

INDEX

Planning Control Committee 17 January 2008

Code No	Location	Item No	Page No	Proposal	Recommendation
DER/10/07/01873	Land at 25 Chatsworth Crescent, Allestree	B1 1	1-4	Erection of two dwellings and detached garages	To grant planning permission with conditions
DER/10/07/01950	Land west of 20 Medway Drive, Allestree	B1 2	5-9	Erection of dwelling house	To approve reserved matters with conditions
DER/10/07/01988	Land at 32 Morley Road, Chaddesden	B1 3	10-15	Residential development, 5 dwelling houses, 3 flats and formation of access	To grant outline planning permission with conditions
DER/10/07/01934	Land at rear and side of 156 Station Road, Mickleover	B1 4	16-20	Residential development (one dwelling house)	To grant outline planning permission with conditions
DER/10/07/01980 & DER/10/07/01981	Former Police Station and Magistrates Court, Full Street/Derwent Street	B1 5	21-36	Erection of 74 apartments, offices (Use Class B1) and commercial uses (A1, A2, A3 and A4), associated basement car parking, alterations to vehicular access and conversion of Magistrates Court to form 51 apartments and residents gym	<p>DER/10/07/01980</p> <p>To authorise the Assistant Director – Regeneration to negotiate the terms of a Section 106 Agreement to achieve the objectives set out in 11.5 and to authorise the Director of Corporate Services to enter into such an agreement.</p> <p>B. To authorise the Assistant Director – Regeneration to grant planning permission on the conclusion of the above agreement, with conditions.</p> <p>DER/10/07/01981 – To grant Listed Building Consent with conditions</p>

INDEX (cont'd)

Code No	Location	Item No	Page No	Proposal	Recommendation
DER/09/07/01793	Site of former BMW car showroom, King Street	B1 6	37-51	Erection of hotel, 89 apartments, casino, restaurant/bar (Use Class A3) and car parking.	<p>A. To authorise the Assistant Director – Regeneration to negotiate the terms of a Section 106 Agreement to achieve the objectives set out in 11.5 and to authorise the Director of Corporate Services to enter into such an agreement.</p> <p>B. To authorise the Assistant Director – Regeneration to grant planning permission on the conclusion of the above agreement, with conditions.</p> <p>C. If the applicant fails to sign the Section 106 Agreement by the expiry of the 13-week target period 21 February 2008) consideration be given in consultation with the Chair, to refusing the application.</p>
DER/11/07/02079	Cathedral Road (Former Sixth Kenning Car Hire)	B1 7	52-58	Erection of offices (Use Class B1) and restaurant/café (Use Class A3)	<p>A. To authorise the Assistant Director – Regeneration to negotiate the terms of a Section 106 Agreement to achieve the objectives set out and to authorise the Director of Corporate Services to enter into such an agreement.</p> <p>B. To authorise the Assistant Director – Regeneration to grant planning permission on the conclusion of the above agreement, with conditions.</p>
DER/11/06/01809	Appeals	D2 1	59-62	Various	To note the report.

B1 APPLICATIONS (cont'd)

1 Code No: DER/10/07/01873

Type: Full

1. **Address:** Land at 25 Chatsworth Crescent, Allestree
2. **Proposal:** Erection of two dwellings and detached garages
3. **Description:** This application relates to a residential property, with a generous curtilage, which occupies a corner position on Chatsworth Crescent, Allestree. It has a traditional 1930's semi-detached dwelling, with later flat roof extensions on the side elevation. The site is within a long established residential area, characterised by detached and semi-detached dwellings. There is an area of public open space abutting the western boundary.

It is proposed to demolish the later extensions to the existing dwelling and erect a pair of semi-detached dwellings, with detached garages. A separate detached single garage for the existing dwelling would also be erected. The vehicle access onto Chatsworth Crescent would be widened and extended to form new driveways for each new dwelling and the existing dwelling. The residential proposal would be of a traditional symmetrical form and design, with hipped roofline and casement style window openings, to reflect the 1930's style of dwelling in the local area. The building footprint would be 10.7 metres wide and 8.2 metres deep and sited about 16 metres back from the street frontage behind the existing building line. The garages would be of a single type, 5.4 metres x 2.8 metres in area, with a gable roofline, 3.5 metres high. They would be positioned to the rear of the new dwellings.

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

5. **Implications of Proposal:** None.

5.1 **Economic:** Not applicable.

5.2 **Design and Community Safety:** The development would form a pair of traditional style semi-detached dwellings, between a continuous row of period dwellings of similar scale and appearance. The proposal would be in keeping with the character of the surrounding residential area.

There would not be any adverse community safety implications arising from this proposal.

5.3 **Highways:** The development would have no detrimental highway implications. No objections raised.

5.4 **Disabled People's Access:** The proposed dwellings would have a degree of accessibility through compliance with Building Regulations.

B1 **APPLICATIONS** (cont'd)

1 **Code No:** DER/10/07/01873

5.5 Other Environmental: The curtilage is mainly lawn with ornamental planting. There is a dense group of large trees on the adjacent open space, close to the western boundary.

6. **Publicity:**

Neighbour Notification letters	8	Site Notice	
Statutory press advert and site notice		Discretionary press advert and site notice	
Other			

7. Representations: Seven letters of objection have been received and copies will be available in the Members' Room. The main issues raised are as follows:

- the proposal would generate additional traffic and parking on the street, increasing congestion and undermining highway safety
- the access is awkward and on a blind bend
- there would be loss of light to and overlooking of neighbouring dwellings
- the development would be detrimental to the character of the surrounding residential area
- it would disrupt the tranquillity and quiet of the locality.

8. **Consultations:**

DofES Arboricultural – no objections to proposal. Limited shading may occur from trees on the adjacent open space, although the impact would not be significant.

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

- GD4 - Design and urban environment
- GD5 - Amenity
- H13 - Residential development – general criteria
- E10 - Renewable energy
- E23 - Design
- T4 - Access and parking

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

B1 APPLICATIONS (cont'd)

1 Code No: DER/10/07/01873

- 10. Officer Opinion:** The proposed residential development would be a modest scheme on an infill plot within a traditional residential area. The site is a relatively large garden where there is scope for a more intensive form of residential use in line with the objectives of Policy H13 and PPS 3 (Housing). Two new dwellings would be formed within a continuous built up frontage and the proposal would amount to a more efficient use of land in this location. In policy terms the principle of residential development on this site would be acceptable, subject to the normal design and amenity issues.

The design and form of the proposed dwellings and garages would take reference from the traditional style of domestic architecture in the local streetscene. A pair of semi-detached dwellings would be in keeping with the character of residential properties in the surrounding area. They would be set back from the street frontage, behind the existing row of dwellings and as such they would be partially obscured from Chatsworth Crescent. The garages would be sited towards the rear of each plot, which also reflects the layout of residential properties in the local area. They would be served off the existing access point onto Chatsworth Crescent. The development would be wholly in keeping with the character and appearance of this suburban context and fit in satisfactorily into the streetscene.

A high quality living environment would be formed for the occupants and the amenities of nearby dwellings would not be unreasonably affected by the proposal. The new dwellings would be sited towards the rear of the adjacent properties, although there would not be significant potential for overlooking of these properties, due to the orientation and siting of the development. The massing and scale of the development would not be unduly oppressive and loss of light to existing dwellings would be limited. A satisfactory relationship with neighbouring properties would be achieved and as such residential amenities would not be particularly undermined.

The likely traffic generation from 2 three bedroom dwellings would be very limited and would not lead to undue congestion on Chatsworth Crescent. The proposed and existing dwellings would be provided with ample off-street parking, which would meet the maximum car parking standard for this type of development. Highway safety in the local area, should not therefore be undermined.

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

11.1 To grant permission with conditions.

B1 APPLICATIONS (cont'd)

1 Code No: DER/10/07/01873

11.2 Summary of reasons: The proposal has been considered in relation to the provisions of the adopted City of Derby Local Plan Review and all other material considerations as indicated in 9 above. The proposal would be an appropriate form of residential development, which would be in keeping with the appearance and character of the local streetscene.

11.3 Conditions

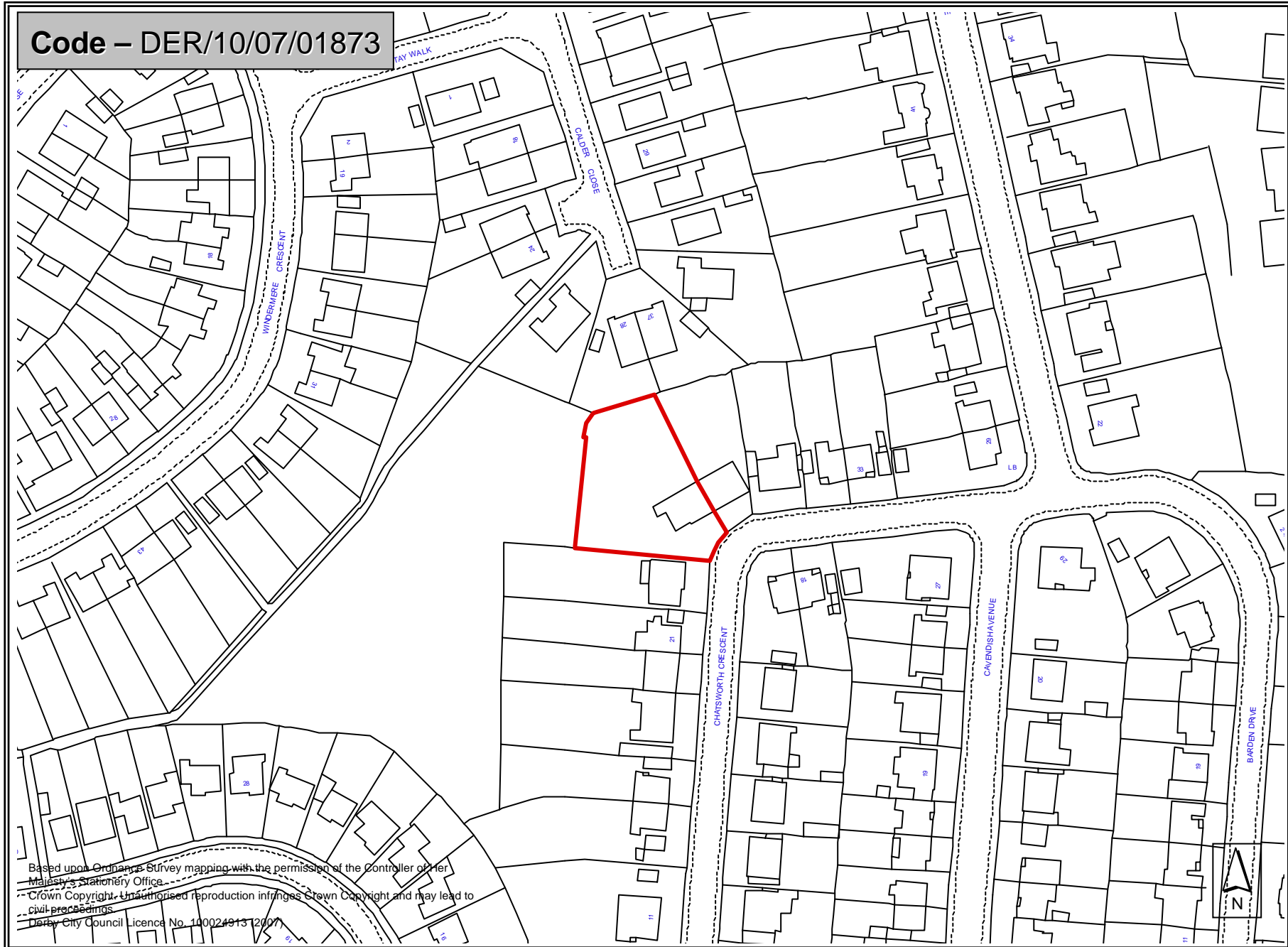
1. Standard condition 27 (external materials)
2. Standard condition 19 (means of enclosure)
3. Standard condition 30 (hardsurfacing)
4. Standard condition 20 (landscaping)
5. Standard condition 22 (landscaping maintenance - condition 4)
6. Standard condition 104 (energy consumption)
7. Standard condition 38 (surface and foul drainage)

11.4 Reasons

1. Standard reason E14...policies H13 and E23
2. Standard reason E09...policy H13
3. Standard reason E21
4. Standard reason E09...policy E23
5. Standard reason E09...policy E23
6. Standard reason E51...policy E10
7. Standard reason E21

11.5 S106 requirements where appropriate: None.

Code – DER/10/07/01873



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B1 APPLICATIONS (cont'd)

2 Code No: DER/10/07/01950

Type: Reserved matters

1. **Address:** Land west of 20 Medway Drive, Allestree
2. **Proposal:** Erection of a dwelling house
3. **Description:** This is a reserved matters application following an outline permission, which was granted for erection of one dwelling in 2006. It relates to a modest infill plot, which was part of the curtilage of a residential property at 20 Medway Drive, Allestree. It is a narrow and sloping site, with a lengthy frontage abutting Spenbeck Drive, which has been separated from the existing dwelling. There is a mature hedge along the highway boundary, approximately 30 metres long, which is an important feature of the site. The site lies within a post-war housing estate, comprising mainly detached dwellings. The outline permission secured a means of vehicular access onto Spenbeck Drive by formation of a gap in the boundary hedge.

Reserved matters approval is sought for erection of a four bedroom dwelling, with integral single garage. The proposal would be a two storey dwelling, of a simple rectangular form, with gable roofline and projecting gable to the front elevation. It would have a footprint up to 14.8 metres long and 9 metres wide. The built form would face onto Spenbeck Drive, with a driveway to the front of the dwelling. A small private garden would be formed to the north of the dwelling and the existing boundary hedge would be maintained, except for a gap approximately 5 metres wide to be formed for the vehicle access.

4. **Relevant Planning History:**

DER/06/07/01257 – Reserved matters for erection of dwelling house, Refused – August 2007.

DER/06/06/01068 – Outline application for erection of dwelling, Granted – August 2006.

5. **Implications of Proposal:**

5.1 **Economic:** None.

5.2 **Design and Community Safety:** The proposed dwelling would be of a scale and design, which reflects the character of existing post war dwellings in the surrounding residential area. It would be prominent and sited in close proximity to the Spenbeck Drive frontage.

There would be no adverse community safety implications arising from this proposal.

B1 APPLICATIONS (cont'd)

Code No:

- 5.3 Highways:** The proposed development would not have detrimental implications for the local highway. No objections raised.
- 5.4 Disabled People's Access:** The new dwelling would have a degree of accessibility through compliance with Building Regulations.
- 5.5 Other Environmental:** The former garden is primarily lawned with ornamental planting. There is a mature hedge along the western boundary, which would be largely retained and managed as required by a condition of the outline permission.

6. Publicity:

Neighbour Notification letter	36	Site Notice	
Statutory press advert and site notice		Discretionary press advert and site notice	
Other			

- 7. Representations:** Fifteen letters and e-mails have been received, thirteen raising objections to the proposal. Copies will be available in the Members Room. The main issues raised are as follows:
- The scale and size of the proposed dwelling would not be in keeping with the character of properties in the surrounding area
 - The plot appears to be smaller than shown on the proposed drawings
 - There would be potential harm to existing trees and hedgerow on the site
 - The steepness of the slope across the site would result in drainage problems and require retaining walls around the dwelling
 - There would be no turning space available and vehicles reversing onto Spenbeck Drive would cause a traffic hazard on the local highway.
 - The height of the dwelling would be higher than indicated on the outline plans and would reduce outlook and daylight for nearby properties.
 - There would be a loss of privacy for neighbouring dwellings.

B1 APPLICATIONS (cont'd)

Code No:

8. **Consultations:** None.

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

- GD4 - Design and urban environment
- GD5 - Amenity
- H13 - Residential development – general criteria
- E10 - Renewable Energy
- E23 - Design
- T4 - Access and parking

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

10. **Officer Opinion:** This proposal for erection of a two storey dwelling follows refusal of permission for a previous scheme for a building with a larger footprint, earlier in the year. The principle of residential development on the site has already been established by the outline permission, which was granted in 2006. The erection of a single dwelling served by a new vehicle access onto Spenbeck Drive was agreed under the outline approval. The position of the access, at the southern end of the site, formed by making a gap in the boundary hedge was secured under this approval. The site is therefore considered appropriate as an infill plot, for a single dwelling, under Policy H13, subject to details of design and layout being satisfactory. The earlier reserved matters application, was refused due to concerns about an unduly cramped development, which would dominate the local streetscene and result in the loss of part of the mature hedge, because of proximity of the development to the boundary. There were also concerns about loss of light and massing to the front elevation of 20 Medway Drive.

The current proposal has addressed these issues satisfactorily by reducing the footprint and overall scale of the dwelling, which would result in the front elevation being set in about 3 metres from the Spenbeck Drive frontage and 2 metres from the mature boundary hedge. The height and scale of the integral garage with bedroom over has also been reduced, which would give a more subordinate and proportionate appearance and would lessen the massing and loss of light impact on the adjacent dwelling at 20 Medway Drive. Although the plot is constrained in size and layout, it is capable of accommodating a reasonable scale of development, similar to that proposed. The design and form of the proposed dwelling would reflect the style of residential properties in the locality and the scale would be in keeping with that of existing dwellings nearby. The plot is shallow in depth, with a wide frontage onto Spenbeck Drive and as such any built form would appear

B1 APPLICATIONS (cont'd)

Code No:

close to the streetscene. However, the proposed dwelling would not appear unduly dominant or overbearing from Spenbeck Drive, since it would be sited about 1.5 metres below the road level and partially screened by the mature hedge to be retained on the western boundary.

The current proposal would achieve a satisfactory living environment for future occupants, with a modest private garden space to the side of the dwelling. The boundary hedge is a substantial feature, which would be maintained with adequate clearance from the development. A condition on the outline permission secured its retention and management, due to its considerable amenity value in the local streetscene. The hedge would also provide some privacy for the future occupants.

The amenities and living conditions of the nearby dwellings surrounding the site would not be unreasonably affected by the proposal. The south facing windows of the adjacent dwelling at 20 Medway Drive would not see undue massing effect or loss of daylight from the garage annex of the proposal, which would be in close proximity to the site boundary. The habitable room windows of the proposed dwelling would all be orientated towards the north and west, of the site, which would avoid excessive loss of privacy to neighbouring dwellings. The normal distance standards for habitable room windows would be more than adequately met for this development. Adjacent properties on Spenbeck Drive would not be particularly adversely affected in terms of massing or overlooking impact. Overall, the residential amenities of nearby dwellings would not be significantly undermined.

The proposed access arrangements were agreed under the outline permission and two off-street parking spaces would be provided for the dwelling. There would be very limited traffic generation arising from this development and there would be a minimal impact on highway safety on local roads. The lack of turning facilities on the site, is not considered to be a significant highway consideration for this location.

11. Recommended decision and summary of reasons:

11.1 To approve reserved matters with conditions.

11.2 Summary of reasons: The proposal has been considered in relation to the provisions of the City of Derby Local Plan Review and all other material considerations as indicated in 9 above. The proposal would be an appropriate form of residential development, which would be in keeping with the appearance and character of the local streetscene.

B1 APPLICATIONS (cont'd)

Code No:

11.3 Conditions

1. Standard condition 27 (external materials)
2. Standard condition 19 (means of enclosure)
3. Standard condition 30 (hardsurfacing)
4. Standard condition 20 (landscaping)
5. Standard condition 22 (landscaping maintenance- Cond 4)
6. Standard condition 104 (energy consumption)

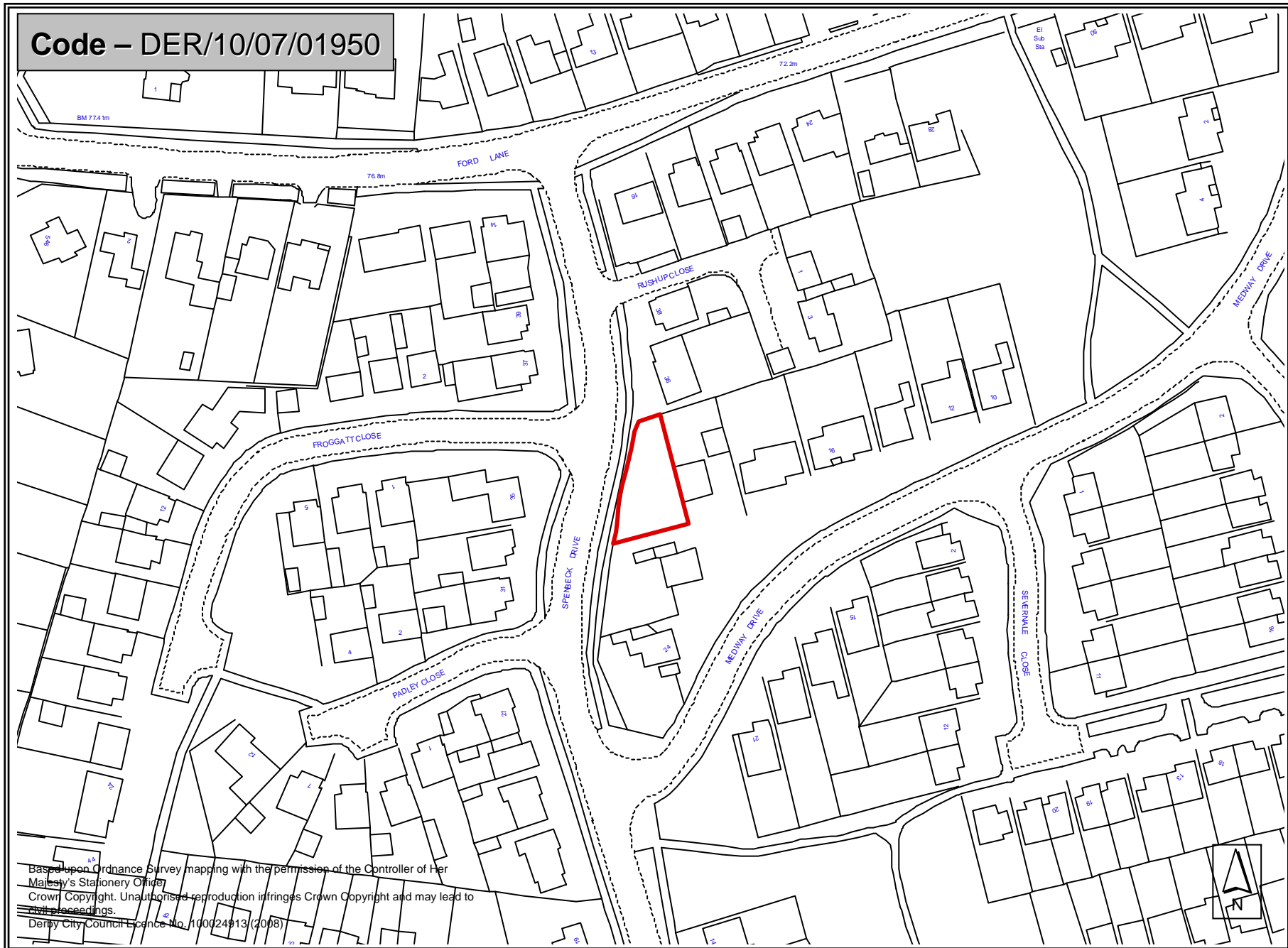
7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order), no additional windows or door openings shall be formed on the south facing elevations of the dwelling, facing towards 22 Medway Drive, without prior approval in writing from the Local Planning Authority.

11.4 Reasons

1. Standard reason E14 ... Policy H13 & E23
2. Standard reason E09 ... Policy H13
3. Standard reason E21
4. Standard reason E09 ... Policy E23
5. Standard reason E09 ... Policy E23
6. Standard reason E51 ... Policy E10
7. Standard reason E07 ...Policy H13 & GD5

S106 requirements where appropriate: None.

Code – DER/10/07/01950



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B1 APPLICATIONS (cont'd)

3 Code No: DER/10/07/01988

Type: Outline (with
Layout and
Means of
Access)

1. **Address:** Land at 32 Morley Road, Chaddesden
2. **Proposal:** Residential development – 5 dwelling houses, 3 flats and formation of access
3. **Description:** This application relates to a residential property with an extensive curtilage on the south side of Morley Road, Chaddesden. It has a modest, hipped roof bungalow with a substantial side and rear garden and various native and fruit trees. The site is relatively level and falls slightly to the rear boundary, where it abuts Lees Brook. The site is surrounded by a mix of residential properties, including period cottages and post-war housing and bungalows. There is a pattern of traditional dwellings with long narrow curtilages to adjacent properties on Morley Road.

Outline permission is sought for residential development, comprising 5 detached dwellings and a group of 3 flats. The proposed layout and means of access are to be determined under this application. The proposal would involve demolition of the existing bungalow and garage and redevelopment of the site. A new vehicular access and service road would be formed off Morley Road to serve all of the units. There would be a dwelling house facing onto Morley Road and two storey and single storey flat accommodation to be sited behind a group of protected Lime trees alongside the northern boundary. The 3 flats would be provided with 5 private parking spaces. The other 4 detached dwellings would be arranged around the access road and turning head.

4. **Relevant Planning History:** DER/06/07/01089 – Outline application for erection of 5 dwellings and 4 flats with associated access road, Withdrawn – August 2007.
5. **Implications of Proposal:**
 - 5.1 **Economic:** None.
 - 5.2 **Design and Community Safety:** An appropriate form of residential development could be accommodated on the site, with a traditional cul-de-sac layout. It would be in keeping with the general appearance and density of the surrounding residential area.

B1 APPLICATIONS (cont'd)

3 Code No: DER/10/07/01988

There would be no adverse community safety implications from the proposed development.

5.3 **Highways:** There are no objections to the overall parking and access arrangements, subject to the following comments:

- 6 metre standing space is required for 3 of the dwellings
- The access would have satisfactory visibility, although existing speed humps and bus stop would need to be repositioned at the expense of the applicant
- The proposed turning head for the access road requires amending to accommodate refuse vehicles.

An amended site layout has been received to address these issues. Any further highway comments will be reported to meeting.

5.4 **Disabled People's Access:** The dwellings would provide a degree of accessibility under Building Regulations.

5.5 **Other Environmental:** The site is a neglected garden with a mixed group of native trees located primarily around the perimeter and a group of 5 mature Lime trees along the north boundary with Morley Road, which are protected by a Tree Preservation Order. A group of trees in the southern part of the site have already been removed.

6. Publicity:

Neighbour Notification letter	23	Site Notice	
Statutory press advert and site notice		Discretionary press advert and site notice	
Other			

7. Representations: Thirteen objections have been received to the proposal and copies will be available to view in the Members Room. The main issues raised are as follows:

- The traffic generation from the development would increase dangers for users of Morley Road and the surrounding highways, including school children
- There have already been residential developments of garden land in the local area, which have detracted from the surrounding

B1 **APPLICATIONS** (cont'd)

3 **Code No:** DER/10/07/01988

streetscene

- Flats would not be in keeping with the appearance and character of the residential area
- An existing culvert through the site would worsen drainage problems and flooding of the locality as a result of the development
- The speed humps are in a narrow part of Morley Road and lead to traffic problems
- There is concern about loss of trees and other vegetation on the site.

8. **Consultations:**

EA – no objections to the proposed development, subject to drainage conditions.

Arboricultural – no objections to the principle of the residential development. Protective fencing should be provided around the Lime trees at the outset of development as indicated on the Tree Protection Plan. Other trees on the site indicated for retention have not been fully surveyed so the impact of the development cannot be fully assessed. A method statement for construction and treatment of existing driveway, where they affect the trees to be retained should be submitted for approval. Future conflict may arise between the proposed apartments and the protected trees and the building footprint should therefore be relocated further south.

Police – no objections to principle of development or the proposed layout.

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

- GD3 - Flood protection
- GD4 - Design and the urban environment
- GD5 - Amenity
- H13 - Residential development – general criteria
- E9 - Trees
- E10 - Renewable energy
- E23 - Design
- T4 - Access and parking

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

B1 APPLICATIONS (cont'd)

3 Code No: DER/10/07/01988

- 10. Officer Opinion:** This residential property has a large curtilage, which is relatively level and is suitable for a more intensive form of residential development. The curtilage is more extensive than other nearby properties in the surrounding area and could satisfactorily accommodate the proposed layout of dwelling houses and flats. In principle, the development of the site for residential use would be appropriate, in line with the objectives of PPS 3(Housing) and Policy H13. The proposal would amount to a more efficient use of land and a high quality residential layout would be provided. The development would be served directly off Morley Road, which is a bus route and an accessible location. In policy terms, the proposed redevelopment of the site for 8 dwellings and flats would be acceptable. The mix of different house types is a matter for the applicant and subject to a satisfactory living environment being formed, there are considered to be no planning grounds for favouring one type of residential use over another in this urban location.

Details of design and external appearance would be reserved for a future application, although siting and layout is to be determined as part of this proposal. The proposed residential layout would form a self-contained development served off a short access road. It would have a traditional appearance and take reference from other housing developments in the local area. The proposed building footprints would be in keeping with the scale and character of existing dwellings in the streetscene. Overall, the proposed layout and density would tie in with the general character and appearance of the surrounding residential area.

The potential traffic generation of 5 dwellings and 3 flats would not have a significant impact on Morley Road, which is relatively straight on this stretch. The Council's Highways Officer has not raised any objections to the additional traffic flows and servicing arrangements, subject to some minor amendments to the proposed access road. The speed humps and bus stop would need to be relocated and this would be secured by a condition of any planning permission.

Numerous trees on the site are indicated for retention, including the group covered by a Tree Preservation Order. The trees indicated for retention, other than those which are protected, were assessed for protection, although they were not of adequate quality or visual merit. All the trees would be subject to a landscaping scheme, which would be required as part of any reserved matters application. A tree protection scheme has been submitted for the Lime trees along the north boundary, which would satisfactorily provide for their protection during construction. Some concerns have been expressed about potential future conflict with daylight to the proposed apartments, although the

B1 APPLICATIONS (cont'd)

3 Code No: DER/10/07/01988

trees would be at least 7 metres from the built form. I am satisfied that on balance there would be a satisfactory relationship with the protected trees, since window arrangement and internal orientation of the apartments can be determined at the reserved matters stage.

11. Recommended decision and summary of reasons:

11.1 To grant outline permission with conditions.

11.2 Summary of reasons: The proposal has been considered in relation to the provisions of the City of Derby Local Plan Review and all other material considerations as indicated in 9 above. The proposal would be an appropriate form of residential development, which would be in keeping with the appearance and character of the local streetscene.

11.3 Conditions

1. Standard condition 01 (outline – except for siting and details of access)
2. Standard condition 02 (time limit)
3. Standard condition 09A (amended drawing received 20 December 2007)
4. Standard condition 30 (hardsurfacing)
5. Standard condition 38 (drainage)
6. Standard condition 24 (Protection of vegetation)
7. The scheme of protection required under Condition 6 shall also include a method statement for construction of the access road and the removal of the existing driveway, where they encroach into the root protection areas of the trees indicated to be retained and should be implemented in accordance with such approved details.
8. This permission shall not imply approval for more than 9 dwellings on the site.
9. Before development commences, the traffic restraint measures and bus stop on Morley Road, located adjacent to the proposed access shall be repositioned in accordance with details to be submitted and agreed in writing by the Local Planning Authority.
10. Standard condition 104 (energy consumption)

B1 APPLICATIONS (cont'd)

3 Code No: DER/10/07/01988

11. The existing vehicular access to the site made redundant as a result of this development shall be returned to footway specification in accordance with a scheme to be agreed with the Local Planning Authority. The agreed scheme shall be implemented in the entirety within 6 months of the development hereby approved, being commenced.

11.4 Reasons

1. Standard reason E01
2. Standard reason E02
3. Standard reason E04
4. Standard reason E21 ...Policy T4
5. Standard reason E21 ...Policy H13
6. Standard reason E24 ...Policy E9
7. Standard reason E24 ...Policy E9

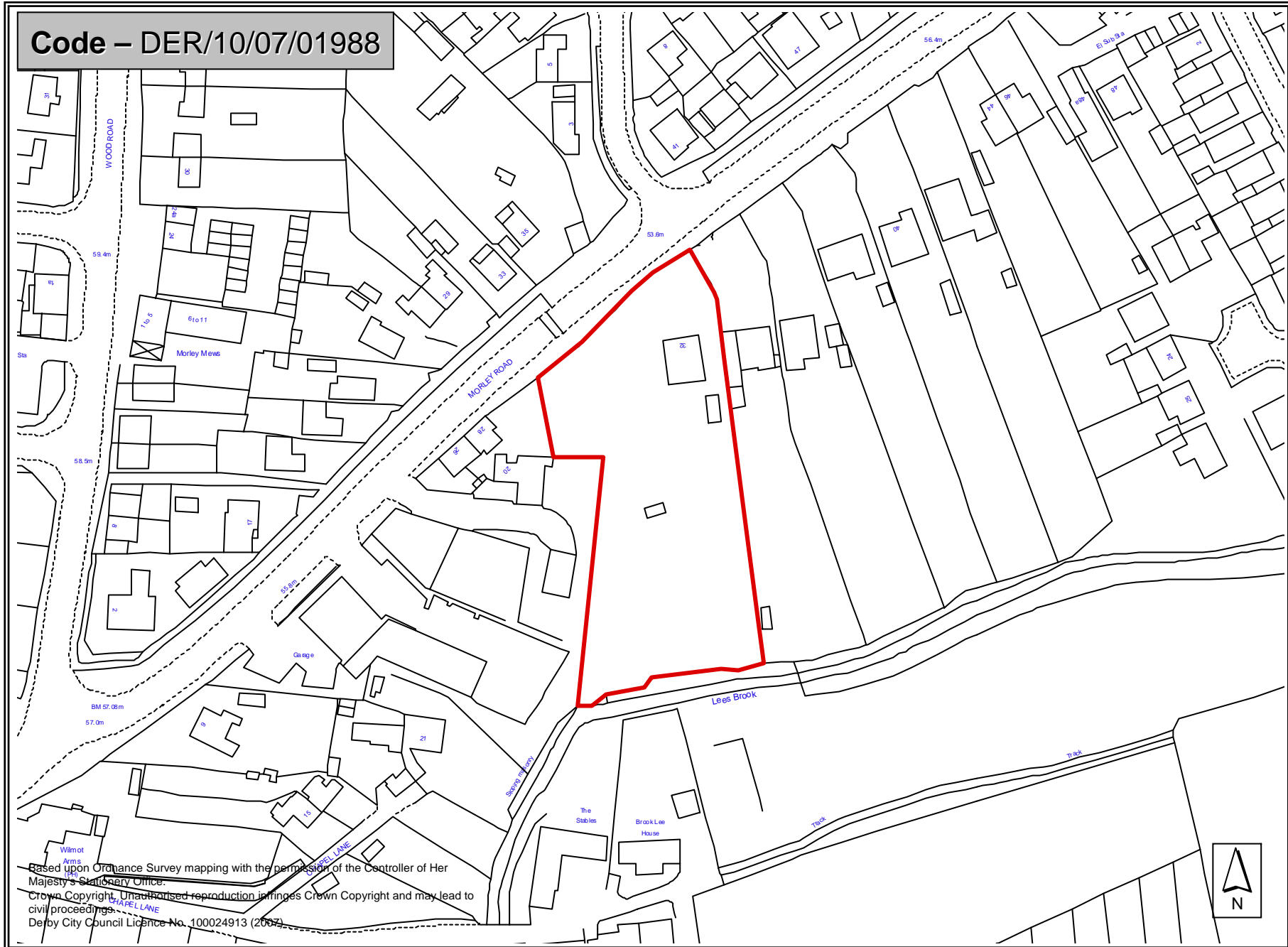
8. To ensure that the development would not generate contributions, which would need to be secured by a Section 106 Agreement.

9. To enable the development to be implemented, without undermining highway safety in the local area ...Policy T4

10. Standard reason E51
11. To minimise danger for pedestrians and in the interests of traffic safety ...Policy T4

11.5 S106 requirements where appropriate: None.

Code – DER/10/07/01988



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B1 APPLICATIONS (cont'd)

4 Code No: DER/10/07/01934

Type: Outline, with
Layout and
Means of
Access details

1. **Address:** Land at rear and side of 156 Station Road, Mickleover
2. **Proposal:** Residential Development (one dwelling house)
3. **Description:** This outline application seeks permission for the erection of one dwelling house, on land to the rear of No. 156 Station Road, Mickleover. The area is predominantly residential in character, and the adjacent property (No. 154) is a two storey dwelling house. To the north of the site is an area of grass (highway land) that contains a number of good quality mature trees and a footway. Access to the application site would be between Nos. 154 and 156 Station Road.

No. 156 itself is used as a chiropractic clinic (permission was granted in September 2005 under Code DER/07/05/01171). The area to the front of the property is used for surface car parking. Although the application, is in outline, details of the form of access and layout (position of house and double garage) are also submitted. The proposed two storey house would be to the rear of the site, some 10 metres from the rear boundary. The proposed double garage would be positioned alongside but just to the rear of No. 154 Station Road. It is understood that the existing clinic use at No. 156 will continue as before.

4. Relevant Planning History:

DER/01/07/00089 – Residential Development (one dwelling house) – refused. Appeal dismissed September 2007.

DER/07/05/01171 – Change of use from residential dwelling to Chiropractic Clinic (DI) – granted September 2005.

5. Implications of Proposal:

5.1 Economic: None.

5.2 Design and Community Safety: The application is in outline only, and these elements will be considered at Reserved Matters stage.

5.3 Highways: Adequate space will be required to turn a vehicle around, so that it enters the highway in a forward motion. Adequate bin storage is required adjacent to the highway.

B1 APPLICATIONS (cont'd)

4 Code No: DER/10/07/01934

5.4 Disabled People's Access: Will be secured through the Building Regulations at the Reserved Matters stage.

5.5 Other Environmental: None.

6. Publicity:

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

7. Representations: I have received 25 letters of objection to this proposal, and these are available in the Foyer. The main points raised by the objectors are:

- Sets a poor precedent for the locality
- Spoils character of the area
- Poor living conditions for future occupants
- Loss of residential amenity
- Loss of privacy
- Impact on pedestrian and vehicle safety
- Noise and disturbance
- Burden on utilities and services
- Applicant does not live on-site

Any further representations will be reported at the meeting.

8. Consultations:

Env Services (Trees) – no objection, on the basis that the Silver Birch is to be retained. The applicant has confirmed this.

9. Summary of policies most relevant: CDLP Review Policies:

- GD4 - Design and the Urban Environment
- GD5 - Amenity
- H13 - Residential Development – General Criteria
- E23 - Design
- T4 - Access, parking and servicing

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

B1 APPLICATIONS (cont'd)

4 Code No: DER/10/07/01934

- 10. Officer Opinion:** Members may recall that the previous proposal (DER/01/07/00089) for a very similar scheme was refused permission, under delegated powers for the following reason:

“The development of this land for residential purposes would give rise to additional vehicular and pedestrian movements adjacent to the boundary with No. 154 Station Road, and would be seriously detrimental to the amenities of the residents of that property by reason of the noise and general disturbance generated. In addition the proposal would represent the erection of a house in isolation, and would be a form of development out of keeping with the established character of the surrounding locality. It would therefore, be contrary to the provisions of policies H13, GD4 and GD5 of the adopted City of Derby Local Plan Review.”

At the subsequent appeal, the Inspector chose to dismiss the appeal and his report is reproduced for members attention. I would however, draw members attention to paragraph 7 where the Inspector makes the following point:

“Any noise and disturbance from the proposed development to 154 Station Road would be that associated with the garage door opening, a car being parked and its former occupants walking from the garage to the house. This would create a limited, low level of noise and disturbance, from time to time. It is likely that it would not be particularly noticeable during the clinic’s opening hours, when the kind of domestic activity is quite normal and is generally acceptable in residential areas. I conclude that the proposed development would not harm neighbours’ living conditions, and in this respect would not conflict with Policy GD5 of the City of Derby Local Plan Review, which aims to avoid such harm.”

This conclusion on the part of the Inspector, makes the determination of this current application problematic for the City Council as it is directly in conflict with a fundamental part of the previous reason for the refusal of outline permission. Notwithstanding the conclusion of the Inspector, I have considerable concerns that the degree of pedestrian and vehicle movements generated by an additional house would have a considerable impact on the amenities of the residents at No. 154 Station Road, although we could not, now, reasonably refuse the application on these grounds.

At the time that the planning application (DER/07/05/01171) was submitted for the change of use of No. 156 Station Road to a chiropractic clinic it was the view of the City Council that the overall degree of impact on No. 154 was not unreasonable, and permission

B1 APPLICATIONS (cont'd)

4 Code No: DER/10/07/01934

was duly granted in September 2005. At the time of the previous application for the erection of a house (DER/01/07/00089) I expressed concern about the cumulative effect of that proposal together with the established clinic use at No. 156. That is a view that I still hold in relation to this current proposal, ie that the cumulative effect on the residents at No. 154 is unreasonable.

Unfortunately, I am required to advise members that this current application has been submitted very much on the basis of the advice given in the Inspectors Decision letter in relation to DER/01/07/00089. The position of, and type of unit proposed is an improvement on DER/01/07/00089, and is likely to provide an improved level of living conditions for its future residents. In achieving a reasonable size of rear curtilage (ie 10.0 m in depth) the proposed unit would still be well over 30.0 m away from No. 154 Station Road, and also achieve an acceptable relationship with No. 156. The Inspector raised no objection to a double garage being provided close to the side of No. 154, and seemed satisfied that unreasonable loss of amenity would occur due to vehicular and pedestrian movements. The Inspector in dismissing the previous appeal noted that the development would not harm the character and appearance of the area or neighbours' living conditions. He did however discuss the appeal based on the unsatisfactory living conditions for future occupiers of the dwelling.

I have noted carefully the comments raised by the many objectors, and am sympathetic to the situation of the residents at No. 154. Nonetheless, and with a degree of reluctance, I feel obliged to recommend to Members that outline permission be granted in this case. I am of the opinion that if permission were to be refused, and an appeal were to be lodged then any subsequent Inspector would be obliged to have regard for advice contained in an appeal decision that is only five months old. On that basis, I am forced to conclude that any appeal lodged would be likely to be successful. I would welcome any comments members may choose to make at the meeting, but the crux of the matter is that the Inspector in the case of DER/01/07/00089, only partially supported the City Council's reasons for refusal of permission, and left the door open for an application in this form.

11. Recommended decision and summary of reasons:

11.1 To grant outline permission with conditions.

11.2 Summary of reasons: The proposal has been considered in relation to the provisions of the City of Derby Local Plan Review and all other material considerations including a very recent Appeal Decision in

B1 APPLICATIONS (cont'd)

4 Code No: DER/10/07/01934

relation to the same site and the proposal is acceptable in land use policy terms.

11.3 Conditions

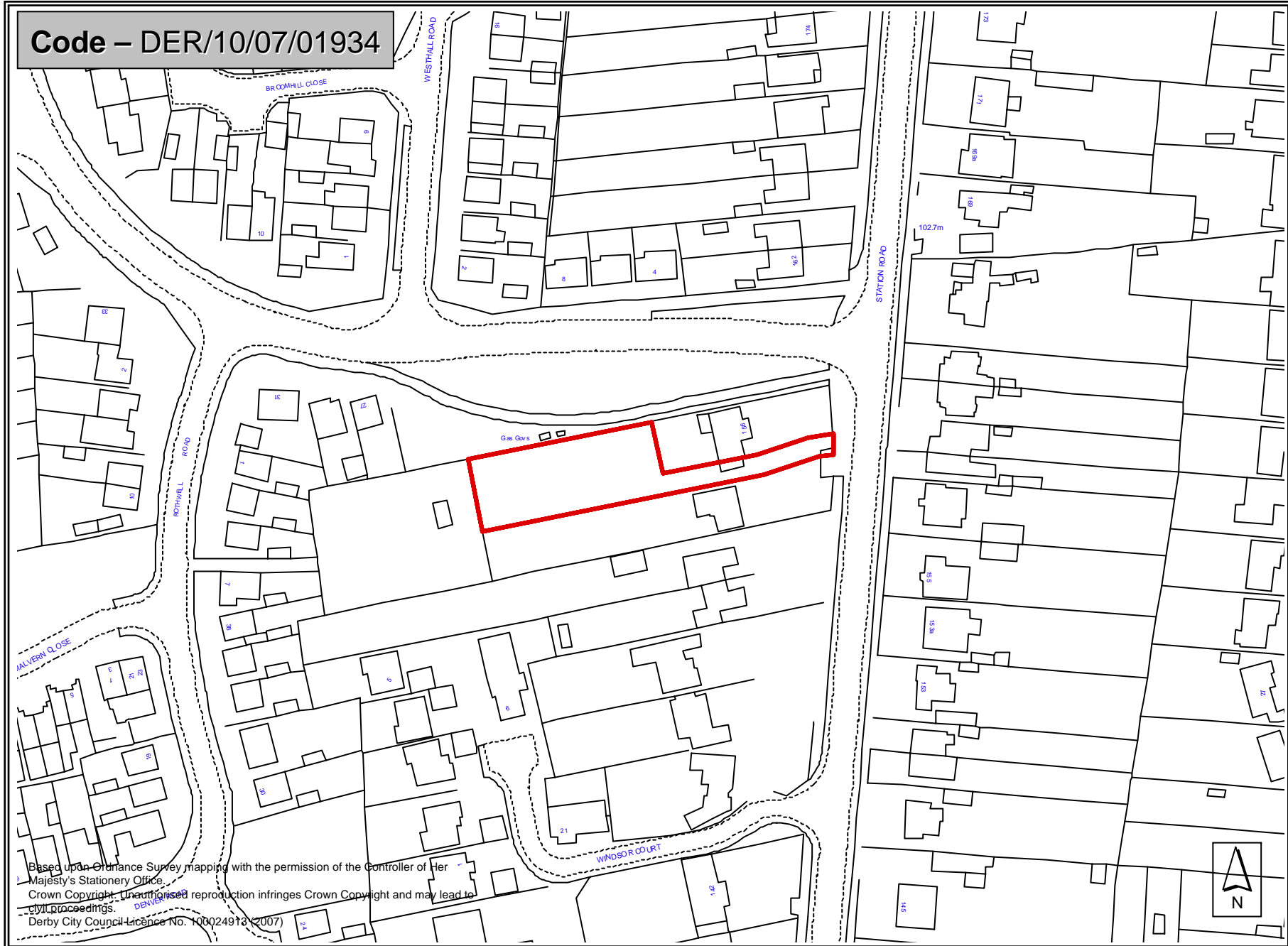
1. Standard condition 01 (outline)(exclude means of access and layout)
2. Standard condition 02 (time limit)
3. Standard condition 19 (boundary treatments)
4. Standard condition 30 (hard surfacing)
5. Standard condition 13 (domestic use of garage only)

11.4 Reasons

1. Standard reason E01
2. Standard reason E02
3. Standard reason E18 ...Policies GD4/H13
4. Standard reason E18 ...Policies GD4/H13
5. Standard reason E07 ...Policy GD5

11.5 S106 requirements where appropriate: None.

Code – DER/10/07/01934



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B1 APPLICATIONS (cont'd)

5 Code No: DER/10/07/01980 &
 DER/10/07/01981

Type: Full and Listed Building
Consent

1. **Address:** Former Police Station and Magistrates Court, Full Street/Derwent Street
2. **Proposal:** Erection of 74 apartments, offices (Use Class B1) and commercial uses (A1, A2, A3 and A4), associated basement car parking, alterations to vehicular access and conversion of Magistrates Court to form 51 apartments and residents gym
3. **Description:** The former Police Station and Magistrates Court building on Full Street and the corner of Derwent Street in the city centre, have been vacant for about 3 years. The Magistrates Court is a two storey Grade II Listed building, dating from the 1930's and designed by C.H Aslin, also responsible for the Council House. It has a distinctive square plan, with the main entrance on the south west corner. The police offices and cells were housed on the ground floor, with the courts and associated offices on the first floor. The police station extension erected in the 1960's is of a more functional flat roof design, up to 5 storeys in height, with undercroft car parking. Both the court building and former police station have an eastern frontage abutting the riverside walkway along the River Derwent, whilst Cathedral Green, which is currently undergoing re-landscaping and refurbishment lies to the north of the site. The site occupies a strategic location within the city centre, being opposite the Council House and the Assembly Rooms and close to the Market Square. It is an historically sensitive location within the city centre, located in the designated World Heritage Site buffer zone and adjacent to the City Centre Conservation Area, as well as within the setting of the Grade II* Silk Mill and Grade I listed Cathedral.

The proposed development would be a mixed use scheme to include residential use, offices, and commercial uses, with basement car parking. The site of the former police station extension would be redeveloped with a five and six storey development, comprising 74 studio, 1 and 2 bed apartments, ground floor commercial units for A1 shops, A2 financial and professional services, and food and drink uses, with B1 office accommodation at first floor and above. 124 car parking spaces would be accessed via the existing vehicle access point adjacent to the Magistrates Court onto Full Street. The basement parking area would include three disabled spaces and secure cycle parking.

The building form would comprise two blocks, facing onto Full Street and the river frontage, linked at the northern end by a full height glazed section. The office and commercial element of the scheme would be up to 6 storeys high, addressing Cathedral Green, with 2 apartment

B1 APPLICATIONS (cont'd)

5 Code No: DER/10/07/01980 & DER/10/07/01981

sections facing towards the Magistrates Court, at 5 storeys. An internal courtyard and landscaped space would be provided for residents between the apartment buildings with secure access onto Full Street. The main entrance to the offices and commercial units would be an elevated paved area served off the public open space, by steps and a ramp. The development would have a simple and contemporary form, with a curved façade on the north side of the building, with large glazed openings and a recessed ground floor and top storey. The principal materials would be render, masonry and terracotta cladding. The apartment sections would be rectilinear in form, with smaller window openings and balconies. Alongside the riverside walkway, an elevated outdoor seating space would be formed for both the ground floor commercial units and apartments facing towards the river. This space would be located behind an enhanced flood defence wall, which is to be decorated with a public art feature, the design details of which are to be agreed.

The listed Magistrates Court building would be converted to residential use to form 51 studio, one and two bed apartments. There would also be a residents gym, utilising one of the former court rooms on the ground floor. The alterations to the original fabric of the building would be kept to a minimum, comprising replacement of internal space window openings and limited removal of original interior walls. Later additions, including single storey courtyard buildings would be demolished and the internal spaces landscaped as communal gardens. Existing entrances and staircases to the building would be retained and utilised. Internal secure cycle storage would be provided adjacent to existing staircase.

The application was accompanied by an Environmental Impact Assessment, in accordance with the EIA Regulations 1999, due to the sensitivity of the site, in terms of its location in the World Heritage Site buffer zone and the significant scale and massing of the development which would impact on the local environment.

4. Relevant Planning History: None.

5. Implications of Proposal:

5.1 Economic: The proposal would form approximately 10 000 square metres of office accommodation and a mix of retail and food and drink uses, which amounts to a significant commercial element within the development. It would generate a considerable level of employment, with particular economic benefits to the local economy. Since it is a speculative proposal, the level of potential employment is not known at

B1 APPLICATIONS (cont'd)

5 Code No: DER/10/07/01980 & DER/10/07/01981

this stage. The scheme would extend urban regeneration to the under utilised river frontage and should increase public activity in the immediate area, including Cathedral Green.

- 5.2 Design and Community Safety:** The development proposal would involve erection of a striking modern building, to make a bold architectural statement, from both Full Street and the riverside frontages. The building would also define the southern edge of the public open space. It would also restore and provide a viable re-use for the redundant Magistrates Court, which is an important building in the city centre.

Secure and defined points of access for pedestrian activity would be provided from the Full Street and Cathedral Green frontages. A single vehicular access would be formed to a basement car park. There would be enhanced natural surveillance over the riverside walkway and public realm and increased activity to the street frontage, which would benefit community safety in this part of the city centre.

- 5.3 Highways:** The proposed car parking provision is acceptable in a city centre location, where there are nearby car parking facilities. Provision should be made for secure cycle and motorcycle parking within the development. The gradient of the access to the car park should not exceed 1:10 for the first 10 metres from the highway boundary. Details of waste and recycling facilities should be provided, to be located within 25 metres of the highway.

A transport contribution towards improvements to the road network would be sought, which would be reduced by 10% to take account of applicant's commitment to Travel Planning. A Travel Plan should be secured by an appropriate condition.

- 5.4 Disabled People's Access:** A requirement for 10% Lifetime Homes within the residential scheme would be sought, which would amount to 13 dwellings in total, to be integrated throughout the development. The overall development would be accessible through compliance with Building Regulations.

- 5.5 Other Environmental:** There are various groups of trees around the perimeter of the site, the most significant being a group of mainly mature Sycamores around the car park of the former Police Station, towards the northern boundary. They form a larger group with trees on Cathedral Green and alongside the riverside walkway, which are on Council controlled land. These trees would be removed to accommodate the development. A group of small mixed tree

B1 **APPLICATIONS** (cont'd)

5 **Code No:** DER/10/07/01980 & DER/10/07/01981

specimens to the southern side of the Magistrates Court would be retained.

Site is within Flood Zone 2, although with climate change, it may fall within Zone 3 in coming years. Flood defence improvements upstream or downstream may also alter flood levels enough to inundate the site. A robust approach to proposed flood defences would therefore be required for this site.

6. **Publicity:**

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

7. **Representations:** None received to date.

8. **Consultations:**

CAAC – object on grounds that the proposed new build element, would have a seriously detrimental affect on the setting of the adjacent Grade II Magistrates Court, Silk Mill and Grade I listed Cathedral and would also materially affect the setting of the Derwent Valley World Heritage Site and Conservation Area, by reason of its excessive height and massing. It was also considered that important views of both the Cathedral and the Silk Mill within the World Heritage Site and views from the east bank of the river would be seriously impaired by the proposal. Notwithstanding the objections to height, scale and massing, the proposal is considered to be of design quality.

The proposals for conversion and re-use of the former Magistrates Court were welcomed, subject to satisfactory detailing.

English Heritage – Supports principle of redevelopment of former Police Station with a modern scheme. Concern about monolithic form of the development on views of the Cathedral and historic core of Derby gained from Exeter Bridge. Relationship of new build with the listed Magistrates Court would also be poor due to significant height of the new build.

Natural England – satisfied that appropriate bat surveys have been carried out on the site, although 4 trees have potential for supporting

B1 APPLICATIONS (cont'd)

5 Code No: DER/10/07/01980 & DER/10/07/01981

bat roosts and an ecologist should be present to oversee felling. The site is largely unsuitable for other protected species.

DWT – ecological survey work appears to be satisfactory. The Environmental Statement appears to be generally acceptable, although further information on the potential impacts from construction work, should be provided. There are opportunities for mitigation measures, in terms of planting enhancement and provision of bat and bird boxes.

EA – objections raised to the proposal on the grounds that the use of the Magistrates Court building relies on the use of demountable flood defences, the provision of residential accommodation on the ground floor of the Magistrates Court below the 1:100 year predicted flood level which would be at high risk of flooding. In the event that permission is granted for the development, details of flood protection measures should be secured by a suitable condition.

Police – the form of the scheme would improve the area in terms of policing. Additional supervision from the development is welcomed, both through surveillance and movement around the site. The proposed access controls would also be beneficial. Passive surveillance would be more limited on the river side frontage, due to proximity of development to riverside walk, although general overlooking and ambient light from the building, as well as planned improvements to the pedestrian/cycle route would be an improvement. The riverside boundary treatment comprising flood defence wall and railings should be designed to adequately protect the security of residents and be flush with the boundary to minimise opportunities to climb over and access the development.

The design of proposed railings, balconies and stairs around the commercial element of the development should be considered in respect to potential damage from street skaters. Specifications should ensure treatment to discourage such activity.

DCS (Estates) – no comments.

DCS (Env.Health) – mitigation measures to achieve satisfactory internal noise levels in the development should be agreed prior to works commencing. The acoustic performance of the proposed electricity sub-station to be sited in the undercroft, abutting the car park should be assessed and agreed before commencement. The details of ventilation for any A3 uses on the ground floor should also be agreed.

EnvS (Arboricultural) – to be reported.

B1 APPLICATIONS (cont'd)

5 Code No: DER/10/07/01980 & DER/10/07/01981

County Archaeologist – to be reported.

Cityscape – to be reported.

ICOMOS – to be reported.

CABE – Welcome massing and layout of the buildings on former Police Station and mix of uses. Elevational treatment also welcomed. Layout of flats to converted Magistrate Courts and use of courtyard space for residents amenity is accepted..

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

- GD3 – Flood Protection
- GD4 - Design and the urban environment
- GD5 - Amenity
- R1 - Regeneration Priorities
- CC1 - City Centre Strategy
- CC2 - City Centre
- CC7 - Residential uses within the central area
- CC12 - Police Station, Magistrates Court and Cathedral Green, Full Street
- CC15 - Improvements within the Central area
- CC18 - Central area car parking
- H11 - Affordable housing
- H12 - Lifetime Homes
- H13 - Residential development - general criteria
- H14 - Re-use of underused buildings
- EP10 - Major office development
- EP13 - Business and Industrial Development in other areas
- S1 - Shopping Hierarchy
- S2 - Retail Location criteria
- S9 - Range of goods conditions
- S12 - Financial and professional services and food and drink uses
- E4 - Nature Conservation
- E6 - Wildlife Corridors
- E9 - Trees
- E10 - Renewable energy
- E17 - Landscaping schemes
- E18 - Conservation areas
- E19 - Listed buildings and buildings of local importance
- E20 - Uses within buildings of architectural or historic importance
- E21 - Archaeology
- E23 - Design
- E24 - Community safety
- E27 - Environmental Art

B1 APPLICATIONS (cont'd)

5 Code No: DER/10/07/01980 & DER/10/07/01981

- E29 - Protection of World Heritage Site and surroundings
- L2 & L3 - Public open space standards
- L8 - Leisure and entertainment facilities
- T1 - Transport implications for 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.

- 10. Officer Opinion:** This important urban regeneration site within the heart of the city centre is designated under Policies CC12 and R1 in the adopted Local Plan, as a redevelopment opportunity, although not allocated for any particular uses. CC12 requires that any scheme fulfils various criteria, related to retention and reuse of the Magistrates Court, to a well integrated and comprehensive development of the site as a whole to a high quality of design, which addresses the river and includes uses to maximise activity and public use of the site, both in daytime and evening. The proposal would be a mixed use development, incorporating all of these elements. It would combine residential uses, with commercial and retail/ food and drink units to the ground floor, generating pedestrian activity along Full Street and the river side.

The introduction of 125 apartments into the city centre would represent a substantial increase in residential accommodation in a highly sustainable location and help to promote a more vibrant centre, particularly in the evening. This aspect of the proposal would therefore meet the general objectives of PPS 3 (Housing) and Policies H13 and CC7. A high quality living environment for future residents would be formed, within the scheme, both through conversion of the listed building, aswell as in the new build. A resident's gym to be provided in a former court room of the Magistrates Court would provide a community facility for the occupants and would accord with the provisions of Policy L8.

The proposed level of B1 office floorspace would constitute major office development under Policy EP10, which requires a sequential test to site selection. The preferred sites, for such development are in the city centre and as such this requirement would be satisfied. The office provision would also meet the tests of Policy EP13, particularly that relating to residential amenity, where only B1 uses are likely to be considered appropriate.

B1 APPLICATIONS (cont'd)

5 Code No: DER/10/07/01980 & DER/10/07/01981

A mix of A1, retail, A2, financial and professional services, A3 and A4, food and drink uses are proposed for the ground floor units of the development. The site is outside the designated city centre shopping area and the under Policy S12, A2, A3 and A4 uses are considered appropriate on the edge of the shopping hierarchy, provided that they are not likely to undermine the vitality and viability of the main retail centre. These uses would therefore accord with this policy, provided that the residential amenities of the new apartments are not adversely affected by the side effects of hot food and drink operations. The introduction of retail uses does give rise to some concerns, in that the proposed ground floor units have not been allocated a specific use and as a result all of the units have the potential to be occupied by A1 uses. This would be contrary to Policy S2, since a sequential approach to site selection has not been taken. A small element of convenience retail provision, to support the mix of employment and residential uses in the development would be appropriate in this location, provided that it was confined to the smaller of the proposed units, up to 750 square metres floorspace. Occupation of no more than 2 of these units for A1 use is recommended, to ensure the vitality and viability of the nearby shopping area is not compromised. This could be secured by an appropriately worded condition attached to any permission.

Urban Design and Conservation

There are particular historical constraints on this site, which require a high level of design quality and sensitivity in terms of impact on the urban context in this part of the city centre. It lies within the World Heritage Site buffer zone and is adjacent to the Conservation Area and the proposal would affect the setting of important nearby listed buildings, including the Grade I listed Cathedral and Grade II* listed Silk Mill, as well as the former Magistrates Court, which forms part of the site.

Concerns have been expressed about the massing and scale of the new built form and its impact on the setting of the Magistrates Court, the Silk Mill, the Cathedral and the World Heritage Site. However, these concerns need to be balanced with the positive contribution, which the development would make to the street context in this part of the city and to framing views of the landmark historic buildings, such as the Silk Mill and the Cathedral. The new building would not significantly affect views in or out of the World Heritage Site, which includes important views, such as those of the Silk Mill and its setting from Exeter Bridge and the riverside walkway. It could be argued that the curved façade of the development to the river frontage would enhance views of the Silk Mill, by framing the view and providing an improved

B1 APPLICATIONS (cont'd)

5 Code No: DER/10/07/01980 & DER/10/07/01981

riverside walkway. The mill has historically always had development around it, some of a substantial scale and limited quality, prior to the formation of Cathedral Green.

Views of the Cathedral tower from around the city are important and assist in orientation as well from a visual perspective. The tower is a significant landmark and views of it would be largely maintained from near and middle distance vantage points around the city centre, following erection of the development. From one location, close to the site on Exeter Bridge, the tower would be mostly obscured by the height and scale of the new building, although from other important viewpoints, including Riverside Gardens and the eastern bank of the river, the Cathedral would still be clearly visible, although in some cases framed by the development. The view from Exeter Bridge, which would be lost, is considered to have less historical precedence than those from the south and east, along the river front. Those important views would be protected and as such the development would not unreasonably affect the legibility of the city centre. The immediate setting of the Cathedral would also not be harmed by the development, since it is the later extension to the rear of the original church, which is nearest to the site.

The relationship of the development with the Magistrates Court is an issue which has raised concerns, due to the scale of the new build, 5 to 6 storeys, adjacent to the 2 storey listed building. There would be a substantial step up in height from the Magistrates Court, which may appear to have a somewhat overbearing effect on the smaller building. However, in design terms the new development would be a stand alone urban block, distinguished from the listed building, by its contemporary form, appearance and use of materials. The gap between the old and new buildings would also provide an adequate visual break to accommodate the increase in scale. The differing design of the elevations would complement the Magistrates Court, rather than compete architecturally and confirm the 1930's identity of the former civic building. The scale of the Magistrates Court is low in relation to its immediate context, which includes the Assembly Rooms and the new Quad development and this is not considered to be a particularly important aspect of its character. In its central position, within the city centre, it is not reasonable to expect development surrounding it to be subservient in mass and scale, rather more important is high quality design and form, which acknowledges its special character. A significant view of the courts towards the main entrance on the south west corner, would not be undermined, by the appearance of the new development behind it. The presence of the 3 storey entrance feature would still effectively be maintained. The proposed scale and mass of

B1 APPLICATIONS (cont'd)

5 Code No: DER/10/07/01980 & DER/10/07/01981

the new development, would not in my opinion overwhelm or dominate the Magistrates Court, but complement it, by innovative design and interesting use of materials.

The proposed conversion of the listed building for residential use is broadly welcomed, since it would be a sympathetic re-use of the building. The distinctive character and form of the building would be retained and reinstated. The proposal would make an imaginative use of the existing spaces within the building, with only limited alterations to the internal layout. Some original features would be removed, including court room furniture, although it is very unlikely that the building will return to its original use, due to new modern facilities being provided elsewhere. The most important features would be retained, including the original layout, windows, staircases, wood panelling and skylights. Demolition would be limited to later extensions in the courtyard and some original walls, both of little merit. The subdivision of the former Sessions Court would be regrettable, although the original ceiling and cornice would be retained and continued around the partition walls, allowing it to be appreciated. The character of the former court room would therefore be maintained in part. Overall, the conversion would involve limited intrusion and alteration to the important building fabric and the original character of the courts and old police station would be largely preserved.

Open Space and the Natural Environment

The new development would abut the Cathedral Green to the north, which is currently undergoing significant public realm improvements. The curved form and distinctive design is intended to address the open space and make a bold architectural statement, which would have a significant presence and encourage pedestrian activity to and around the building. Discussions with the applicant prior to the application being submitted sought to ensure accessible linkages between the development and the public realm, which would provide effective integration with the open space and enhance the townscape in this part of the city centre. These links would be satisfactorily achieved and focus pedestrian access and activity at the main entrance to the offices and commercial units, which would be served off the southern end of Cathedral Green. A raised paved area at the entrance would have clear visible routes from the riverside and from the Full Street frontage.

The main cost to this design approach is the resulting loss of trees from the north side of the site, which would be in addition to those removed from the public realm. It is considered to be an impact, which should be borne to enable Cathedral Green to be opened up from the southerly

B1 APPLICATIONS (cont'd)

5 Code No: DER/10/07/01980 & DER/10/07/01981

direction to increased public use and to allow the new development to face onto the open space and the river, to take advantage of the riverside frontage. In this case the amenity value of the affected trees is not considered to outweigh the merit of the development scheme, in terms of design quality and urban regeneration.

The River Derwent alongside the site is a designated Wildlife Corridor and an area of nature conservation interest, under Policy E4 and E6. However, there are no development works proposed for the riverside frontage and as such the proposal should not impact adversely on the wildlife interest in the river. Appropriate ecological surveys have been carried out on and around the site and no evidence of protected species was found. As such, no further work is considered to be required on this issue, under the guidance in PPS 9 (Biological and Geological Conservation).

Flood Risk

The development site lies alongside the River Derwent and is considered to be at the highest potential flood risk in the event of a 1:100 flood event. It is at a similar floor level to the riverside walkway, which abuts the river bank and is therefore acknowledged to be at a high risk of flooding. A new riverside flood defence wall would be erected alongside the riverside walkway to protect the new development and part of the Magistrates Court from excessive flooding. It would be about 2.3 metres high, up 600mm higher than the modelled 1:100 year flood level. The proposal would involve the provision of residential accommodation to the ground floor of the development, particularly as part of the conversion of the Magistrates Court. This is a sensitive use in respect to the impact of flooding and the Environment Agency has raised some concerns about the location of habitable rooms, below the 1:100 year modelled flood level. These issues are largely concerned with the proposed use of the listed building for apartments and the intended use of demountable flood defences around the entrances to the building. The potential flooding impact should be balanced with the need to find a viable and sympathetic re-use of the Magistrates Court, which would not involve undue harm to the historic fabric or special character of the building. A residential conversion, is generally accepted as one of the few uses, which would preserve the character and integrity of the building and be appropriate to a city centre location. The use of removable flood defences to protect the residential accommodation is also a response to the historic sensitivity of the building and its context. Discussions with the Agency have taken place with the applicants in an attempt to

B1 APPLICATIONS (cont'd)

5 Code No: DER/10/07/01980 & DER/10/07/01981

resolve the outstanding issues, relating to the proposed residential use and flood defence measures for the Magistrates Court.

Section 106 Contributions

The size of the residential proposal would normally generate a requirement for contributions towards public open space, affordable housing and lifetime homes. However, in this case it has been shown that the provision of affordable housing within the scheme would make the development, economically unviable. An alternative financial contribution in lieu of on-site affordable homes has been agreed with the applicant. The viability argument has been independently assessed and found to be robust and as such a Section 106 Agreement would secure financial contributions towards public open space and off-site highway improvements to public transport facilities and the 10% provision of lifetime homes, within the development. There would be a reserve of up to 36 affordable units within the development, with reasonable efforts being made by the applicant to obtain grant funding.

It is also proposed that a public art feature would be incorporated into the scheme, by including artwork in the river elevation of the flood defence wall, to provide visual interest on an otherwise blank frontage

Conclusion

Overall, the design and form of the proposed mixed use development would provide successful linkages with the improved public open space on Cathedral Green and revitalise in a cohesive manner the Full Street/ riverside area, which is an important part of the city's townscape. The new development is considered to incorporate a high quality design approach and repair the street frontages along Full Street and the River Derwent. It would also enable restoration and re-use of the former Magistrates Court, an important city centre building. It is therefore recommended that Members approve the scheme.

11. Recommended decision and summary of reasons:

11.1 DER/10/07/01980

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

B1 APPLICATIONS (cont'd)

5 Code No: DER/10/07/01980 &
DER/10/07/01981

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

11.2 Summary of reasons: The proposal has been considered in relation to the provisions of the City of Derby Local Plan Review and all other material considerations as indicated in 9 above. The mixed use commercial and residential development would introduce appropriate uses into the city centre, would protect the setting of nearby listed buildings and the World Heritage Site and would be in keeping with the character and appearance of the surrounding streetscene.

11.3 Conditions

1. Standard condition 27 (external materials)
2. Standard condition 20 (landscaping scheme)
3. Standard condition 22 (landscaping maintenance – Condition 3)
4. Standard condition 30 (hard surfacing)
5. Standard condition 38 (drainage scheme)
6. Standard condition 99 (recycling facilities)

7. Before development commences, details of the design, materials and appearance of the proposed flood defence wall for the eastern boundary of the site, facing the riverside walkway, shall be submitted to and approved in writing by the Local Planning Authority and shall be carried out in accordance with such approved details.

8. The use of no more than two units as shown on ground floor layout plan no. 1396(PL)20Q, of no more than 750 square metres floorspace, shall be for retail use (A1 Use Class) and only one of those units shall be for the sale of convenience goods.

9. The use of any of the ground floor units for A3 or A4 uses, shall not commence until details of a fume extraction/ ventilation system, with silencer and carbon filtration, has been submitted to and approved in writing by the Local Planning Authority and until such equipment has been brought into use. The use shall not be operated unless the approved system is working satisfactorily. The details shall include the location and design of any external vent or flue.

10. The details submitted under Condition 2 shall include proposed treatment of the outdoor areas and pedestrian routes adjacent to the north boundary of the site, where it meets the public open

B1 APPLICATIONS (cont'd)

5 Code No: DER/10/07/01980 & DER/10/07/01981

space, including details of surfacing materials and street furniture to be used, shall be submitted to and approved in writing by the Local Planning Authority and shall be carried out in accordance with such approved details.

11. Before development commences, precise details of flood defence and management measures for the development, including those for the Magistrates Court, shall be submitted and agreed in writing by the Local Planning Authority and shall be carried out in accordance with such approved details.
12. Standard condition 98 (Travel plan)
13. The gradient of the proposed vehicular access shall not exceed 1:10 for the first 10 metres from the highway boundary.
14. Noise mitigation measures.

11.4 Reasons

1. Standard reason E14...policies E23 and GD4
2. Standard reason E09...policy E17
3. Standard reason E09...policy E17
4. Standard reason E21...policy E23
5. Standard reason E21
6. Standard reason E48
7. Standard reason E14...policy E23
8. Unrestricted retail use would be contrary to Policy S2 on the grounds that a need for the proposed level of A1 floorspace has not been satisfactorily demonstrated. There is an accepted need for convenience retail provision to serve the development on a limited floor area and in total, to protect the vitality and viability of the city centre.
9. Standard reason E25...policy GD5
10. To ensure a satisfactory integration of the development with the public realm improvements on the adjacent open space in the interests of visual amenity...policies E23 and E17
11. To protect the development from excessive flooding in the interests of residential amenity...policy GD3
12. Standard reason E47...policy T1

B1 APPLICATIONS (cont'd)

5 Code No: DER/10/07/01980 & DER/10/07/01981

- 13. In the interests of highway safety
- 14. In the interests of residential amenity...policy H13

11.5 S106 requirements where appropriate: Affordable housing, lifetime homes and for off-site contributions towards public open space and highway improvements to public transport facilities

11.1 DER/10/07/01981 – To grant Listed Building Consent with conditions.

11.2 Summary of Reasons: The proposal has been considered in relation to the provisions of the City of Derby Local Plan Review and all other material considerations as indicated in 9 above. The proposed residential use would preserve the character and special interest of the Grade II Listed building.

11.3 Conditions

1. Before work commences, further precise details of new windows and doors, to include cross sections, materials and design, at a scale of 1:10 or 1:5 shall be submitted to and approved in writing by the Local Planning Authority.
2. Prior to any development work commencing, a method statement, to include procedure for removing the link, with the former police station and making good the exposed areas, shall be submitted to and approved in writing by the Local Planning Authority and implemented in accordance with such approved details.
3. Before work commences, details of siting of all proposed internal extraction services within the building, shall be submitted to and approved in writing by the Local Planning Authority.
4. Before work commences, details of any facing materials or colour of render to be used for areas of proposed alteration, repair or new internal walls, shall be submitted to and approved in writing by the Local Planning Authority.
5. Before work commences precise details of proposed partition walls to be installed in the former Sessions Court room, to include treatment of ceiling decoration around the new rooms, shall be submitted to and approved in writing by the Local Planning Authority.
6. Before work commences, further precise details of the proposed railings to be sited along the Full Street elevation as indicated on

B1 APPLICATIONS (cont'd)

- 5 Code No:** DER/10/07/01980 &
 DER/10/07/01981

drawing no.1396a/SK 41B, to include design, height and materials to a scale of 1:10 or 1:20 shall be submitted to and approved in writing by the Local Planning Authority.

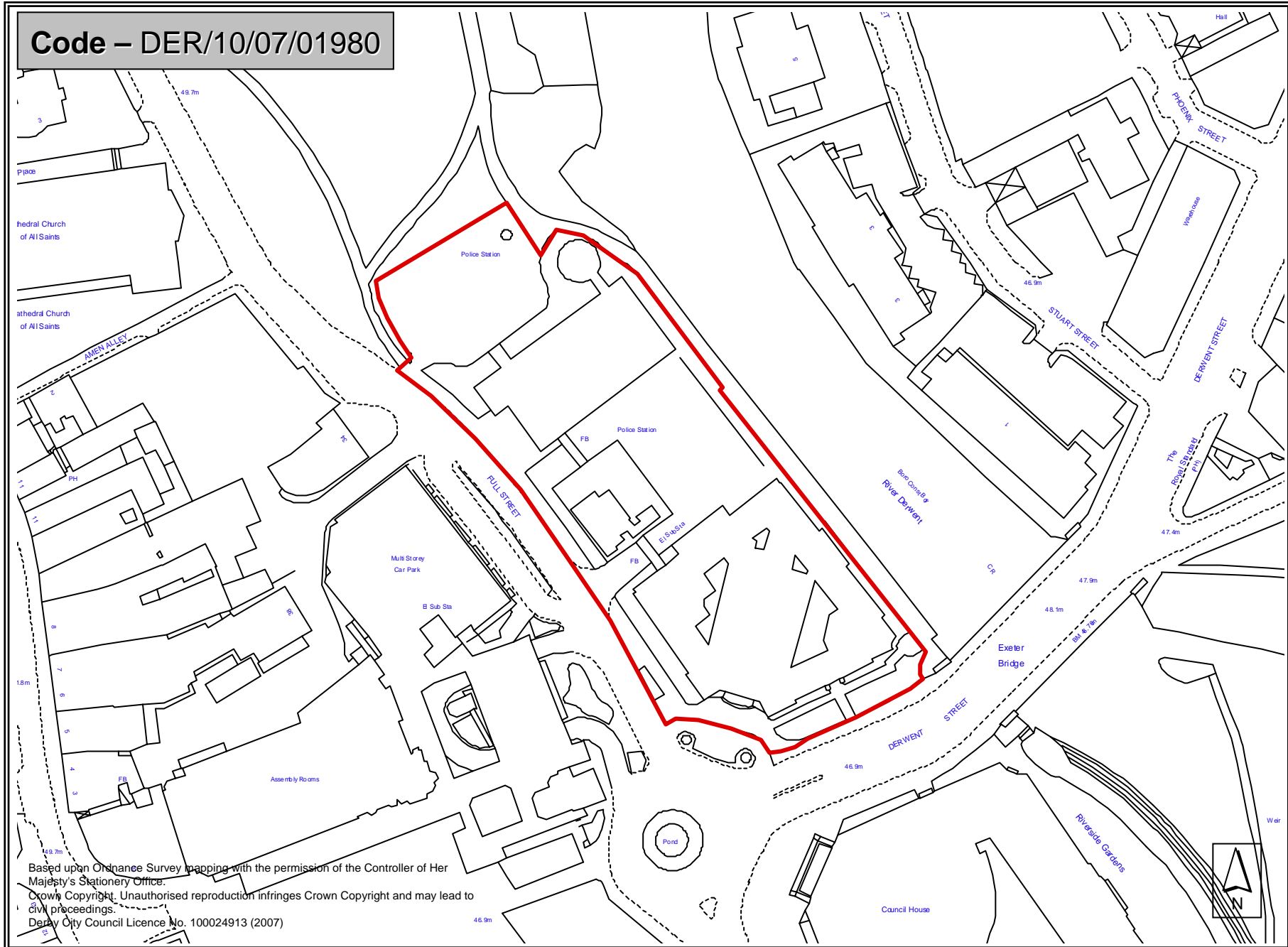
7. Before work commences, precise details of replacement hearth to the inserted within existing fireplace surround in proposed Unit 38, to a scale of 1:5 or 1:10 shall be submitted to and approved in writing by the Local Planning Authority.

11.4 Reasons

1. Standard reason E40...policy E19
2. Standard reason E40...policy E19
3. Standard reason E40...policy E19
4. Standard reason E40...policy E19
5. Standard reason E40...policy E19
6. Standard reason E40...policy E19
7. Standard reason E40...policy E19

11.5 S106 requirements where appropriate: None.

Code – DER/10/07/01980



B1 **APPLICATIONS** (cont'd)

6 **Code No:** DER/09/07/01793

Type: Full

1. **Address:** Site of former BMW car showroom, King Street
2. **Proposal:** Erection of hotel, 89 apartments, casino, restaurant/bar (Use Class A3) and car parking.
3. **Description:** A redevelopment scheme is proposed for the former BMW car showroom site bordering King Street and the St. Alkmund's Way slip road. The site is a level platform elevated about 2 metres above St. Alkmund's Way and has been vacant for a long period. There is vegetation around the edge of the site, including trees on the adjacent public open space. The site is located on the north side of the city centre, surrounded by a mix of two, three and four storey built form in both residential and commercial uses. It is an historically sensitive location, positioned between the Grade II* listed St. Mary's Church and the Grade I listed Cathedral, both important buildings around the northern part of the city centre. The site is close to two Conservation Areas and is located within the World Heritage Site buffer zone.

Full permission is sought for the erection of a 226 bedroom hotel, with bar and restaurant to ground floor and 89 apartments, incorporating 80 two bedroom and 9 one bedroom units. There would be a basement car park, 2 423 square metres in area with 65 spaces primarily for the residential use, including 4 disabled spaces and secure cycle parking provision. Below that there would be a casino, 2 709 square metres in area, accessed from the King Street frontage. The development would comprise an eleven storey tower section for the hotel on the eastern elevation with two wings between 6 and 9 storeys in height on the north and south elevations, forming a U-shaped layout around a central courtyard. The hotel accommodation would be located on the north side of the site, facing St. Alkmund's Way with the apartments to the south side facing King Street. The footprint of the building would utilise the curved shape of the site, with a staggered façade facing the slip road and a simple block arrangement on each side, sited close to both road frontages. The built form would be of contemporary design and form, with extensive use of glazed panels, white render and red brick. There would also be copper faced panels to either side of the main tower. The east elevation of the building would provide the strongest focus with a curved section to the façade and a vertical emphasis to the tall rendered section, topped by a metal clad feature. The upper level of the apartments would have an open terrace and roof garden for the use of residents. The central courtyard would be landscaped and is proposed to link seamlessly with the adjacent open space, by extending paved areas and planting into the Council controlled public space. This would include landscaping of the area currently given over to the subway, which is proposed to be filled in to enable the development. The embankment to the northern boundary abutting St.

B1 APPLICATIONS (cont'd)

6 Code No: DER/09/07/01793

Alkmund's Way would be removed and rebuilt with new landscaped planting.

Primary access to the hotel, apartments and other facilities would be via pedestrian routes from King Street, with a new level walkway to be formed through the open space to the proposed courtyard. The basement car park would be served by a new access off King Street. Highway improvements are proposed to King Street to enable two way access to the car park, to provide a loading and dropping off point for buses and taxis and to form an additional pedestrian crossing adjacent to the junction.

The application was accompanied by an Environmental Impact Assessment, in accordance with the EIA Regulations 1999, due to the sensitivity of the site, in terms of its location in the World Heritage Site buffer zone and the significant scale and height of the development which would impact on the local environment. An addendum to the Impact Assessment has been submitted, providing further information on specific issues, including the historic built environment and Scheduled Ancient Monuments, flood risk, ground contamination, air quality and noise effects. In accordance with the Regulations a further 21 day publicity period was undertaken, which expired on 17 December 2007.

4. **Relevant Planning History:** DER/07/03/01256 - Erection of 64 apartments with semi-basement car parking and landscaping works, granted September 2004. This development comprised a four and five storey building with four six storey towers 21.4m in height.

5. **Implications of Proposal:**

- 5.1 **Economic:** The proposed hotel, casino and restaurant/bar cumulatively would result in significant employment generation for the city and, therefore, economic benefits for the local economy. Approximately 300 staff is the estimate for future employment, to be mainly taken from the local area through the Workstation Derby project which targets training and recruitment from local communities. The proposed hotel would serve a demand from the business and leisure market for good quality accommodation.

- 5.2 **Design and Community Safety:** The proposed development would be substantial in scale and height in relation to the surrounding streetscape. It would be located on an island site, surrounded by major highways and a bold approach is considered to be justified both in terms of the proposed design and the scale. A strong vertical element would face to the east towards the Inner Ring Road, whilst the two

B1 APPLICATIONS (cont'd)

6 Code No: DER/09/07/01793

wings would form new street frontages on both road side elevations. The general massing would be broken up by panels of contrasting materials and various forms of fenestration and glazing.

The proposing linking of the development with the existing underutilised area of public open space at ground level, has the potential to enhance the public realm in this locality and improve links with the new footbridge and the northern part of the city centre. The removal of the subway and pedestrian improvements across King Street would be of benefit to public safety and general accessibility in the local area. The development would provide good natural surveillance over the public realm and secure points of access would be provided to the various uses.

5.3 Highways: No objections to the general parking and access arrangements for the development. The details of highway improvements to the King Street junction would need to be submitted for approval under a Section 278 Agreement before development commences to ensure a satisfactory form of development. The closing of the subway would be subject to a formal Stopping Up Order following grant of any permission. The proposed dropping-off point on King Street would be partly sited outside the highway and details should be submitted for approval before development commences. Other issues relating to the layout of the proposed basement car park have been accepted and are as follows:

- the gradient of the access should not exceed 1 in 10 for first 10 metres from highway
- the location of the proposed bin storage area within the car park to be agreed with Waste Management Section
- the proposed loading area for refuse vehicles to be sited outside the public highway in the interests of highway safety.

The traffic impact of the development on the local road network would be acceptable, subject to a financial contribution towards highway improvements, being secured. This would be sought through a Section 106 Agreement.

5.4 Disabled People's Access: Parking and access arrangements detailed in submitted drawings and access statement appear satisfactory. Nine Lifetime Homes are required with remainder to be accessible through Building Regulations.

B1 APPLICATIONS (cont'd)

6 Code No: DER/09/07/01793

5.5 Other Environmental: There is a narrow strip of existing mature shrub and tree planting around the perimeter of the site alongside the highway frontages, which is of limited visual quality. On the adjacent open space there are mature trees of varying size and quality, including those within the subway cutting. Most of the trees on this space would be unaffected by the proposal. Those within or neighbouring the subway cutting are likely to be lost, due to the regrading of land levels, which would result. However, the submitted landscaping scheme indicates replacement tree and shrub planting, which would mitigate for the loss of existing vegetation.

6. Publicity:

Neighbour Notification letter	53	Site Notice	
Statutory press advert and site notice	Yes	Discretionary press advert and site notice	
Other			

7. **Representations:** Thirty two letters of objection have been received, to both the original and amended scheme and copies will be available to view in the Council Chamber Foyer. The main issues raised are as follows:

- the proposed development would not be in keeping with the character of the surrounding area
- the development would dominate the skyline and obscure views of St. Mary's Church and the Cathedral towers
- the proposed casino is unnecessary and in an inappropriate location
- the building would be too tall and excessive in scale
- the development would be detrimental to the setting of nearby listed buildings and the World Heritage Site and detract from the character and appearance of nearby Conservation Areas
- the parking provision would be inadequate to serve the demand generated by the development
- there should be more low cost and affordable housing addressing a housing need
- there would be increased noise resulting from traffic flows
- the development would result in loss of light and privacy to nearby residents
- the residents would be exposed to poor air quality from the traffic pollution on nearby roads.

B1 APPLICATIONS (cont'd)

6 Code No: DER/09/07/01793

8. Consultations:

CAAC - object to the proposal on the grounds that the proposed development, by virtue of its excessive height, scale and massing would challenge the integrity of the historic skyline of the city centre to the detriment of both nearby Conservation Areas, the listed St. Mary's Church, St. Helen's House and other nearby listed buildings. It would materially affect the setting of the World Heritage Site. The proposal would also be an over-intensive development of the site and of poor quality design, not befitting this prominent city centre site.

Env (Health) – the noise assessment recommends mitigation measures be incorporated into the design of the building, which are accepted. This has not addressed the balconies and roof terraces of the apartments, which would be subject to high noise levels and mitigation works should be carried out to these areas to overcome the problem.

In terms of air quality the site is within the Air Quality Management Area. Normal policy for Nitrogen Oxide emissions indicates that beyond 14 metres of kerbside, pollution levels are unlikely to exceed the unacceptable levels. This means that the provision of a vertical and/or horizontal distance of 14 metres from the facades of the building with residential accommodation would adequately mitigate poor air quality. Some flats proposed would be closer to the highway than this requirement. The submitted report probably under represents likely future pollution levels, although this is not considered to be significant. However, this site is not considered to be one of the more polluted locations and it is not intended that development should be prevented within any 14 metre zone. Residential accommodation at 1st and 2nd floor level, with balconies is considered acceptable in principle, although at certain times residents occupying the lower floors may be exposed to high level of pollution.

In terms of ground contamination, the recommendations of the preliminary site investigation report are appropriate. A scheme of remedial works should be submitted and approved and the development not occupied until a Validation report has been submitted and agreed.

Cityscape – supports proposal as a catalyst to regeneration for the northern part of the city centre. The amended design of the scheme is welcomed, subject to the following:

1. The metal clad spire feature to the roof of the tower component, be subject to detailed design to ensure that an appropriate skyline feature is provided.

B1 APPLICATIONS (cont'd)

6 Code No: DER/09/07/01793

2. All external materials to be used should be controlled by condition.
3. The entrance to the apartments needs to be clearly visible from the public park to maximise surveillance.
4. The landscaping scheme should have due regard to the public realm strategy and it should be properly integrated with the design of the adjacent public open space.

DC (Archaeologist) – archaeological interests on the site were dealt with by a previous assessment and excavation. Current proposals would not damage the interest on the site and there is no reason to seek archaeological requirements for this scheme.

Police – no objections to the principle or design of the proposal.

EA – no objections to the revised Flood Risk Assessment, subject to imposition of conditions relating to drainage.

EH – the site is suitable for a design of the highest quality, distinctive to the city and making a positive contribution to the streetscape and skyline. The key areas of concern are the potential impact on the Cathedral and St. Mary's Church, which enjoy a direct visual link and on the historic Cathedral Quarter, which contains many listed buildings whose setting is a material consideration. The content and quality of the submitted Design Statement and context analysis are not adequate and do not consider the key views from and between listed buildings and from the World Heritage Site.

There must be sufficient accurate information available to assess the impact of the proposed building on the setting of the listed buildings in the area and its relationship with St. Mary's Church and the Cathedral, which make an important contribution to the skyline.

Natural England - satisfied that no evidence of protected species has been found in this location. Vegetation clearance should be undertaken outside the bird breeding season. Landscaping proposals should include native species of trees and shrub. No further comments on amended Impact Assessment.

EnvS (Arboricultural) – none of the trees on the site are of particular merit, although they do have some amenity value. Any replacement planting should offer greater amenity value than those removed. The proposed species for the open space should achieve this, although they would be sited close to the highway and building, which may result in requests for pruning. The potential impact on trees adjacent to the

B1 **APPLICATIONS** (cont'd)

6 **Code No:** DER/09/07/01793

site from the changes in levels proposed needs to be assessed. Alterations to levels within root protection areas of trees should be avoided.

CABE – no comment.

ICOMOS - to be reported.

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

- GD3 - Flood Protection
- GD4 - Design and the urban environment
- GD5 - Amenity
- CC1 - City Centre Strategy
- CC7 - Residential uses within the central area
- CC18 - Central area car parking
- H11 - Affordable housing
- H12 - Lifetime Homes
- H13 - Residential development - general criteria
- EP15 - Visitor attractions
- EP16 - Visitor accommodation
- S12 - Financial and professional services and food and drink uses
- E5 - Biodiversity
- E10 - Renewable energy
- E12 - Pollution
- E17 - Landscaping schemes
- E18 - Conservation areas
- E19 - Listed buildings and buildings of local importance
- E21 - Archaeology
- E23 - Design
- E24 - Community safety
- E27 - Environmental Art
- E29 - Protection of World Heritage Site and surroundings
- L2 & L3 - Public open space standards
- L8 - Leisure and entertainment facilities
- T1 - Transport implications for 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.

10. **Officer Opinion:** The proposal would be a mixed use development sited on the northern edge of the city centre, situated in a highly accessible location, which would generally be appropriate in policy terms. The site is currently disused land of minimal landscape value,

B1 APPLICATIONS (cont'd)

6 Code No: DER/09/07/01793

which requires a re-development scheme of high quality to make a positive contribution to the streetscape and skyline of the city centre. The hotel and casino uses would accord with the provisions of Policies EP15 and EP16, which encourage these tourism type uses within the city centre. The residential element of the scheme would contribute towards city centre living and provide high density housing closely related to various alternative transport links. The proposal would constitute an efficient and effective use of brownfield land as promoted in PPS 3 (Housing). Provided that the impacts of air quality and noise, resulting from high traffic flows in the area, are satisfactorily addressed, a high quality living environment would be achieved by this scheme and Policy H13 would be satisfied. This issue is discussed elsewhere in the report. There is an existing permission for a high density residential apartment scheme on this site, which is for 64 units arranged in a similar form, which addressed the issues of noise and air quality. The principle of residential use has, therefore, been established on the site. The proposed restaurant/ bar use also raises no policy objections, since it would not impact adversely on the city centre's vitality and viability. It would be in line with the objectives in Policy S12.

Urban Design and Conservation

Matters of design, scale and layout are significant considerations for this development, due to its prominent siting and sensitive location in the context of the historic urban fabric of the city centre. They are also important due to the substantial nature of the built form proposed, which is required to accommodate a large hotel and residential scheme and other leisure uses. The site itself is relatively small in area and the floorspace aspirations have therefore resulted in a vertical emphasis to the development and a substantial massing, resulting in a tall building in the context of Derby's general urban form. The tallest element of the building would be to the east elevation, which would be most prominent from the Inner Ring Road, when approached from the easterly direction and from the River Derwent corridor immediately to the north east of the site. Concerns expressed in respect to the design, massing and elevational treatment of the building, in particular the prominent east elevation have been investigated further by the architects. A more slender and simplified tower element has been put forward, with a curved façade and white rendered finish, which helps to break up the bulk of the building. The two wings would be lower and have a more rectangular form. They would be similar in overall scale and mass, with glazed panels to the upper sections to give a lighter appearance, although the massing has been criticised, particularly when viewed from the behind the St. Mary's Bridge Chapel. 3D photo perspectives of various views will be presented at the meeting. Overall, the amended design and form of the building is considered to be an improvement in

B1 APPLICATIONS (cont'd)

6 Code No: DER/09/07/01793

most respects, which addresses the particular physical constraints of the site. The formation of a strong street frontage along the highway edges, would be a positive feature of the scheme, which would give a sense of enclosure and activity to this currently fragmented area on the edge of the city centre. The height and scale of the proposed built form would be greater than those properties in the immediate locality, which are generally 3 or 4 storeys. However, in the context of a city centre location and on an island site, this difference in scale would not appear over dominant or out of keeping with the surrounding streetscene. The tallest section of the building would face towards the Inner Ring Road and would not conflict visually with the neighbouring townscape. I consider that on balance, the overall scale and massing of the building would integrate successfully into the streetscene and a tall building would as such, contribute to the skyline between, rather than conflict with the historic towers of the Cathedral and St. Mary's Church.

A contemporary approach to the development is considered to be appropriate in this location and would result in a striking architectural form, which would stand alone from the more traditional street pattern in the surrounding area. The historic buildings and streets, which would form the backdrop to the development to the north and south of the site are separated from it, by the substantial highway and landscaped verges, which make up the Inner Ring Road and slip roads. This gives the opportunity for a more bold development in terms of scale and height, since there would be a visual as well as physical separation from the listed buildings of St. Helens House and St. Mary's Church in the Strutt's Park Conservation Area and from the Cathedral and other listed buildings in the City Centre Conservation Area. The listed St. Mary's Bridge Chapel and bridge are also sufficiently detached from the site to avoid being over dominated by the development. The development would be seen from the World Heritage Site which extends along the River Derwent corridor and the site is located within the buffer zone. The proposal would clearly have a visual impact on this sensitive area, although the merits of the design and form of the scheme are such that it would not undermine its special character or its setting.

Photo evidence in the Environmental Statement suggests that long range views of the development would largely afford glimpses of the building or views of the uppermost storeys only. It is therefore unlikely to be particularly prominent on the skyline from outside the immediate central area of the city, although as indicated it could be seen and would contribute to the skyline positively. However, the building would be sited at a relatively low ground level, when compared with the built form in the surrounding area and this would help to lessen its visual impact from the wider city.

B1 APPLICATIONS (cont'd)

6 Code No: DER/09/07/01793

The development is to incorporate sustainable principles in its design and measures to minimise energy consumption. The design and form of the building is proposed to use passive solar gain to enable maximum natural light within the building. Photovoltaic solar panels are also to be located on the roof of the building to provide hot water for the hotel. These measures proposed would accord with the provisions of Policy E10.

Residential Amenity

There are residential properties to the north and south of the development site, which are in relative proximity and would be affected by the proposal in terms of both massing and scale. The 2 and 3 storey elderly people's flats at St. Mary's Court, which are nearest to St. Alkmund's Way would have a direct view of the hotel building, which would be up to 8 storeys in height on the north elevation. There would be some massing effect and overlooking of these flats, which would be about 35 metres minimum distance away from the development. However, they would be separated by six lanes of heavy traffic and existing planting alongside the highway. The impact on their living conditions would therefore be reduced by the ring road and existing landscaping. Overall, the amenities and privacy of the nearby residents would not be particularly undermined by the proposed building, due to an adequate distance being preserved and in the context of an urban city centre location. The properties on the south side of King Street are largely office accommodation, with 2 and 3 storey flats to the south eastern end facing onto an internal courtyard. The rear elevation of this block of flats would face towards the southern corner of the scheme and would again be separated by a substantial highway. There would be at least 25 metres distance from the existing flats and the potential overlooking and massing impact would not be unreasonable in this city centre location. The relationship of the development to these existing residential properties would be similar to that accepted under the previously approved apartment scheme and is considered to be a reasonable one.

Air Quality and Noise

An important constraint to the provision of residential development in this location is the Air Quality Management Area, which includes this site, due to the impact of high traffic flows on the Inner Ring Road. The traffic levels also give rise to high noise levels particularly on the St. Alkmund's Way frontage. Both these issues have been addressed in the Environmental Statement, which accompanied the application and in the design and layout of the building, which places all the apartments at first floor level and above and set in at least 5 metres from the road

B1 APPLICATIONS (cont'd)

6 Code No: DER/09/07/01793

frontage. Further discussions have taken place taken place between the applicants and Environmental Health Officers in order to resolve concerns about exposure to poor air quality. The requirement for 14 metres separation to be achieved between the kerbside of the highway and the façade of the residential accommodation cannot be achieved for some of the lower level accommodation. However, this standard cannot realistically be achieved without removing all the balconies and fixing the window openings, which would have an undesirable consequence for the visual quality of the building and for the living environment of the occupants. The apartments would also be positioned on the less sensitive part of the site, both in terms of air quality and noise levels, facing King Street and part of the slip road rather than the Inner Ring Road. The applicant's consultants claim that poor air quality concentrations at the apartments most affected would be below the Council's objectives and that the effect on the living environment of the apartments would therefore be limited.

The Council's supplementary Planning Guidance on Development and Air Quality, states that air quality concerns must be weighed up against the social, economic or other benefits of the development to the city. In considering the weight to be given to air quality as a material consideration, there should be regard to any proposed mitigation measures, the scale and nature of any breach and whether improvement is expected over time and sensitivity of the uses proposed. Other relevant policy advice in respect to housing and transport, gives emphasis to achieving sustainable forms of development and high density housing on brownfield sites in urban areas. This proposal would fulfil these aspirations and on balance the significant benefits of the overall scheme to the city are considered to outweigh the possible adverse effects of poor air quality in this location.

Noise levels in the development could be satisfactorily addressed by mitigation measures proposed in the Environmental Statement. The balconies and roof top gardens of the apartments, would be subject to greater disturbance, although again they would be located on the less sensitive King Street frontage of the site. Overall, the potential disturbance from outdoor areas of the residential use, is considered to be outweighed in this case by the benefits to occupants of the additional amenity space and views afforded over the city centre. The detriment to residents would not therefore be unreasonable or so injurious as to justify removing the outdoor spaces from the scheme. Air quality and noise issues for future occupants would be adequately addressed by this scheme and, therefore, I consider that it satisfactorily accords with the requirements of Policy E12.

B1 APPLICATIONS (cont'd)

6 Code No: DER/09/07/01793

Open Space and the Natural Environment

The development site adjoins a small area of public open space, north of King Street, which has been partly enhanced by the installation of a new footbridge and pedestrian/cycle route. Public realm improvements are proposed for this whole area, which would be assisted by the removal and filling in of the subway under King Street. The works to the subway are proposed to facilitate the development and would also allow for further enhancement and re-landscaping of this part of the open space. It is intended that the new surface walkway and landscaping proposals to be implemented as part of the development would become public realm and the proposed courtyard to the hotel complex would extend slightly into the open space. This would integrate the proposal successfully into the public space and provide a friendly and secure route to both the private and public areas.

The proposed removal of trees and shrub planting to enable the development scheme, would not result in the loss of any trees of particular merit and would be mitigated by the improvements to the public realm and replacement planting, which are included in the landscaping proposals. A high quality scheme of external works would be secured by an appropriate condition.

Flood Risk

The northern part of the site, which abuts St. Alkmunds Way is within Flood Zone 2 as designated by the Environment Agency and is therefore subject to a medium risk of flooding in a 1 in 100 year event. A revised flood risk assessment has been submitted and satisfactorily addresses the concerns of the Environment Agency, in respect to potential flooding and drainage issues. The proposal would therefore accord with the provisions of Policy GD3.

Section 106 Contributions

The residential proposal would generate a requirement for contributions towards affordable housing, public open space, improvements to public transport, cycling and pedestrian facilities within the transport corridor, public art and lifetime homes. There is a requirement for a 30% proportion of the apartments to be affordable, split between rented and shared equity. This issue is currently being negotiated with the applicants. The existing subway would also require removal in order to enable the development to be implemented. There is agreement in principle for it to be filled in and replaced with surface level crossing facilities, although a formal Stopping Up Order would need to be secured. The development is suitable for the provision of 9

B1 APPLICATIONS (cont'd)

6 Code No: DER/09/07/01793

dwellings to be built in line with Lifetime Homes Standards. All agreed contributions would be secured by completion of a Section 106 Agreement.

Conclusions

This mixed use redevelopment scheme relates to a strategically important location on the northern edge of the city centre. It is considered to be a gateway site abutting the Inner Ring Road and is also within an historically sensitive part of the city. As such it is a difficult site to develop at an appropriate scale, which is sympathetic to the setting of the traditional streetscape and important nearby listed buildings, but with an aspiration for a building of landmark quality, on the grounds of its prominent city centre location. The proposed building, which is being considered would balance both of these rather conflicting design requirements and would fulfil the various policy criteria, which affect the location. The amenities of local residents would not be unduly affected and there would be significant benefits in terms of public access and pedestrian activity in the immediate area, encouraged by proposed improvements to the adjacent public realm. Overall, the proposal would be a high quality development with economic benefits for the city and it is recommended for approval.

11. Recommended decision and summary of reasons:

- 11.1 A. **To authorise** the Assistant Director – Regeneration to negotiate the terms of a Section 106 Agreement to achieve the objectives set out in 11.5 below and **to authorise** the Director of Corporate Services to enter into such an agreement.
- B. **To authorise** the Assistant Director – Regeneration **to grant** planning permission on the conclusion of the above agreement, with conditions.
- C. If the applicant fails to sign the Section 106 Agreement by the expiry of the 13-week target period 21 February 2008) consideration be given in consultation with the Chair, **to refusing** the application.
- 11.2 **Summary of reasons:** The proposal has been considered in relation to the provisions of the City of Derby Local Plan Review and all other material considerations as indicated in 9 above. The mixed use commercial and residential development would introduce appropriate uses into the city centre, would protect the setting of nearby listed buildings and the World Heritage Site and would be in keeping with the character and appearance of the surrounding streetscene.

B1 APPLICATIONS (cont'd)

6 Code No: DER/09/07/01793

11.3 Conditions

1. Standard condition 83 (amended drawing nos.D2-21/16, D2-22/15, D2-20/12,D2-23/11,D2-24/9,D2-25/9,D2-26/9,D2-27/9,D2-28/9, D2-29/9,D2-30/9, D2-31/9,D2-32/6,D2/33/6, D2-34/4 D3-10/4, D3-11/4,D3-12/4)
2. Standard condition 27 (external materials)
3. Standard condition 20 (landscaping scheme)
4. Standard condition 22 (landscaping maintenance – Condition 3)
5. Standard condition 30 (hard surfacing)
6. Standard condition 38 (drainage scheme)
7. Standard condition 24A (protection of vegetation)
8. Standard condition 100 (site contamination)
9. Standard condition 99 (recycling facilities)
10. Details submitted under Condition 3, shall include precise details of treatment of the public open space, including area currently occupied by subway, where it adjoins the proposed courtyard on the development, to incorporate details of ground levels, layout, planting and hard surfacing materials, shall be submitted to and approved in writing by the Local Planning Authority.
11. Standard condition 67 (disabled access facilities)
12. Standard condition 98 (Travel plan)
13. The gradient of the proposed vehicular access shall not exceed 1:10 for the first 10 metres from the highway boundary.
14. Before development commences, further precise details of a mitigation strategy for minimising exposure to excessive noise levels to the outdoor spaces of the apartments shall be submitted to and approved in writing by the Local Planning Authority.
15. Before development commences, precise details of the proposed drop-off area to the north side of King Street, to include construction, siting and layout details shall be submitted to and approved in writing by the Local Planning Authority, and shall be implemented in accordance with these approved details.
16. Before development commences, precise details of the design and materials for the proposed roof top spire feature for the top of the building, to a scale of 1:10 or 1:20, shall be submitted to and approved in writing by the Local Planning Authority and implemented in accordance with such approved details.

B1 APPLICATIONS (cont'd)

6 Code No: DER/09/07/01793

11.4 Reasons

1. Standard reason E04
2. Standard reason E14...policy E23
3. Standard reason E09...policy E17
4. Standard reason E09...policy E17
5. Standard reason E21...policy E23
6. Standard reason E21
7. Standard reason E24...policy E17
8. Standard reason E49...policy E12
9. Standard reason E48

10. To ensure that landscaping scheme integrates with the adjacent public realm, in the interests of visual amenity and public safety...policies E17 and E23

11. Standard reason E34...policy T10
12. Standard reason E47...policy T1
13. In the interests of highway safety.

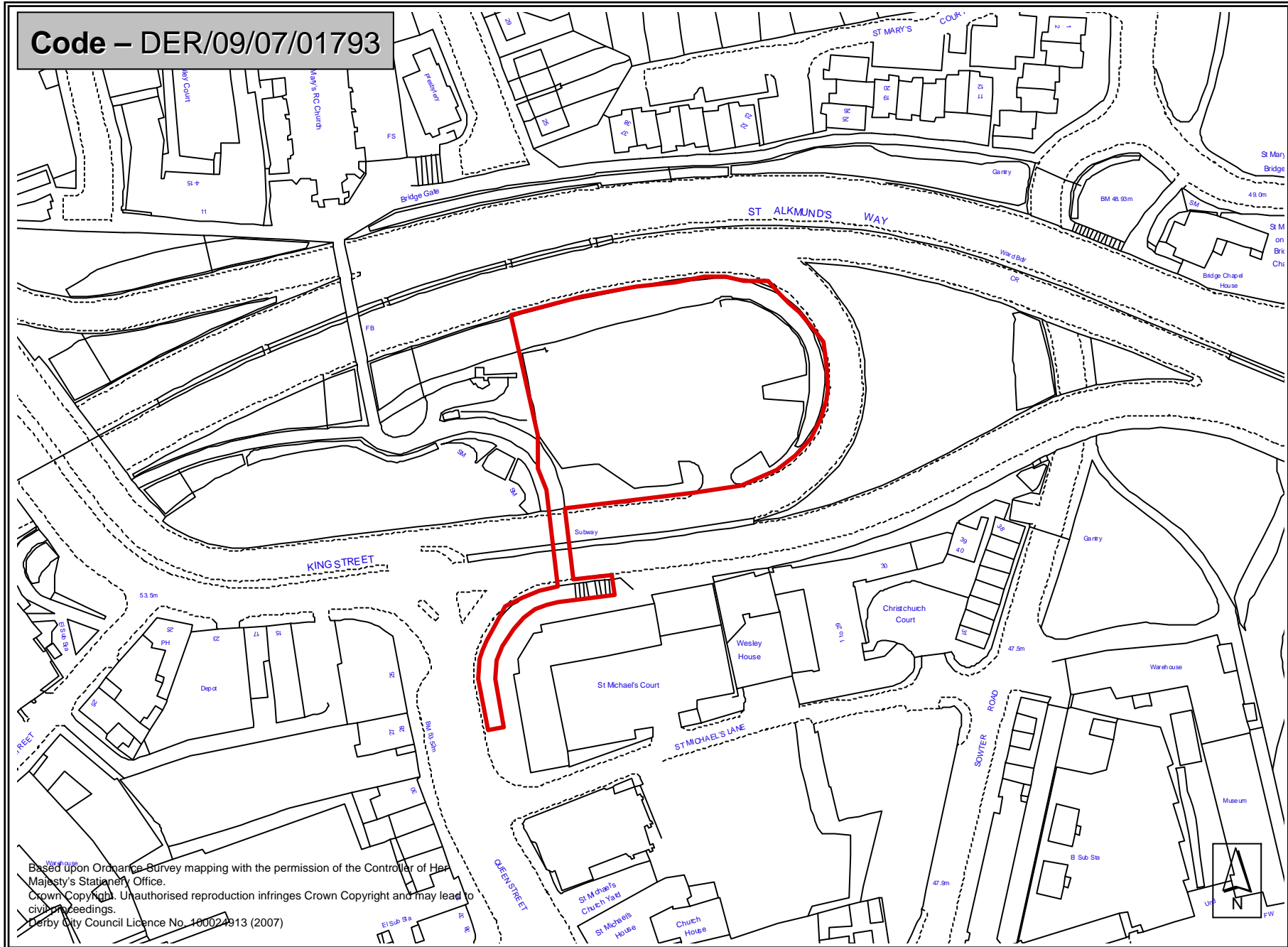
14. To ensure provision of a satisfactory living environment for the residents...policy E12

15. In the interests of highway safety and to avoid comprising traffic flows on King Street...policy T4

16. To ensure an appropriate skyline feature to enhance the appearance of the building in the interests of visual amenity...policy E23

11.5 S106 requirements where appropriate: Affordable housing, public open space contributions, lifetime homes, removal of subway and highway improvements to public transport, cycling and pedestrian facilities and public art.

Code – DER/09/07/01793



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B1 APPLICATIONS (cont'd)

7 Code No: DER/11/07/02079

Type: Full

1. **Address:** Cathedral Road (Former Sixth Kenning Car Hire)
2. **Proposal:** Erection of offices (Use Class B1) and restaurant/café (Use Class A3)
3. **Description:** This site of some 0.234 hectares was used by Sixth Kennings as a car and van hire depot with a building at the rear and a canopy towards the front of the site. The remainder of the site is hard surfaced and the site is enclosed by a mixture of walls, fences and railings.

The site backs onto properties in St Mary's Gate, two of which are listed buildings, it lies east of the renovated and extended Magistrates' Courts and west of land currently used as a car park adjoining the former Kennings buildings on Queen Street. On the opposite side of the street is the Queen Street Leisure complex.

The proposal for the redevelopment of this site involve the construction of 6108 sq m of offices, including associated car parking and potential for a café/restaurant use on the ground floor. The building has been designed following a study to establish the protection of important views of the Cathedral tower. It has also been designed following a contextual study of the site and its surroundings. The building is 5 storeys in height at the front and four at the rear. Offices occupy the ground floor frontage with car parking behind accessed through a gated entrance. The restaurant use would also be on part of the ground floor. The first floor and above also extends over the parking area in two wings.

The building has a rounded curtain wall on the corner facing towards Queen Street with brick and glass elements on the frontage and at the rear.

4. **Relevant Planning History:** None relevant to this application.
5. **Implications of Proposal:**
 - 5.1 **Economic:** Some 400 to 700 staff could be employed on the premises which would give a significant boost to the Cathedral quarter.
 - 5.2 **Design and Community Safety:** In design terms, the site should make a positive contribution to the streetscene and the nearby Cathedral Quarter. It is a striking modern building which will redress the poor streetscene at this point and enliven the pedestrian activity on this street. Secure and safe access should be provided to the building

B1 **APPLICATIONS** (cont'd)

7 **Code No:** DER/11/07/02079

through a controlled access and to the external areas. The vehicle access under the building is to be controlled by roller shutters or swinging gates. It is proposed to control pedestrian access to the side of the building by metal gates.

- 5.3 Highways:** The submitted Transport Assessment provides a comprehensive appraisal of the existing transport network and impacts of the development. It identifies capacity issues and a solution to change the priority junction at Cathedral Road/Walker Lane which is agreeable in principle. A more detailed design needs to be submitted that considers visibility, levels, alignment, adequacy of the right turning lane, bus right turning and pedestrian refuges. These details should be conditioned and delivered through a legal agreement.

Car parking is not provided at maximum levels and should not be and a Travel Plan should be conditioned to ensure low levels of car travel to the site.

- 5.4 Disabled People's Access:** The building should be compliant with the Building Regulations requirements for access.

- 5.5 Other Environmental:** A contamination study has been submitted with the application which recommends remediation measures are agreed with the Environment Agency and the Council, given the site's previous use as a coach works and garage. A protected species study has also been submitted which did not identify the presence on site of any protected species and accordingly no specific mitigation measures are required.

6. **Publicity:**

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

- 7. Representations:** None to date.

8. **Consultations:**

CAAC - the Committee was split on the impact this development had on the setting of the Cathedral and the setting of the conservation area and adjacent listed buildings, although the resultant strong building line created to the Cathedral Road frontage was welcomed. The majority decision was to raise no objection to the proposal as long as the setting

B1 APPLICATIONS (cont'd)

7 Code No: DER/11/07/02079

of the Grade I listed Cathedral was not adversely affected (the ventilation plant and lift shaft should neither obstruct the view of the Cathedral Tower or clutter the view from it). They strongly suggested control of the window details and materials used for the development.

Police - supports the development and agrees with the Applicant's comments on activity and casual surveillance and raises comment only on details concerning access control. Access control is welcomed but should be common to all entry points and physical boundaries should be substantial enough to restrict unauthorised access. In this respect the pedestrian gates should be higher and roller shutters for the car park entrance are not ideal as they cut off site lines and do not give an appropriate or strong enough statement of safety and security.

Archaeologist - to be reported

Cityscape - to be reported

OPUN - to be reported

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

- GD1 - Social Inclusion
- GD2 - Protection of the Environment
- GD4 - Design and the Urban Environment
- R1 - Regeneration Priorities
- CC1 - City Centre Strategy
- CC9 - Northern Quarter Policy area
- CC18 - Central Area parking
- EP10 - Major Office Development
- S12 - Financial and Professional Services and Food and Drink Uses
- E10 - Renewable Energy
- E13 - Contaminated Land
- E17 - Landscaping schemes
- E18 - Conservation Areas
- E19 - Listed Buildings and Buildings of Local Importance
- E21 - Archaeology
- E23 - Design
- E24 - Community Safety
- E27 - Environmental Art
- T1 - Transport Implications of New Development
- T4 - Access, Parking and Servicing
- T10 - Access for Disabled People.

10. Officer Opinion: The proposed redevelopment of this brownfield site would aid the regeneration of the Northern Quarter and provide the opportunity to radically improve the streetscene at this particular point

B1 APPLICATIONS (cont'd)

7 Code No: DER/11/07/02079

and provide a welcome increase in pedestrian activity. This proposal has been very carefully designed to take account of the Cathedral and the views to it and is a welcome development.

The office and restaurant/café use is acceptable under policy CC9 subject to being compatible with the surrounding area in terms of amenity and quality of the environment. The office use is also in accordance with EP10 regarding site selection for office use.

The initial context appraisal and massing studies undertaken at pre-application stage informed the design process ensuring that the proposal maintains and indeed frames views of the cathedral tower. The rounded glass design on the north east corner is designed to give a visual link to the cathedral tower whilst the roof is set back on the west elevation to direct the eye towards the tower. Also to frame the important view from the west side there are set backs in the upper elevations, fewer stories at the rear together with a largely glazed elevation on the west face of the rear projection to lighten the elevation and give vertical emphasis.

The building is set close to the street frontage to reinforce and recreate the street pattern with a choice of materials to respect its context. The building also contains as much active frontage as possible to animate the streetscene and provide passive surveillance for pedestrians.

The proposal will be visible from St Mary's Gate where there are gaps in the building frontage. However, the mass and scale has been reduced from the Cathedral Road frontage to respond to this context. The south and east elevations have interest with some areas of glazing to provide a reflective aspect.

Some detailed aspects such as those raised under community safety regarding gates and boundary treatments have been raised with the Applicant and will be the subject of further plans or conditions.

An energy statement is conditioned and the roof garden is welcomed both as an outside amenity space and for its bio-diversity value.

The proposal as submitted indicates public art planters, public art concrete seating and steel bollards in the highway in order to create interest and to protect that area of footway in front of the building. I am not convinced that this is necessarily the right treatment because the public realm strategy suggests an uncluttered public realm and am proposing a condition excluding the submitted details and to require further details of public art and treatment of the footway forecourt outside the building.

B1 APPLICATIONS (cont'd)

7 Code No: DER/11/07/02079

I do not have the views of the Archaeological Officer but I suspect that any interest will have been disturbed by the previous developments. Any further comment will be reported at the meeting.

As indicated in highway comments above, the development with its 47 spaces is acceptable subject to appropriate S106 contributions and details of the junction improvements on Cathedral Road. A travel plan will be required together with targets and appropriate penalties. Any further comments will be reported at the meeting.

Discussions on S106 requirements should be concluded by the meeting and relate to highway transport / public realm contributions, travel plans, and public art.

In conclusion, I consider that the proposal is well designed, will be a considerable benefit to the streetscene in design terms and will bring much needed pedestrian activity to this area. I consider it does preserve important views of the Cathedral tower and its benefits will outweigh any disadvantages to surrounding properties. I am recommending accordingly subject to reporting any outstanding consultations and further discussions.

11. Recommended decision and summary of reasons:

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

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

11.2 Summary of reasons: The proposal has been considered in relation to the provisions of the City of Derby Local Plan Review and all other material considerations as indicated in 9 above. The development would introduce appropriate uses into the city centre, would protect the setting of nearby listed buildings and would be in keeping with the character and appearance of the surrounding streetscene.

11.3 Conditions

1. Standard condition 27 (external materials)
2. Standard condition 20 (landscaping scheme)
3. Standard condition 22 (landscaping maintenance – Condition 3)
4. Standard condition 30 (hard surfacing)

B1 APPLICATIONS (cont'd)

7 Code No: DER/11/07/02079

5. Standard condition 38 (drainage scheme)
6. Standard condition 99 (recycling facilities)
7. Standard condition 100 (contamination)
8. Standard condition 67 (disabled access)

9. The construction of the development shall have full regard to the need to reduce energy consumption and a scheme shall be submitted to and approved in writing by the Local Planning Authority, to demonstrate what measures are proposed before the development is commenced. The approved scheme shall be implemented in its entirety before the approved dwelling is occupied."

10. The details required under condition 1 above shall include the design and materials of the means of enclosure of the vehicle and pedestrian entrances to the site.

11. The A3 use hereby permitted on the ground floor of Sub-let B indicated on the submitted plans, notwithstanding the provisions of the General permitted Development Order, shall not change to another use except B1a without further permission.

12. The use of the ground floor units for A3 use, shall not commence until details of a fume extraction/ventilation system, with silencer and carbon filtration, has been submitted to and approved in writing by the Local Planning Authority and until such equipment has been brought into use. The use shall not be operated unless the approved system is working satisfactorily. The details shall include the location and design of any external vent or flue.

13. Notwithstanding the submitted information, further details of the means of enclosure to the car park shall be submitted and approved in writing by the LPA before any development commences.

14. Standard condition 98 (travel plan)

15. Notwithstanding the submitted information, further details of the treatment of the hard surfaced areas on the street frontage, shall be submitted to and approved in writing by the LPA before development commences.

11.4 Reasons

1. Standard reason E14...policies E23 and GD4
2. Standard reason E09...policy E17

B1 APPLICATIONS (cont'd)

7 Code No: DER/11/07/02079

3. Standard reason E09...policy E17
4. Standard reason E21...policy E23
5. Standard reason E21
6. Standard reason E48
7. Standard reason E49...policy E13
8. Standard reason E34...policy T10

9. To help to reduce energy consumption reducing pollution and waste...policy E12

10. In the interests of visual amenity and community safety...policies E23 and E24

11. Standard Reason E18...policy E23

12. Unrestricted retail use would be contrary to Policy S2 on the grounds that a need for the proposed level of A1 floorspace has not been satisfactorily demonstrated.

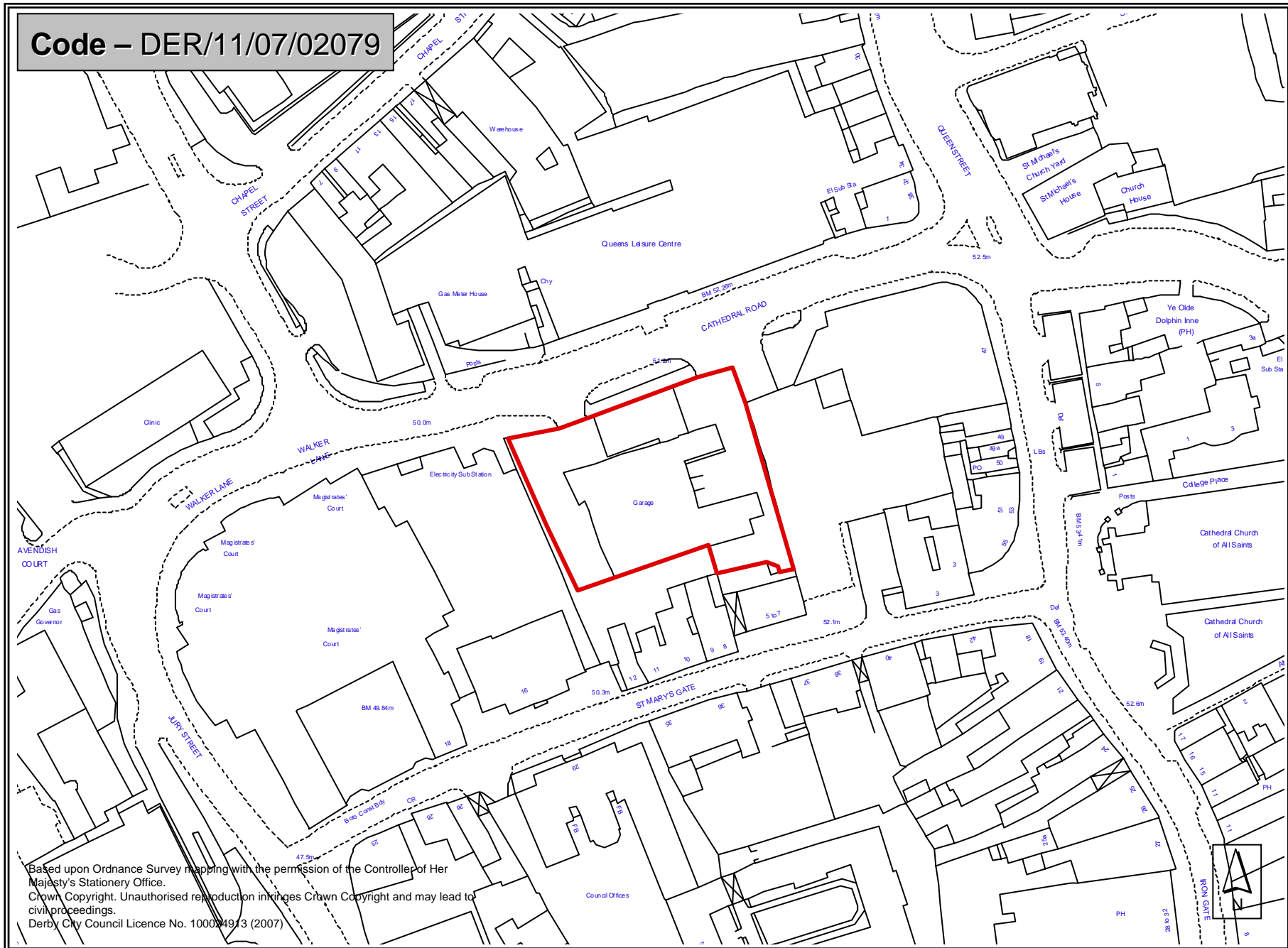
13. Standard reason E25...policy GD4

14. Standard reason E47...policy T1

15. In the interests of highway safety and to avoid a cluttered public realm...policy E23

11.5 S106 requirements where appropriate: Contributions to public transport, walking and cycling; submission of Travel Plan and fall back contributions if targets are not met, and contributions to public art.

Code – DER/11/07/02079



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D2 SPECIAL ITEMS

1 APPEALS DECISIONS

Appeals against planning refusal

Code No	Proposal	Location	Decision
DER/11/06/01809	Demolition of existing building, and erection of 17 apartments	Site at 48 Bedford Street	Dismissed
<p>Comments: Permission was refused for this proposal, on the basis that the existing building was of such merit that its demolition was not justified, because of the contribution it made to the streetscene. No 48 Bedford Street is included in the Local List of architecturally or historically important buildings. It is of great charm and significance in the streetscene, and I am delighted to report that the Inspector has supported the Council's stance and dismissed the appeal. She commented:</p> <p>"The appeal property is a large and imposing building which is prominent in the streetscene, when approached from either direction, because of its height, massing, and the spacing created by lower structures to either side of the main building. Despite clumsy alterations to the front of the building it has a distinct appearance with decorative banding and gable dormers in an arts and crafts style. It reflects the status of its former use as a vicarage associated with the Church of St Luke which the Council notes is a grade II* Listed Building. There may be other buildings of this style and type within the City which are less altered or historically more important. Nevertheless the building makes a significant contribution to the street scene, with the decorative bands on the front and visible parts of the side elevations, its massing and its roofscape being particularly notable.</p> <p>The Council objects to the proposed development not only because of the loss of the existing building, but also as they consider the replacement with such a large building would be out of keeping with the adjoining modest properties. They consider that, unlike the existing building which was built to be dominant because of its status as a vicarage, there is not justification for such a sizeable replacement structure. I do not share that view as, in my opinion, the existing building itself provides such a justification."</p> <p>This is a most encouraging decision, in relation to a fine building included on the Local List and enables the particular character of this part of Bedford Street to be retained. The Inspector has chosen to fully support the requirements of policies E19, GD4 and E23. The decision of the Inspector be noted.</p>			

D2 **SPECIAL ITEMS** (cont'd)

1 **APPEALS DECISIONS**

Code No	Proposal	Location	Decision
DER/12/06/02083 & DER/12/06/02084	Extension to dwelling house (conservatory)	Site at 12 Vernon Street	Dismissed
<p>Comments: Appeals were made against the refusal of both planning permission and listed building consent for the erection of a conservatory to the rear of this grade II listed property. The Inspector considered the main issue in these cases was the effect of the proposed conservatory on the special architectural and historic interest of the listed building.</p> <p>The Inspector stated that the sealed double glazing units would require substantial frame sizes which would appear inelegant alongside the historic windows at the property. He also stated that the conservatory would contrast noticeably with the historic form and thereby harm the character of the listed building. He considered that the conservatory would obscure existing openings and require the removal of a window to form a permanent opening. The Inspector concluded that the unsympathetic form and the loss of the historic fabric would have a detrimental effect on the special architectural and historic interest of the listed building, its character and setting.</p> <p>The Inspector noted that a conservatory had been approved in the same location previously but that elements of its design differed to the conservatory subject of the appeals. He concluded that this was a fall-back position of considerable weight but did not indicate that the appeals before him should be allowed. Accordingly, both of the appeals were dismissed</p>			

Code No	Proposal	Location	Decision
DER/02/07/00332	Alterations and extensions to form five flats	187 Uttoxeter New Road	Allowed
<p>Comments: This was the second of two applications submitted for the erection of extensions and conversion of an existing dwelling into a number of flats. It was a reduced scheme from one refused earlier. Both proposals were refused planning permission and both refusals were appealed and both appeals dealt with simultaneously. The outcome of the other appeal is reported below.</p> <p>Planning permission had been refused on the grounds of the unacceptable loss of residential amenity that would result to a neighbouring property from the enclosing and massing impacts that would be created by the proposed extensions that form part of the application and also to the poor living conditions that would exist for certain residents of the proposed flats because of restricted outlook.</p> <p>On this occasion the Inspector took the view that the higher two storey</p>			

D2 **SPECIAL ITEMS** (cont'd)

1 **APPEALS DECISIONS**

element of the extensions, which was only half of the proposed extensions, and the hipped roof design of single storey extension and its set back position away from the boundary, would be acceptable and would not appear to be overbearing or result in significant loss of sunlight to the neighbouring property. The Inspector discounted the cumulative affect of the proposal which was compounded by already existing structures enclosing the neighbouring property. He also discounted the poor outlook and living conditions argument saying that the development would provide a satisfactory standard of accommodation for its occupants. From his findings he concluded that the proposal did not conflict with the aims of CDLPR Policies GD5 and H13 and having regard to Planning Policy Statement 3 (Housing) which encourages efficient and effective use to be made of previously developed site within urban areas, concluded that this appeal be allowed.

Code No	Proposal	Location	Decision
DER/12/06/01939	Alterations and extensions to dwelling house to form six self-contained flats	187 Uttoxeter New Road	Dismissed
<p>Comments: Planning permission had been refused on the grounds of the unacceptable loss of residential amenity that would result to a neighbouring property from the enclosing and massing impacts that would be created by the proposed extensions that form part of the application and also to the poor living conditions that would exist for certain residents of the proposed flats because of restricted outlook.</p> <p>The Inspector agreed with the Council's opinion that the size and position of the substantial two storey extensions immediately along the boundary with a neighbouring property would result in an unacceptably overbearing relationship with that property and that it would also result in a significant loss of sunlight to that property. As such it was considered that the proposal was contrary to CDLPR Policy GD5 which is concerned with the affects of development on neighbouring amenity.</p> <p>The Inspector did not agree with the Council's view that poor outlook from some of the proposed flats amounted to poor living conditions. However as the proposal failed to meet with Policy GD5 with regard to neighbouring amenity, the appeal was dismissed.</p>			

D2 **SPECIAL ITEMS** (cont'd)

1 **APPEALS DECISIONS**

ENFORCEMENT APPEAL

Code No	Proposal	Location	Decision
DER/04/06/00583	Alleged breach of Planning Control. The installation of two windows and a vent	Chestnut view Residential Home, 169 Derby Road, Chellaston	Allowed
<p>Comments: A planning application for the retention of unauthorised windows was refused planning permission under delegated powers in May 2006 on the grounds of a loss of neighbouring residential amenity. Subsequently an enforcement notice was served requiring the removal of the windows and a vent in their entirety, the bricking up of the openings and the reinstatement of a smaller window that matched one that had previously existed in the wall.</p> <p>Following an inspection of the site by the Government Inspector an appeal against the enforcement notice has been allowed and the Enforcement Notice has been quashed. The Inspector has granted planning permission for the retention of the installation of the two windows subject to them being permanently fitted with obscure glazing and that they not be replaced by windows of a different type. The top lights of the windows are the only lights to be capable of being opened.</p> <p>The Inspector determined that the vent did not require planning permission as it does not meet the necessary test of materially affecting the external appearance of the building. As planning permission is not required for the vent, it is not in breach of planning control and may not be enforced against.</p>			

RECOMMENDATION: To note the report.