subject to compliance with this policy, there appears to be no reason why the proposed use should not be acceptable in principle.

Character and appearance

The building has been designed to appear in keeping in a Business Park environment. During consideration of the application, officers negotiated improvements to the siting and design of the building to improve its contribution to the urban design of the area. In our opinion, the proposal would enhance the character and appearance of the area.

Highway safety

The Council's highway officers commented initially that too many car parking spaces were shown to be provided and the numbers were subsequently reduced. This was in line with Government and Council policy to encourage the use of non-car transport wherever possible. Other than this, highway officers raised no objections subject to the imposition of conditions. Nothing we have seen suggests that highway officers were wrong in this assessment and we conclude that the proposal would have no materially adverse impact on highway safety.

Crime and fear of crime

Case law has established that this is a material consideration, but only in circumstances where the crime or fear of crime is justifiably linked with the specific use proposed. For example, in an application for a bail hostel, this can be legitimately taken into account, as those attending would all have been charged with a criminal offence. This should be contrasted with, for example, a gypsy site, where assumptions that this use may lead to criminal behaviour without any evidence about the behaviour of the occupants, would amount to unwarranted justification. In our view, this proposal for a residential care and treatment facility falls into the latter category. Even if it had been known at the time the application was submitted (which it was not) exactly who the end-user was, there would have been no evidence to suggest that the intended occupants with mental health problems and/or learning difficulties, would be bound to lead to an increase in crime. Such an assumption would amount to unjustified discrimination against those members of society.

We do not consider that the proposal could be said to be one that would justifiably lead to an increase in crime or fear of crime.

Conclusion

In our opinion, the proposal was in line with the Development Plan policy and there were no material considerations to indicate that permission should be refused. We conclude that the case officer's recommendation, and the subsequent delegated decision, to grant permission subject to conditions and the entering into of a Section 106 agreement, was the correct one.

Applications 06/08/0895 & 05/08/00784

These two applications were submitted in May 2008. They were alternative schemes, both involving alterations to the approved plans. Application 06/08/0895 showed a reduction in bedrooms from 48 to 46, and increase in floor area of some 196 square metres, internal alterations and consequent changes to fenestration. Application 05/08/00784 included a revised internal layout, an extension and a "sports barn".

Both applications were advertised by way of a site notice but not an advertisement in the newspaper. Consultations were also undertaken. A number of responses were received from consultees, but no letters from members of the public on either application. The consultee responses on the two applications included:

Highways

Raised no objections to either application, subject to the imposition of conditions.

Policy

Made the same comments on these two applications as they had to the earlier scheme - pointed out that Policy EP5 allowed residential institutions in this location, as long as uses outside the B employment classes amount to no more than a 1 hectare frontage along London Road. Combined with other non B class uses, this would take the area developed to just under 1 hectare. They concluded that the proposal was in line with Policy EP5.

Environment Agency

Raised no objections to either application, subject to the imposition of conditions.

Police – Crime Prevention Adviser

Commented on application 06/08/00895, asking that the treatment around the periphery of the site, providing enclosure from the street, be reinforced, either by detailing on the plans, or by condition.

Consideration of the Application

Revised plans were submitted in relation to application 06/08/00895.

The Chairman of the Planning Control Committee, Cllr Wood, was consulted on 31 July 2008, and he replied that he supported the two proposals and was happy for them to be determined under delegated powers. This was done on 16 September 2008, and a Section 106 agreement requiring a contribution to highway works and a travel plan was signed in relation to application 06/08/00895 was also signed on 16 September 2008. There is no signed Section 106 agreement lodged on the web-site in relation to application 05/08/00784, but the draft that is included suggests that one was indeed signed.

Main issues

In our opinion, the main issues in these two cases remained:

- whether the location of a residential institution was acceptable on land within a Business park
- the effect of the proposal on the character and appearance of the area

- the effect of the proposal on highway safety
- whether the proposal would demonstrably give rise to crime or a fear of crime.

Acceptability in principle

The acceptability in principle of these two proposals was heavily influenced by the existence, when these two applications were considered, of a fallback position, being the ability of the applicants to implement permission 08/07/01586, for a very similar scheme. In any event, the possibility of uses in this area outside the Business Use Classes is specifically dealt with by Policy EP5, which says that uses outside the B employment classes that result in no more than a 1 hectare frontage along London Road may be acceptable. Combined with other non B class uses, the proposal would take the area developed for non B Class uses to just under 1 hectare. The site is well within the city limits and subject to compliance with this policy, there appears to be no reason why the proposed use set out in both applications should not be acceptable in principle.

Character and appearance

The building shown in either application appears to have been designed to look in keeping in a Business Park environment. In our opinion, either proposal would enhance the character and appearance of the area.

Highway safety

In relation to both applications, highway officers raised no objections subject to the imposition of conditions. Nothing we have seen suggests that highway officers were wrong in this assessment and we conclude that neither proposal would have any materially adverse impact on highway safety.

Crime and fear of crime

As stated in relation to application 08/07/01586 above, case law has established that this is a material consideration, but only in circumstances where the crime or fear of crime is justifiably linked with the specific use proposed. In our opinion, this proposal for a residential care and treatment facility falls into a category whereby criminal behaviour would not be bound to follow from the proposed use. There was no evidence before the Council when considering the two applications to suggest that the intended occupants with mental health problems and/or learning difficulties would be bound to lead to more crime. Such an assumption would amount to unjustified discrimination against those members of society.

We do not consider that either proposal could be said to be one that would justifiably lead to an increase in crime or fear of crime.

Conclusion

In our opinion, both proposals were in line with the Development Plan policy and there were no material considerations to indicate that permission should be refused. We conclude that the case officer's recommendations, and the subsequent delegated decisions, in each case to grant permission subject to conditions and the entering into of a Section 106 agreement, was the correct one.

Consideration of new representations received

The three applications were re-advertised on 15 June 2009. As a result, 57 letters of objection from nearby residents and/or businesses have now been received, as well as 3 further letters making comments, but not specifically objecting. The main points made in these representations are:

- no consultation with local residents prior to earlier decisions
- no details of patients who will use the facility available
- occupiers will pose a risk in a residential area
- adverse effect on property prices/values
- unsuitable in an area of busy traffic
- parkland area could be used for criminal activity
- proposal should be in hospital grounds instead
- insufficient outdoor space for proposed residents
- overlooking of nearby houses and gardens
- inappropriate to have such a residential use in an industrial estate
- too close to YMCA, where vulnerable young people live
- insufficient car parking
- nursery and schools only five minutes away
- feeling of vulnerability expressed by resident living alone
- area is saturated by treatment centres
- building work is still going on
- high boundary treatment will look out of place
- not acceptable to have violent people living nearby
- overbearing mass of the building
- over-intensive use of the site
- proximity of electrified railway line
- description of development should be amended to read “mental health unit”
- concern re contamination on site
- location next to main road too noisy for proposed residents
- too close to Pride Park – football traffic already causes traffic/parking problems

These comments fall into a number of main areas:

1. complaints about previous consultation/publicity
2. complaints about how the proposal is described or lack of details about occupiers
3. concern about effect on property values
4. concern about the possible activities of residents of the proposed centre
5. concern that the location will prove harmful to the well-being of the proposed residents
6. concern about direct impact on local residents through overlooking or overbearing impact
7. concern about how the proposal would look
8. traffic and parking related concerns.

Objections based on non-material considerations

Complaints about previous consultation/publicity

These complaints are not material considerations that should be taken into account in reaching a decision on any planning application. They are complaints about process. It is of course exactly these complaints, alleging maladministration, that the Council has discussed with the Ombudsman, and has led to the current re-advertisement.

Complaints about how the proposal is described or lack of details about occupiers

The applicants are entitled to describe the proposal in any way they wish. The Council can amend the description, with the agreement of the applicant, if it is felt to be inadequate or misleading. In cases such as this, it is worth bearing in mind that the Use Classes Order exists specifically to allow changes of use to be made between (in this case) various uses of land or buildings for residential institutions (Class C2). Class C2 is described in the Order as being "Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)). Use as a hospital or nursing home. Use as a residential school, college or training centre."

In our view, this use definitely falls within this Use Class and would allow changes of use to any other use within this Use Class. Given this freedom, it is perfectly normal and reasonable for an applicant to describe their proposal as "a residential institution for those in need of care" or, as in this case, a "residential care and treatment facility". In our view, the applicants were entitled to describe their proposal in this way, and the Local Planning Authority were correct in using this description rather than seeking to get it amended. This matter is not a material consideration to take into account in considering the merits of the proposal.

Concern about effect on property values

Case law has made it quite clear that this is not a material consideration and cannot be taken into account in reaching a decision on a planning application.

Concern about the possible activities of residents of the proposed centre

We have considered above whether crime and the fear of crime can be a material consideration in this case above. In our opinion, this is not a case where a strong link can be established between the proposed use and the risk of crime. This may well be different if the proposed use were one that fell within Use Class C2A (described as "Secure residential institutions - Use for the provision of secure residential accommodation, including use as a prison, young offenders' institution, detention centre, secure training centre, custody centre, short-term holding centre, secure hospital, secure local authority accommodation or use as military barracks). However, we are clear that the proposal falls within Use Class C2 and that it would be inappropriate to consider crime or the fear of crime as a material consideration in considering such a case.

Objections based on material considerations

Concern that the location will prove harmful to the well-being of the proposed residents

This is capable of being a material consideration. However, many of the concerns expressed were along the lines that the residents would be happier in another location, such as a parkland setting, rather than the application site. There is no objective evidence available that this location in a business park would be unacceptable for the proposed residents. In these circumstances, this issue could not be given much weight and does not amount to something that would justify a refusal.

Concern about direct impact on local residents through overlooking or overbearing impact

One or two letters have expressed a fear of overlooking or overbearing impact from the proposed building. These are matters which, if relevant, are a material consideration that should be taken into account. However, the submitted plans clearly show that there is a considerable distance between the proposed buildings and the nearest houses. We consider that this distance is much too great to give rise to overlooking or any overbearing impact. Given this, it is our opinion that these matters cannot be given any weight in the decision-making process.

Concern about how the proposal would look

A few letters object to the application on the basis of the appearance of the building. The effect of a building on the character and appearance of an area is a material consideration. However, it is our view that Council officers have given proper consideration to this matter, and negotiated appropriate improvements to the building to reflect its location on a prominent corner in a Business Park. We have not seen anything that would lead us to a conclusion other than that the building as proposed in any of the schemes would result in an enhancement of the character and appearance of the area.

Traffic and parking related concerns

A number of the representations received have made assertions that the proposals would cause problems in a busy area, but none have provide evidence of how this would result, or that it would lead to any consequences harmful to highway safety. Concerns have also been expressed that insufficient parking has been provided, often linked with a point about the area being used for parking on match-days at Pride Park. However, it must be borne in mind that Government and local policy is to deliberately restrict parking spaces to encourage the use of transport other than the private car. The number of parking spaces was reduced in the original application on this site, 08/07/01586, to comply with this policy. We have seen nothing to suggest that an exception should be made in this case to national and local planning policy to restrict the number of parking spaces to maximum standards. In our opinion, the only evidence submitted in respect of the application suggests that the proposals would have no adverse impact on highway safety.

Conclusions on representations received

We have read all the representations received, and considered them as to whether or not they are dealing with matters that can and should legitimately be weighed in the balance when making a decision on a planning application (material considerations). We have concluded that many are not, as a matter of law, material considerations. We have concluded that others are capable of being material considerations but that as a matter of fact, are not relevant in this case (overlooking and overbearing impact). The remainder, which are material considerations in the case, do not in our view amount to anything that would outweigh the proposal's compliance with the Development Plan.

Overall conclusion

Our overall conclusion is that the officer recommendation not to revoke any of these permissions is the correct one.

Signed, on behalf of Trevor Roberts Associates

Date: 15 July 2009

A handwritten signature in black ink that reads 'Penny O'Shea'.

Penny O'Shea, Principal Director

Appendix E
Site A, City Gate Business Park, City Gate
Summary of 61 Applications
Not Advertised

Major Planning Applications Granted - Not Advertised in Local Press
Registered 13/07/2006 - 13/05/2009

Planning Control Committee						
Application Ref	Site Address	Proposal	Site Notice	Neighbours Notified	Representations	Decision Level
08/06/01272	Site of The Bungalow and adjoining land, Sinfin Moor Lane, Chellaston, Derby	Demolition of existing bungalow and outbuildings and erection of 20 dwelling houses	02/10/2006	Y	14	PLN
08/06/01319	Land to the south of Holmleigh Way, Chellaston, Derby	Erection of 5 office blocks incorporating 20 residential apartments	21/08/2006	Y	10	PLN
08/06/01288	Site of Elmhurst, Lonsdale Place, Derby	Residential development together with associated works	17/08/2006	Y	4	PLN
08/06/01299	Land at former Village Community School and adjacent 34 Kitchener Avenue, Derby	Erection of primary school and car parking area and various works to trees protected by tree preservation order 2004 no.395 (village community school, normanton) including felling of hawthorn, 2 ash, sycamore and horse chestnut trees (amendment to previously approved planning permission DER/08/06/01299)	21/08/2006	Y	3	PLN
08/06/01237	Site of 44 - 62 Goodsmoor Road, Sinfin, Derby	Erection of 42 dwelling houses and access road	17/08/2006	Y	0	PLN
09/06/01487	Site of TDG Novacold, Parcel Terrace, Derby	Residential development and complimentary retail floorspace (use class A1)	25/09/2006	Y	0	PLN
10/06/01619	Land fronting St. Benedicts School north of 201 Duffield Road, Derby	Erection of 24 dwelling houses and access road		Y	5	PLN
04/07/00682	Land north east of The Cock Pitt Car Park, The Cock Pitt, Derby	Erection of offices (block D - approval of reserved matters)	11/06/2007	N	0	PLN
05/07/00833	Lees Brook Community School, Morley Road, Chaddesden, Derby	Erection of vocational skills centre and construction centre	08/06/2007	Y	1	PLN
11/07/02123	Reservoir Site and 120 Huntley Avenue, Spondon, Derby	Residential development including demolition of dwelling at no. 120 for access	31/01/2008	Y	74	PLN
10/08/01542	Site of 59 Wilkins Drive, Allenton, Derby	Demolition of bungalow and erection of 20 apartments	12/01/2009	Y	15	PLN
					Total	11

Councillor Briefing Note

Application Ref	Site Address	Proposal	Site Notice	Neighbours Notified	Representations	Decision Level
10/06/01707	Land adjacent Testbed 57, Rolls Royce Plc, Wilmore Road, Derby	Alterations to test area and plant room (amendments in relation to planning permission DER/605/991)	09/11/2006	N	1	DEL
					Total	1

Representations Received - Support or Comment

Application Ref	Site Address	Proposal	Site Notice	Neighbours Notified	Representations	Decision Level
08/06/01337	Landau Forte College, Fox Street, Derby	Extension to college (classroom block)		Y	1	DEL
08/07/01586	Site A, City Gate Business Park, City Gate, Derby	Erection of residential care and treatment facility and formation of vehicular access	28/09/2007	N	1	DEL
09/07/01755	Former BOC Ltd, Raynesway, Derby	Erection of light and general industrial/warehouse units (use classes B1, B2 and B8)	31/10/2007	Y	1	DEL
12/07/02306	Site of Rodney House, Penalt Close, Allenton, Derby	Erection of 11 dwellings	31/01/2008	Y	1	DEL
07/08/00982	Rolls Royce plc, Raynesway, Derby	Erection of offices, lecture theatre, canteen, reception and associated car parking area	21/07/2008	N	1	DEL
09/08/01306	Dismantled Railway line adjacent Sir Frank Whittle Road, Derby	Formation of multi user trail	22/10/2008	Y	6	DEL
10/08/01529	Fire Station and Units at Windsor Court, Ascot Drive, Derby	Erection of fire station with training facilities, vehicular access and car parking including incorporation of additional land	16/01/2009	Y	1	DEL
					Total	7

Neighbour Notification - No Representations Received

Application Ref	Site Address	Proposal	Site Notice	Neighbours Notified	Representations	Decision Level
08/06/01287	Part of former Qualcast (Derby Foundries) Ltd, Victory Road, Derby	Change of use of buildings from B2 to use classes B1 (b)(c), B2 and B8 and erection of 2 buildings (use classes B1 (b)(c), B2 and B8)	21/08/2006	Y	0	DEL
08/06/01322	8-14 Hansard Gate, West Meadows Industrial Estate, Derby	Re-building of warehouse with additional offices and canopy.		Y	0	DEL
09/06/01416	Plots 1 -11, Phase 2, St. George's Development, (Radleigh Homes), Baslow Drive, Allestree, Derby	Substitution of house types (plots 1-11) of previously approved residential development (DER/106/138)	28/09/2006	Y	0	DEL
09/06/01431	Part of playing field at Rolls Royce Sports Centre adjacent Moor Lane, Allenton, Derby	Erection of healthy living centre	15/09/2006	Y	0	DEL
09/06/01456	Land to the west of Peak Drive, Derby	Erection of relocated dairy distribution depot (class B8), ancillary offices, staff facilities together with extension to spine road, car parking, landscaping and associated works (amendments to planning permission DER/1204/2419)	01/11/2006	Y	0	DEL
09/06/01447	Proposed Units 2 and 3, Plot D, Locomotive Way, Pride Park, Derby	Erection of 2 offices with associated car parking		Y	0	DEL
10/06/01563	Land adjacent entrance Gate 3A, Sinfin 'A' Site, Rolls Royce Plc, Victory Road, Derby	Erection of building for catering purposes for a temporary period of 2 years (oct 2008)	20/10/2006	Y	0	DEL
10/06/01565	Nottingham Road Fire Station, Nottingham Road, Derby	Erection of fire station including smoke house	20/10/2006	Y	0	DEL
10/06/01574	Site of 1238 - 1242 London Road, Alvaston, Derby	Erection of 2 retail units (amendment to previously approved application DER/506/807)		Y	0	DEL
09/07/01676	Site of retail unit between Sidney Robinson Business Park and B & Q Store, Ascot Drive, Derby	Erection of 4 retail units (use class a1)	31/10/2007	Y	0	DEL
11/07/02174	Land off Anglers Lane, Spondon, Derby	Erection of 11 industrial units (use classes B1, B2 and B8) and 2.4m high boundary fence	10/12/2007	Y	0	DEL
11/07/02139	Site of Tomlinson Court, Crewton Way, Alvaston, Derby	Demolition of Tomlinson court and erection of 38 apartments, communal facilities and car parking		Y	0	DEL
12/07/02258	770 London Road, Derby (YMCA)	Demolition of ymca building and erection of YMCA building with offices	21/01/2008	Y	0	DEL
11/08/01597	Rolls Royce Plc, Raynesway, Derby	Erection of offices, lecture theatre, canteen, reception and associated car parking area	21/11/2008	Y	0	DEL
		Page 3 of 6			Total	14

Site Notice only - No Representations Received

Application Ref	Site Address	Proposal	Site Notice	Neighbours Notified	Representations	Decision Level
07/06/01101	Land at Racecourse north-west of car park off St. Marks Road, Derby	Construction of artificial turf pitch, footpath, fencing and floodlighting	23/08/2006	N	0	DEL
07/06/01233	Plot 14C, Phase 3, Royal Scot Road, Pride Park, Derby	Erection of office/industrial units (b1)	16/08/2006	N	0	DEL
10/06/01570	Plots 400 and 550 Ascot Business Park, Longbridge Lane, Derby	Erection of industrial warehouse and ancillary offices (B2/B8)	05/10/2006	N	0	DEL
11/06/01842	Webbes International, Racecourse Industrial Park, Mansfield Road, Derby	Extension to storage units	06/12/2006	N	0	DEL
01/07/00140	Office Campus Site, The Point, Locomotive Way, Pride Park, Derby	Erection of training centre	05/02/2007	N	0	DEL
03/07/00625	Proposed units 2 - 9, Plot 8, Jubilee Business Park, Stores Road, Derby	Erection of industrial units	21/05/2007	N	0	DEL
05/07/00844	Severn Trent Water, Megaloughton Lane, Spondon, Derby (Derby Sewage Treatment Works)	Erection of sludge drier building, dry product outlet building and 8 kiosks	11/05/2007	N	0	DEL
06/07/01058	Land, Locomotive Way, Derby (Fmr Bombardier site)	Erection of offices (reserved matters to outline permission der/05/06/00859)	11/07/2007	N	0	DEL
06/07/01182	Pride Parkway, Derby	Substitution of house types (plots 147, 149, 152,153,157,161, 164, 165, 166 change house type from cranmore to willerby, plots 143, 144, 145, 154, 155, 167 change house type from selkirk to Ravenfield)	12/07/2007	N	0	DEL
06/07/01206	Land south of Roundhouse Road, Pride Park, Derby (Part of The Point Development)	Erection of hotel	07/09/2007	N	0	DEL
06/07/01232	Site of Former Derwent Service Station, London Road, Derby	Erection of 3 units for mixed uses, including wholesale (b8), vehicle maintenance and for the display and sale of goods.	27/07/2007	N	0	DEL
06/07/01234	Plot 250 Ascot Business Park, Longbridge Lane, Derby	Erection of industrial unit (use class B2/B8) and closure of existing access	06/07/2007	N	0	DEL
07/07/01280	650 City Gate Business Park, City Gate, Derby (Kaydee Blinds)	Erection of 2 industrial units	22/10/2007	N	0	DEL
07/07/01446	Rolls Royce Marine, Raynesway, Derby	Formation of access roads and car parking area (amendments to details approved under code no DER/1206/2065)	08/08/2007	N	0	DEL

Application Ref	Site Address	Proposal	Site Notice	Neighbours Notified	Representations	Decision Level
08/07/01662	2 - 6 Hansard Gate, West Meadows Industrial Estate, Derby	Extension to warehouse	27/09/2007	N	0	DEL
10/07/02026	Plot 8000, Stanier Way, Derby	Erection of building for business (class B1) use	07/11/2007	N	0	DEL
11/07/02148	8-14 Hansard Gate, West Meadows Industrial Estate, Derby (Capital Self Storage)	Extension to warehouse (office and canopy)	28/11/2007	N	0	DEL
01/08/00073	Site of builders yard and land to west of Wincanton Close, Derby	Erection of industrial and storage units (use classes B1 and B8)	27/06/2008	N	0	DEL
02/08/00273	Land north of Alvaston By-pass and east of Raynesway, Derby	Infrastructure works, bridge, formation of access, parking and landscaping pursuant to outline planning permission DER/10/05/01719.	14/05/2008	N	0	DEL
02/08/00293	Plots 123-126, 129-132 and 137-140, City Point Development Phase B (Barratt Homes), Derby	Substitution of house types and amendment to highway details.	08/05/2008	N	0	DEL
04/08/00557	Proposed Unit L, Phase 2, Raynesway East Development, off Raynesway, Derby	Erection of units for business (use class B1) general industrial (use class B2), storage and distribution (use class B8), employment uses and 2 car showrooms, associated infrastructure, bridge, formation of access, parking and landscaping	05/06/2008	N	0	DEL
05/08/00700	Rolls Royce Marine, Raynesway, Derby	Erection of a detached two-storey building and a detached single-storey building to form office and energy centre and relocation of motor cycle and cycle shelters	14/05/2008	N	0	DEL
06/08/00867	Site of Dunelm Mill Store, Ascot Drive, Derby	Erection of retail unit (use class a1) and formation of vehicular accesses	20/08/2008	N	0	DEL
06/08/00916	Land north of A6 Alvaston Bypass and South of River Derwent, Derby,	Erection of unit 'H' for B1, B2 or B8 purposes with associated parking landscaping, workshop and sub-station (between units L and N).	07/07/2008	N	0	DEL
07/08/01022	Land at Pentagon House, Stores Road, Derby	Erection of offices and formation of car parking area	08/08/2008	N	0	DEL
08/07/01502	Site of Locomotive Works off Roundhouse Road and, Locomotive Way, Pride Park, Derby	Erection of offices and formation of car parking area (reserved matters under outline permission DER/0506/0859)	06/09/2007	N	0	DEL
10/08/01419	Office Village Phase 2, The Point, Locomotive Way, Pride Park, Derby	Erection of offices	15/10/2008	N	0	DEL
					Total	27

No Neighbour Notification or Site Notice - No Representations Received						
Application Ref	Site Address	Proposal	Site Notice	Neighbours Notified	Representations	Decision Level
08/08/01177	Raynesway, north of the Alvaston By-Pass and north of the river within Acetate Products' works.	Erection of building for storage and distribution (use class b8) and associated infrastructure		N	0	DEL
					Total	1