

B1 APPLICATIONS

1 Code No: DER/02/09/00159

- 1. Address:** Market Place, Derby
- 2. Proposal:** Erection of an observation wheel for a temporary period until September 2009.
- 3. Description:** This application relates to the erection of an observation wheel, with associated ancillary structures. The proposed structure is of a modern design and construction, with a resemblance to the appearance of the London Eye. The exact height of the observation wheel will depend upon the precise model used, however, it will be approximately 50m high with 36 glass sided observation pods.

The proposed structure will not be fixed into the ground and no excavation works are required, instead the wheel will be secured by 6 stabilising tanks. The wheel's base will be approximately 22m long, by 17m wide, and the wheel itself will project approximately 9m either side. The proposal also includes the erection of a number of ancillary structures including two portakabins and 2.1m high fencing, which will house the wheel's generator.

The wheel will be sited in the centre of the Market Place, orientated on a North North West/South South West axis, adjacent to the Assembly Rooms. This site lies within the City Centre Conservation Area and is surrounded by a number of Listed Buildings, including the Grade II Listed War Memorial.

4. Relevant Planning History:

DER/04/07/00678 – Erection of ice rink for a temporary period (46 days in any 12 month period) – conditionally granted – 16/07/2007.

5. Implications of Proposal:

- 5.1 Economic:** The proposal has the potential to attract people to this area of the city and result in greater use of the city centre in general.
- 5.2 Design and Community Safety:** The impact of the proposal on the Conservation Area for the duration of the proposed development should be considered. There are no specific community safety issues.
- 5.3 Highways:** The application site is located within a city centre location, with good transport links, and is well served by public car parking facilities.

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5.4 **Disabled People's Access:** The pods will be accessible to ambulant and wheelchair disabled.

5.5 **Other Environmental:** The site is located within Flood Risk Zones 2 and 3.

6. Publicity:

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

7. **Representations:** No representations received.

8. Consultations:

The Environment Agency - No objections.

The Crime Prevention Liaison Officer - No comments.

Conservation Area Advisory Committee - Object to the proposal as it has an inappropriate impact on the surrounding Conservation Area. The Committee thought that a more appropriate location would be the Bass Recreational Area.

Cityscape - No comments received.

Corporate and Adult Service (Estates) - No objections.

City Development and Tourism - Fully support the application.

English Heritage - Object, and recommend that the application be refused on the grounds that the proposal will have a negative affect on the setting of the adjacent Grade II Listed Structures and would neither preserve nor enhance the special character of the City Centre Conservation Area.

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

- GD2 - Protection of the Environment
- GD3 - Flood Protection
- GD4 - Design and Urban Environment
- GD5 - Amenity

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| | |
|------|--|
| CC1 | - City Centre Strategy |
| CC2 | - City Centre Shopping Area |
| CC18 | - Central Area Parking |
| E18 | - Conservation Areas |
| E19 | - Listed Buildings and Buildings of Local Importance |
| E21 | - Archaeology |
| E23 | - Design |
| L8 | - Leisure and Entertainment Facilities |
| T4 | - Access, parking and servicing |
| T10 | - Access for Disabled People |

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

10. Officer Opinion: The main planning issues in this case are considered to be:

- 1) the principle of the development
- 2) the visual impact of the structure on the character and appearance of conservation area and the setting of nearby listed buildings.
- 3) the impact upon adjacent occupiers
- 4) highway implications

The principle of the development

The application site is located within an area covered by Policy CC2 of the Local Plan Review, which allows for a wide range of uses including assembly and leisure. Policy L8 of the CDLPR supports the siting of Leisure and Entertainment uses within the city centre, providing they would not lead to a loss of land allocated for other uses, would not unduly inhibit business activity in the area, and provided they are well served by public transport and accessible to pedestrians and cyclists. The proposal generally accords with policies CC2 and L8 and, in principle, the Market Place is a suitable location for this type of use.

Impact upon the character and appearance of the Conservation Area and the setting of nearby Listed Buildings

As the wheel will reach a height of up to 50m it will form a prominent feature within the immediate area and will clearly impact upon views into and out of the City Centre Conservation Area. In its proposed location the structure will also impact upon the setting of nearby Grade II Listed Buildings and structures. However, as the wheel will be only be on site for a temporary period of approximately six months, and the submitted documentation advises that no ground works are required, the proposed development will leave no lasting impact upon the

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character and appearance of the City Centre Conservation Area. Any short-term disadvantages which may arise as a result of the wheel's visual prominence should be considered against its temporary nature and the local economic benefits created. Although no evidence has been provided to support the possible economic benefits the wheel will bring, it is considered that the proposal will attract people to this area of the city, thus contributing to the city's wider economy and assisting in vitality and viability of the area.

The objections raised by English Heritage are noted, however, because of its temporary nature, I do not feel that the wheel will materially affect the character or appearance of the conservation area, or the setting of nearby listed buildings. Accordingly, the proposal is acceptable in terms of its visual impact. The applicant has been asked to provide further information regarding vibrations created by the wheel, and the possible impact this may have on the foundations of the War Memorial. Advice so far would indicate that this is unlikely to be an issue, however, Members will be provided with an update.

Impact upon the neighbouring properties

The proposed wheel will be located approximately 22m from the closest residential units, which are situated above numbers 15-16 Market Place. Although the wheel will be visible to local residents, due to the separation distances involved, its modern design, and temporary nature, the proposal will not be so visually obtrusive as to justify refusal on these grounds. It is considered that the proposal will not result in any significant amenity issues in this city centre location.

Highway Safety

There are no highway safety implications. The application site is located within the city centre, in a sustainable location, well served by public transport and car parking facilities.

Other issues

Although the site is located within Flood Risk Zones 2 and 3, the application is only for a temporary period until September 2009, and does not include the erection of a permanent structure. Accordingly, the flood risk issues are considered to be negligible. In this respect the Environment Agency has raised no objections to the proposed development.

11. Recommended decision and summary of reasons:

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11.1 To grant permission with conditions.

11.2 Summary of reasons: The proposal has been considered against the Adopted City of Derby Local Plan policies set out in (9) above and all other material planning considerations and is considered acceptable in terms of design, amenity and street scene impact.

11.3 Conditions

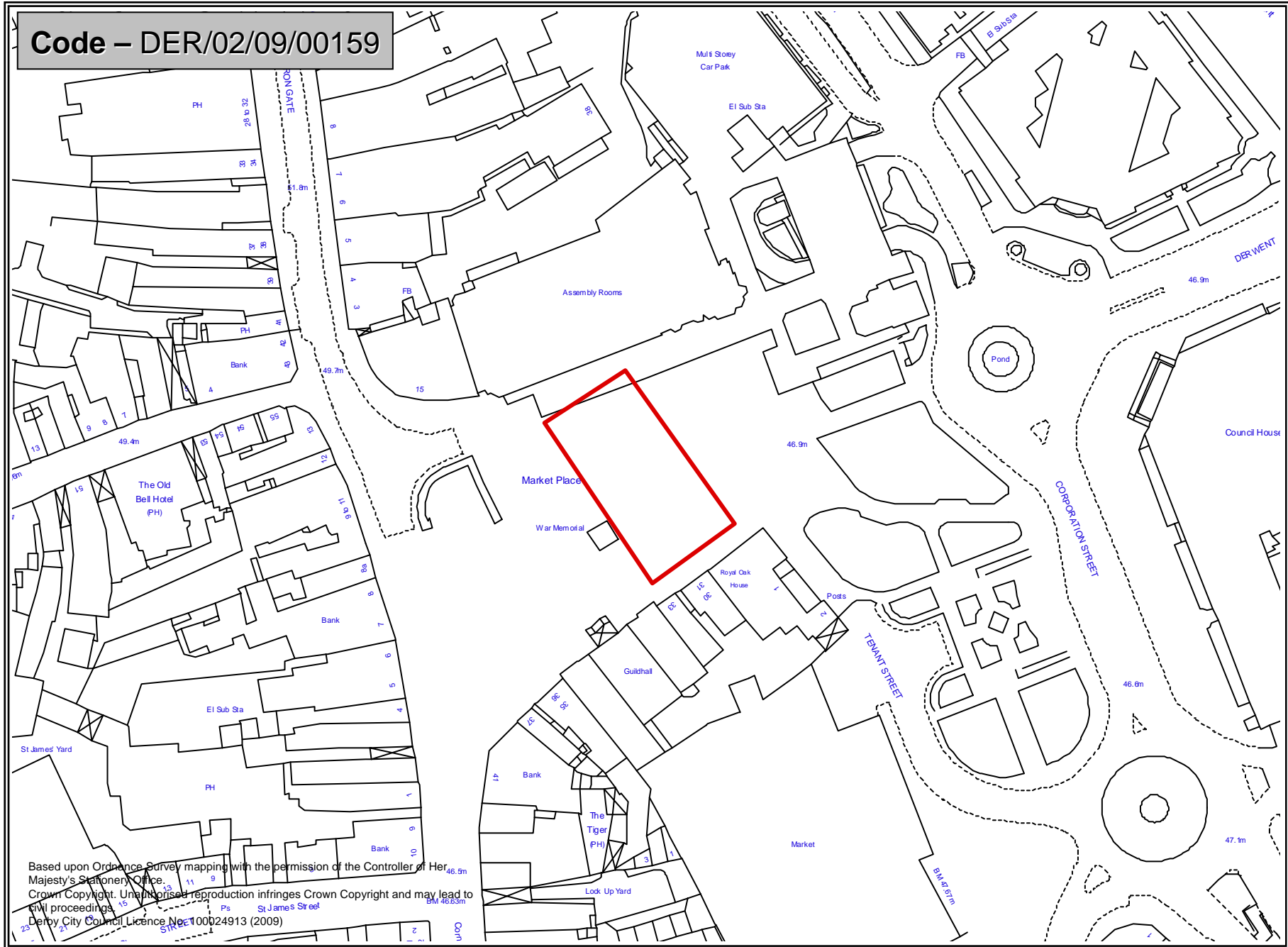
1. Standard Condition 83 (amended drawing)...Drawing Number: 2431/04 Rev E dated 24/03/09
2. The structures hereby permitted shall be removed by 30 September 2009, unless otherwise agreed in writing by the Local Planning Authority, and the land restored to its former condition within two months of that date.
3. Before development is commenced precise details of the portakabins and any ancillary structures shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details, or as otherwise agreed in writing by the Local Planning Authority.

11.4 Reasons

1. Standard reason.....E04 (for the avoidance of doubt)
2. To ensure the site is left in a satisfactory condition to protect the character and appearance of the City Centre Conservation Area and the visual amenities of the area...policies E23 and E18.
3. To protect the character and appearance of the City Centre Conservation Area and the visual amenities of the area...policies E23 and E18

11.5 S106 requirements where appropriate: - N/A

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B1 APPLICATIONS (cont'd)

2 Code No: DER/09/08/01322

Type: Outline
(means of
access and
layout details
applied for)

1. **Address:** Land at rear of 48 and 50 Pastures Hill, Littleover
2. **Proposal:** Residential development (two dwellings)
3. **Description:** Members will recall this application which was reported to the meeting on 5 February and was deferred for a site visit. That visit subsequently took place on 11 February and Members had the opportunity to inspect the proposal from no. 6 Merion Grove and the application site. This enabled Members to consider the issue of relative land levels which is a principal consideration in this case. The agent has since amended the application and has moved the proposed dwelling on plot 1 a further 1.5m further from the boundary with no. 6 Merion Grove. The amended plan also contains a sectional drawing through the site and no. 6 Merion Grove to show the respective land levels. Members may recall that the land levels on plot 1 had been raised and the sectional drawing shows that existing level compared to the proposed reduced land level. Neighbours were re-notified of the amended plans and further comments have been received.

A full copy of the previous report is reproduced for Member's reference and to avoid duplication.

- 4 **Relevant Planning History:** Refer to the previous report.
5. **Implications of Proposal:**
 - 5.1 **Economic:** -
 - 5.2 **Design and Community Safety:** Refer to the previous report.
 - 5.3 **Highways:** Refer to the previous report. There are no amendments to the access component of this application.
 - 5.4 **Disabled People's Access:** Refer to the previous report.
 - 5.5 **Other Environmental:** Refer to the previous report.

B1 APPLICATIONS (cont'd)

2 Code No: DER/09/08/01322

6. Publicity:

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

7. Representations: Refer to the previous report. The amended application has attracted further objections from surrounding residents who reaffirm their objections on the following grounds:

- Access/safety issues from Pastures Hill and congestion associated with on-street parking at 'school run' times
- The layout and scale of any development relative to the surrounding properties, some of which are sited on lower ground levels
- Overlooking issues into neighbouring properties and the detrimental impact of the development on the privacy enjoyed by existing neighbours
- Drainage issues and problems associated with surface water drainage and the perceived detrimental impact of more development in this area
- The detrimental impact of any development on the protected trees on the boundary of the site together with the impact on wildlife that enjoys the site.

The accuracy of the submitted and amended site layout plans has also been raised.

Any further representations will be reported orally at the meeting. The various representations will be available in the Member's rooms.

8. Consultations:

Arboriculture – Refer to the previous report.

DC Archaeologist – Refer to the previous report.

English Heritage – Refer to the previous report.

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

- GD4 - Design and the urban environment
- GD5 - Amenity
- H13 - Residential development – general criteria
- E9 - Trees

B1 APPLICATIONS (cont'd)

2 Code No: DER/09/08/01322

- E10 - Renewable energy
- E17 - Landscaping schemes
- E21 - Archaeology
- E23 - Design
- T4 - Access, parking and servicing

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

10. Officer Opinion: I maintain that the proposal, as amended by the site layout details for both plots, is an acceptable form of development in accordance with the rationale outlined in the previous report. Given that the proposal has been amended to address the relationship to the proposed dwellings at the rear of the site I am satisfied with the spacing of the proposed dwellings relative to all other neighbouring dwellings. The reserved matters stage would also allow the Council to exercise full control over the scale and appearance of the proposed dwellings.

11. Recommended decision and summary of reasons:

11.1 To grant outline planning permission with conditions

11.2 Summary of reasons: The proposal has been considered in relation to the provisions of the City of Derby Local Plan and all other material considerations as indicated in 9 and the proposal is an acceptable form of development in layout and access terms in this residential setting.

11.3 Conditions

1. Standard condition 01 (reserved matters) to be worded:
 - a. scale and appearance
 - b. landscaping
2. Standard condition 02 (approval of reserved matters)
3. Standard condition 19 (means of enclosure)
4. Standard condition 21 (landscaping within 12 months (condition 1b))
5. Standard condition 24A (vegetation – protection incl. overhanging)
6. Standard condition 30 (surfaces to be drained, surfaced etc)
7. Standard condition 38 (disposal of sewage – details)
8. Standard condition 46 (archaeological investigation). To include:
This scheme shall include on-site work, and off-site work such as the analysis, publication and archiving of the results. All works shall be carried out and completed as approved, unless otherwise agreed in writing by the Local Planning Authority.

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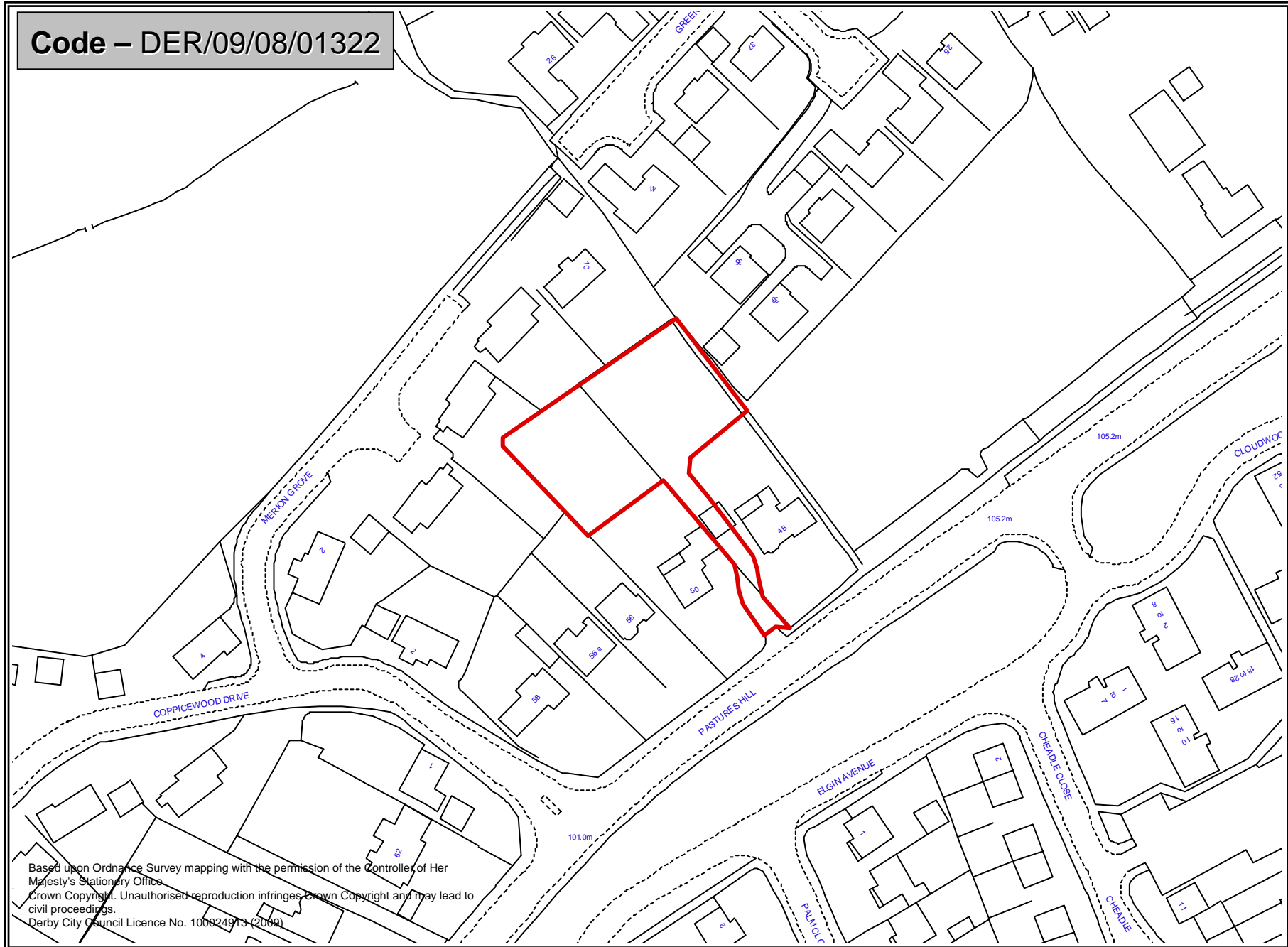
9. Standard condition 51 (service runs and trees)
10. Standard condition 09A (revised plans received on 22 December 2008 and 27 February 2009)

11.4 Reasons

1. Standard reason E01
2. Standard reason E02
3. Standard reason E09...policies H13 and GD5
4. Standard reason E09...policies H13 and E17
5. Standard reason E32...policy E9
6. Standard reason E09...policies H13 and GD3
7. Standard reason E09/E21...policies H13 and GD3
8. To safeguard, preserve and record any archaeological remains that exist on site...policy E21
9. Standard reason E29...policy E9
10. Standard reason E04

11.5 S106 requirements where appropriate: None.

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B1 APPLICATIONS (cont'd)

3 Code No: DER/02/09/00107

1. **Address:** 41 Duffield Road, Derby (May House)
2. **Proposal:** Extension of hot food shop to form two hot food shops and extension to walls and roof height of second floor bed-sit
3. **Description:** The proposal comprises the erection of a ground floor extension to the rear which will allow the unit to be separated creating two hot food takeaway units. The first and second floor will remain as bedsits with an extension to the second floor bathroom in order to increase the head height. Internal alterations to the ground floor will see the introduction of disabled WC's and rearranged entrance to both units and a parking space that is to be used as disabled parking space to the front of the premises.
4. **Relevant Planning History:** This is a resubmission of previously withdrawn application DER/12/08/0169.

DER/07/76/00857/00 - Change of use to hot food shop and residential – Granted.

DER/08/80/1396 - Use as kitchen in association with hot food shop (ground floor) and alteration to shop front - Granted Conditionally.

5. **Implications of Proposal:**
 - 5.1 **Economic:** The site has been previously used for a hot food takeaway use but has been vacant for a considerable amount of time. This proposal will bring this run down and disused unit back into use.
 - 5.2 **Design and Community Safety:** The proposal will improve the appearance of the premises. No specific community safety concerns in this busy street.
 - 5.3 **Highways:** The current application offers one parking space to the frontage which is also marked as disabled parking.
 - 5.4 **Disabled People's Access:** ramped access should be ensured by condition and disabled parking space and W.C's are to be available.
 - 5.5 **Other Environmental:** fume extraction, opening times and noise insulation should be controlled.

B1 APPLICATIONS (cont'd)

3 Code No: DER/02/09/00107

6. Publicity:

| | | | |
|--|---|--|--|
| Neighbour Notification letter | 7 | Site Notice | |
| Statutory press advert and site notice | | Discretionary press advert and site notice | |
| Other | | | |

7. Representations: Eight objections and a petition of 76 received:

- Already a fish and chip shop 500 metres away
- There are a number of hot food takeaways in close proximity
- Possible increase in litter 2 takeaways would cause
- There is lack of parking facilities outside the shop as there are double yellow lines outside both shops'
- Concerns regarding people stopping on the road and blocking the highway
- There is also a hot food counter that sells a variety of hot food in the garage supermarket next door.

One "objector" has contacted the Department to advise that he had not submitted an objection and did not object to the application. Whilst some of the objectors may be valid, there is some doubt about the authenticity of others.

I would accordingly have to advise Members to consider the points of concern raised but to bear in mind that the number of objections is not necessarily valid.

All representations are available to view in the Members' rooms.

8. Consultations:

Environmental Health - no objections, request for conditions regarding fume extraction, opening times and noise insulation.

Police ALO - no objections.

9. Summary of policies most relevant:

GD4 - Design and the Urban Environment
GD5 - Amenity
R7 - Markeaton Brook Mixed Use Area

B1 APPLICATIONS (cont'd)

3 Code No: DER/02/09/00107

- S12 - Financial and Professional Services and Food and Drink Uses
- E10 - Renewable Energy
- E23 - Design
- E24 - Community Safety
- LE3 - University District
- T4 - Access, Parking and Servicing
- T10 - Access for Disabled People of the adopted CDLPR 2006.

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

10. **Officer Opinion:** In relation to visual amenity the proposed works to the rear of the site are partially visible in the street scene as this is a corner plot location, however, a 1.8m high wall is in place around the site and a car sales forecourt is situated between the site and the roadside. The proposed extensions to the rear of the site will not be highly visible as the majority of the work is at single storey and the increase in height of the existing two storey extension will not be significantly noticeable. The proposed works will not result in a detrimental impact on the character of the existing property and will be in keeping with the surrounding area. Materials have not been stated as part of this application and, therefore, a condition is recommended to ensure an acceptable appearance. Taking this into consideration, I am satisfied that the proposal meets with criteria set out in policies GD4 and E23 of the City of Derby Local Plan Review.

It has been noted that the neighbouring property is currently being extensively developed and I am satisfied that there will be no impact by way of massing or overshadowing of this property. No additional windows are proposed above ground floor and I am satisfied there will be no issues of overlooking. I consider that the proposal meets with criteria set out in policy GD5 of the City of Derby Local Plan Review.

The agent acknowledges that there are already a number of food outlets in the area and goes on to add that the proposal would increase choice by allowing for a fish and chip shop. Overall I am satisfied that the proposal will not give rise to a concentration of such uses and, therefore, local amenity will not be detrimentally affected. Conditions are recommended to limit opening hours and request further details of the proposed ventilation system and sound insulation in order to protect the amenities of residents living above this hot food takeaway. It has also been noted that part of this proposal site had previously been used for hot food takeaway use and the unit has been vacant for a considerable amount of time, and the proposal will help to bring the site back into use. Taking this into consideration I am satisfied that criteria

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3 Code No: DER/02/09/00107

set out in Policy S12 of the City of Derby Local Plan Review can be met by this proposal.

In relation to highway safety there are double yellow lines on Duffield Road in the proposal site area, with limited waiting and residents parking in the immediate locale. The current application offers one parking space to the frontage which is marked as disabled parking. As the site is an existing hot food takeaway facility it is considered that there will be no detrimental highway implications and I am satisfied that the proposal meets criteria set out in Policies S12, T4 and T10 of the City of Derby Local Plan Review.

In relation to issues surrounding the types of hot food sold in the vicinity this cannot be taken into consideration. All other issues relating to litter, parking and increase in hot food shops have been addressed above and conditions to be included as appropriate.

Overall it is felt that the proposal is acceptable and amenity will not be unreasonably affected. The proposal reasonably satisfies the requirements of local plan policies set out in the City of Derby Local Plan Review 2006 and as such a recommendation of conditional planning permission will be granted.

11. Recommended decision and summary of reasons:

11.1 To grant planning permission conditionally.

11.2 Summary of reasons: The proposal has been considered in relation to the provisions of the City of Derby Local Plan and all other material considerations as indicated in 9 above. The proposal is an acceptable form of development in siting, design and in residential amenity terms in this location without detriment to the World Heritage Site and adjoining Conservation Area and Listed Buildings.

11.3 Conditions

1. Standard condition 27 (Materials)
2. The use shall not commence until details of a fume extraction/ventilation system, with silencer and carbon filtration, for both Hot Food Takeaway units have 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.

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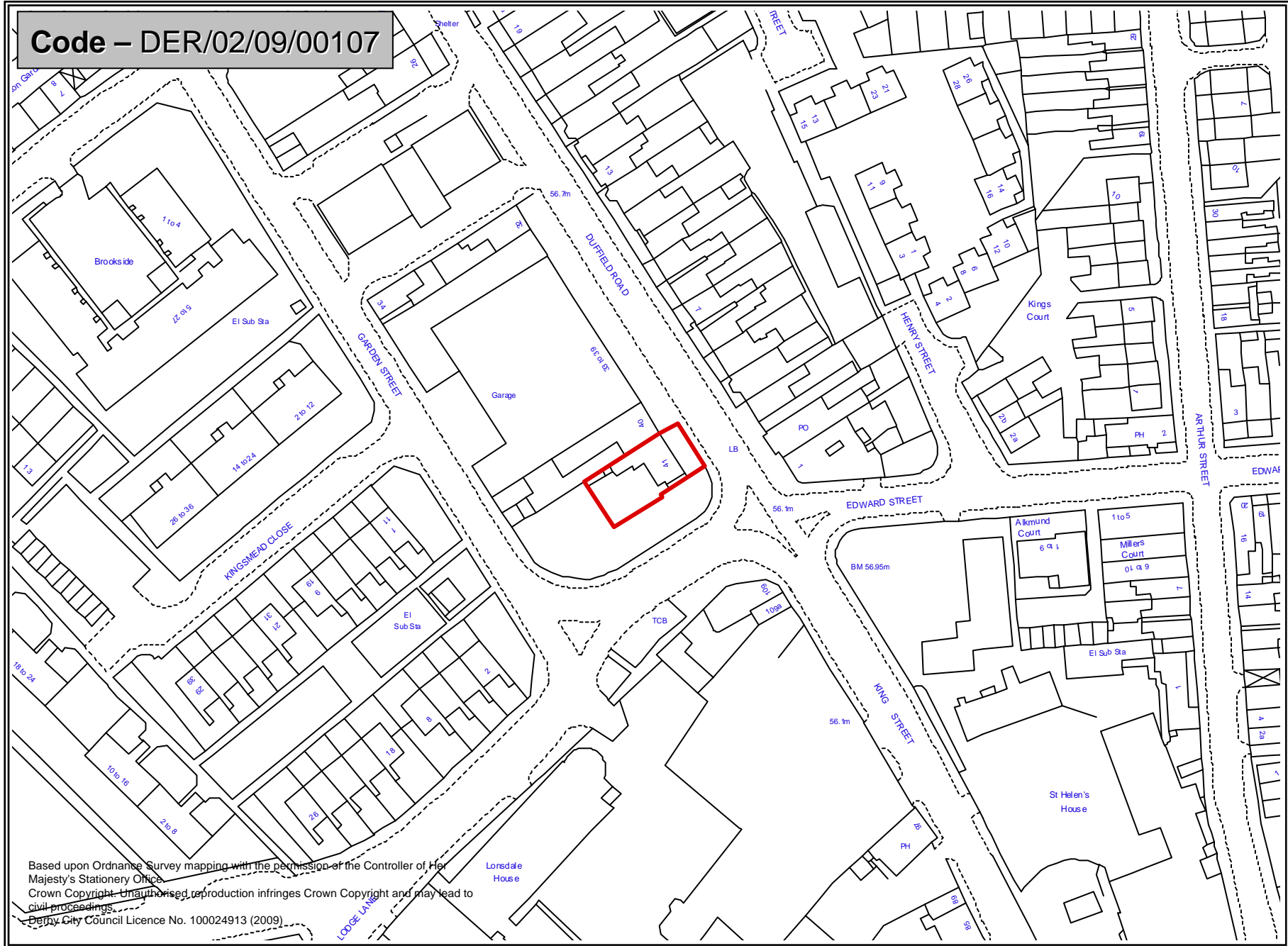
3. Opening hours shall be limited to 08:30 to 23:30 Monday to Saturday and 08:30 to 23:00 on Sundays both in respect of direct sales and the dispatch of orders for both Hot Food Takeaway units.
4. The principal entrance or entrances shall have level or ramped access. If ramped, the gradient should not extend 1:12 and doors shall have a minimum clear opening width of 800mm, all designed in accordance with BS8300: 2001, "Design of buildings and their approaches to meet the needs of disabled people".
5. The use shall not commence until sound insulation to the floor/ceiling/walls between it and the residential accommodation above or adjacent has been provided in accordance with details agreed in writing by the Local Planning Authority.
6. Litter bins shall be provided prior to the opening of the hot food takeaway, and retained as such in perpetuity.
7. The parking indicated at the front of the premises for disabled people's parking shall be kept available for that use at all times.

11.4 Reasons

1. E14... Policy E23
2. To protect residential and environmental amenity... Policies GD5 and S12
3. To preserve the amenities of adjacent residential properties... Policy GD5
4. To ensure that the development is accessible to disabled people... Policy T10
5. To protect the amenities of adjacent residents... Policy GD5
6. To preserve the amenities of the area...policy S12
7. To ensure the availability of a parking space for disabled people... policy T4

11.5 S106 requirements where appropriate:

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B1 APPLICATIONS (cont'd)

4 Code No: DER/01/09/00025

Type: Full

1. **Address:** Site of Sancroft Court, 48-84 Harpur Avenue, Littleover
2. **Proposal:** Erection of 10 dwelling houses, garages and demolition of former residential home
3. **Description:** The application site occupies land on the corner of Greenfields Avenue and Harpur Avenue. It currently accommodates a former residential home that stands vacant. The home comprises a two storey block of residential accommodation that occupies a central position on the site with open areas of grassland extending between the home and the highway. A hard surfaced driveway currently extends along the southern boundary of the site and it served as a vehicular access in towards the rear of the home. On street parking is currently available in a lay-by which sits in the highway on the sites Harpur Avenue frontage.

The site currently accommodates 4 mature trees which sit in between the frontage of the residential home and the highway. Two of those trees are protected by a Tree Preservation Order.

Harpur Avenue and Greenfields Avenue are lined with residential properties. The character of the area is generally defined by semi detached houses, set back from their highway frontages on modest sized plots.

Planning permission is being sought for the demolition of the home and the erection of 10 dwellings on the site. They comprise semi detached and terraced dwellings extending between two and a half and three storeys in height. The houses would be arranged to front both Greenfields Avenue and Harpur Avenue with modest gardens extending to the rear. Three of the units would accommodate integral garages and some frontage parking is proposed, between the houses and the highway. The dwellings have a modern external appearance.

4. **Relevant Planning History:** The application that is most relevant is:

DER/07/08/01016 – Demolition of residential home and erection of 10 dwelling houses – refused 14/10/08 for the following reasons:

1. The two silver birch trees which are proposed to be retained on site are protected by a Tree Preservation Order and are considered to contribute significantly to the amenity of the street scene. The relationship of one of the trees to the dwelling proposed for plot 8 is poor and residential development in the form shown is likely to result in undue pressure for future pruning of that tree which may compromise its amenity value and long term retention. Furthermore,

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in the absence of a Tree Constraints Plan and Tree Protection Plan, the Local Planning Authority are unable to conclude that the tight relationship between the Silver Birch trees and the development could be achieved without significant harm being caused to the trees which would be detrimental to the street scene and the local environment generally. Accordingly, the proposal would be contrary to policy E9 of the adopted City of Derby Local Plan Review.

2. In the opinion of the Local Planning Authority, the development would fail to provide satisfactory levels of privacy and amenity for its future occupiers by virtue of overlooking that would be created between dwellings on plots 5, 8 and 9 due to the limited size of their respective curtilages. The proposal is, therefore, contrary to the provisions of policies H13 and GD5 of the adopted City of Derby Local Plan Review.

5. Implications of Proposal:

5.1 Economic: None.

- 5.2 Design and Community Safety:** The dwellings have been arranged in order that they provide a frontage to both Harpur Avenue and Greenfields Avenue and this arrangement offers the most appropriate solution in ensuring that the new houses address and surveil the street. The 2.5 and 3 storeys offer dwellings of greater height to those, which extend along the adjacent streets. Comments made in the Design and Access Statement that was submitted in support of the application suggests that the additional height would assist the development in providing a focal point within the street.

The Crime Prevention Design Advisors comments are provided in Section 8 of the report.

- 5.3 Highways:** The car parking provision is acceptable and the junction visibility at Harpur Avenue and Greenfields Avenue is also considered satisfactory. The appropriate licences and consents would need to be obtained in order to close the publicly maintained highway footway to the rear of the existing lay-by on Harpur Avenue and to close an area of existing publicly maintained highway footway on the junction of Harpur Avenue and Greenfields Avenue. Part of the existing lay-by would need to be constructed to an adoptable footway standard and would be required to become public footway. Subject to these provisions, no highway objections would be raised to the proposals. It is noted that there is no dedicated pedestrian access for plots 4, 9 and 10 and the parking spaces for plot 7 are a considerable distance from the dwelling which may encourage on street parking.

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5.4 Disabled People's Access: No objections to the application are raised on access grounds.

5.5 Other Environmental: The two trees that are subject of the Tree Preservation Order are to be retained and incorporated into the new development. A tree survey and protection plan have been submitted in support of the application and our Tree Preservation Order Officer has advised that if the guidelines, positioning and details relating to the protective fencing are adhered to in the sequences described in that supporting information, then those trees can be retained successfully through the construction process.

6. Publicity:

| | | | |
|--|-----|--|--|
| Neighbour Notification letter | 25 | Site Notice | |
| Statutory press advert and site notice | Yes | Discretionary press advert and site notice | |
| Other | | | |

7. Representations:

Twenty-four individual letters of objection have been received in response to this application from local residents along with a petition containing 36 signatures and they will be available in the Council Chambers Foyer. The concerns raised mainly relate to:

- The scheme offering an over intensive form of development for the site
- Two and a half and three storey dwellings being out of keeping with the character of the area
- The dwellings sitting too close to the street frontage and being out of keeping with houses in the locality
- First floor sitting rooms offering overlooking and a loss of privacy for existing residents
- A lack of privacy and amenity being offered for the future occupiers of the dwellings
- Inadequate levels of car parking
- Increased levels of traffic increasing existing congestion, parking and highway safety problems
- Car parking spaces being proposed in the root protection areas of retained trees compromising their future retention
- Proposals resulting in a loss of community facilities available to local residents
- No lifetime homes being provided

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- Compromised safety in the area during the construction of the development.

8. Consultations:

Crime Prevention Design Advisor – Advises that the development shows a good building layout, contributing to an active street scene and evident provision of defensible space, reflecting the local character. A mix of dwellings, some with main habitable rooms on the first floor facing into the street, is welcomed. It is advised that to divide the semi private space of the frontages from the public space, demarcation is required with provision of defensible planting and low fence or knee rail. Fencing barriers or railings would also help prevent any nuisance caused by the gravel to the front of plots 6, 7 and 8 which can be a problematic material. Gates are required as close to the front building line as possible to close the gaps on plots 1, 2,3 and 6 to prevent possible unseen rear access to four dwellings via these paths.

DcorpS (Health) – Have considered the information provided in the Phase 1 and II Ground Investigations Reports submitted with the application in respect of land contamination. The proposals in the report are agreed with but it is recommended that validation testing should be provided to demonstrate that all contaminated soils have been removed from the site. Any soil brought on to site should also be sampled and analysed. A detailed scheme of remedial work and a written validation report should also be provided to account for any risk when the site is being developed or occupied.

9. Summary of policies most relevant: CDLPR policies:

- GD3 - Flood Protection
- GD4 - Design and the Urban Environment
- GD5 - Amenity
- H12 - Lifetime Homes
- H13 - Residential Development – General Criteria
- E7 - Protection of Habitats
- E9 - Trees
- E10 - Renewable Energy
- E13 - Contaminated Land
- E17 - Landscaping Schemes
- E23 - Design
- E24 - Community Safety
- L2 - Public Open Space Standards
- L3 - Public Open Space Standards in New Development
- T4 - Access, Parking and Servicing

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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 application site is located in a residential area and it forms part of the residential context of Harpur Avenue and Greenfields Avenue. It is currently in residential use and as previously developed land it meets the criteria of brown field regeneration advocated PPS3. At 0.2 hectare in size, the proposal offers a development of 50 dwellings per hectare, which meets with the minimum Local Plan target of 35 dwellings per hectare.

This application is very similar in its form, to a recent application that was refused planning permission in October last year. As Members will appreciate, the issue as to whether those previous reasons for refusal of planning permission have been successfully addressed is important in determining the outcome of this application.

Siting and Design

The application offers both semi detached and terraced dwellings and I do not consider that I could sustain an objection to this form of development in this residential context. The height of the dwellings being offered has generated the majority of the objections from local residents who clearly feel that development in excess of two storeys will be out of keeping with the existing character of the locality.

The two and a half storey and three storey dwellings being proposed are of a different form to the two storey houses that do predominate in the adjoining streets. However, the variation in building height is a variation which can be found in many residential contexts throughout the City. Given the modern elevations and increased dwelling heights, this development does offer a scheme that is not an exact continuation of the existing style of property found in the adjacent street scenes. It does need to borne in mind though that if new residential development were supported only if it strictly adhered to the exact style of development in the locality, it would often prove difficult to meet Local Plan and Central Government density targets and would often fail in proving the best design solution for small infill sites such as this which already have their constraints.

Bearing these issues in mind, a compromise has to be reached and I am satisfied that the arrangement of the dwellings on the plot, offer the most appropriate design solution for this site. Active frontages would be provided to both street scenes, which is a form of layout supported by the Crime Prevention Design Advisor. The houses would not abut

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the fronting highway as parking areas and small front gardens have been accommodated between the houses and the road, often reflecting a similar set back position to houses that can be found in the locality. The dwellings would also continue the line of built form that currently extends along Harpur Avenue and Greenfields Avenue. The application submission suggests that the additional building height would offer a development that provides a focal point within the street and given its corner position, I do consider that this is a view that could successfully be argued from an urban design perspective. In these circumstances, I do not consider that a refusal of planning permission on siting and design grounds could be sustained at appeal.

Amenity Considerations

Each of the dwellings is proposed to accommodate a reasonable amount of private garden space to its rear. The smallest is that to plot 6, which extends to 7.4m in width and 6.2m in length but this does not include its allocated parking spaces which would sit to the rear of the garden. The previous application that was submitted in respect of this site was resisted with one of the grounds relating to the overlooking of plots internally within the site. This layout has been amended and I am satisfied that a reasonable relationship between the windows in each of the houses has now been achieved. Adequate spaces between the dwellings have been accommodated and I am able to conclude that future occupiers of the dwellings would be offered acceptable standards of privacy and amenity.

The mass of the dwelling proposed for plot 10 would sit adjacent to 5 Greenfields Avenue and the dwelling on plot 1 would sit over 10m from the rear elevation of 86 Harpur Avenue. In these circumstances, the proposals would be considered acceptable on general massing grounds. The flank elevations that would be viewed from neighbouring plots would contain no fenestration and the levels of privacy enjoyed by those existing residents should not be so unreasonably harmed.

Local residents who have objected to this application have raised concerns that the new dwellings would overlook them and that their existing levels of privacy and amenity would be compromised by it. The concern expressed here appears to relate to the dwellings sitting closer to the road than the existing residential home and offering lounge and sitting areas at first floor level, which residents who live on the opposite side of the street, feel would overlook their homes. I have carefully considered this relationship and have concluded that the application could not be resisted on those grounds. The windows in the front elevations of the new dwellings would sit over 20m away from the windows in the front elevations of the houses opposite. Such

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distances would normally be deemed more than adequate especially in cases such as this where the highway provides a physical break between the two that offers a public zone where views into the frontage of properties can regularly be achieved.

In conclusion, I consider that the levels of amenity being offered within the development itself are acceptable and I cannot conclude that the relationship of the dwellings to existing neighbouring property would be so unreasonable as to warrant a refusal of planning permission.

Highways and Parking

In order to facilitate this development, the existing lay-by on Harpur Avenue would need to be removed and the highway reinstated to footway specifications. Subject to the appropriate licences and consents being obtained, there are no objections raised to these proposals in highway terms.

The level of parking provision indicated for the new dwellings meets Local Plan standards overall and is considered acceptable. There are also no objections raised to the formation of the new accesses into the individual parking spaces. The comments made by my Highways Officer relating to the remoteness of the parking spaces relative to plot 7 have been noted. However, direct access would be achieved from those spaces into the rear garden of plot 7 by a pedestrian gate and therefore I would deem the relationship between the house and its parking provision to be reasonable.

Environmental Issues

There are currently four trees on this site and the loss of any trees is regrettable but the application was supported by a tree survey and the Norway Maple and Whitebeam trees on site are considered to be unworthy of protection and my Tree Preservation Order Officer raises no objection to their removal. The remaining two silver birch, that have been protected by a Tree Preservation Order, are to be retained and incorporated into the development proposals. Members will note that the previous application submitted in respect of this site was resisted on the grounds that one of the trees had a poor relationship to the dwellings and we were not satisfied that the long term retention of both trees could be secured during construction. I am satisfied that the layout now being proposed has overcome those concerns. My Tree Preservation Order Officer is satisfied that the protection measures put forward in the protection plan would ensure the trees protection during the construction of the development and that the relationship of the trees to the proposed dwellings should be reasonable. I have noted

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the concern of one of the local residents that parking spaces should not be accommodated within the root protection area of one of those trees but subject to the use of suitable construction methods and materials, the long term retention of the tree should not be compromised. It is considered that suitably worded conditions can be imposed on any planning permission granted to ensure that the development proceeds in accordance with those details.

It should be noted that both the trees proposed for removal and the existing residential home could have the potential to support a bat roost. I have no evidence before me to suggest that this is the case, but prior to their removal from the site, the applicants will have a responsibility under the Wildlife and Countryside Act to ensure that no protected species are to be affected by demolition works. Under Local Plan policy E7 the implications of any development on a protected species must be given due consideration. This application was not supported by a bat survey and it is therefore reasonable to require a survey to be undertaken, prior to any works commencing on site.

The information provided with the application has indicated that the use of soakaways as the prime means for surface water drainage from the development is unsuitable. It is noted that the proposed impermeable areas of the site will be similar to the existing surface water achieved from this site currently. Council Engineers have been consulted and are satisfied with the drainage report, designs and calculations that have been provided and no objections to the drainage solution for the site are raised.

Section 106 Agreement

A local resident has raised objection to this application on the grounds that none of the dwellings are proposed to be designed to meet the lifetime homes standard. As Members will be aware this would normally be secured through a Section 106 Agreement as would public open space requirements that would normally be generated by a development of this size. However, in determining these requirements, the existing use has to be taken into consideration. Given that there are currently 15 residential units on site, and only 10 are proposed in this application the development would be considered under the threshold for a lifetime homes and public open space provision. There is therefore no Section 106 Agreement linked to this application.

In accordance with the views expressed above, I am satisfied that the proposals offered in this application meet with the aims of the appropriate local plan policies. The concerns of local residents have been considered but I am drawn to conclude that the proposals are

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acceptable in design and amenity terms. The reasons for refusal of the previous application have clearly been addressed and I do not consider that a refusal of planning permission can be justified in this case.

11. Recommended decision and summary of reasons:

11.1 To grant planning permission, with conditions.

11.2 Summary of reasons: The proposal has been considered in relation to the provisions of the Development Plan and all other material considerations as indicated in 9. above and the proposals are considered acceptable in design, highway safety and amenity terms.

11.3 Conditions

1. This permission relates to the application as detailed in the amended layout plan, drawing number 2007.130.01.K,
2. Standard condition 20 (landscaping scheme: add "Notwithstanding the details provided on the submitted plans)
3. Standard condition 22 (landscaping within 12 months)
4. Standard condition 30 (surfaces to be drained)
5. Standard condition 51 (service runs and trees)
6. During the period of construction works the silver birch trees, to be retained, shall be protected in accordance with the details outlined in the Tree Protection Plan (layout 211008) and the measures outlined in the letter from RJ Tree Services dated 20 February 2009. The date of the construction of such protection and of its completion shall be notified in writing to and agreed in writing by the Local Planning Authority before any other site works commence. The agreed protection measures shall be retained in position at all times, with no use or interference with the land contained within the protection zone, unless otherwise agreed in writing by the Local Planning Authority.
7. The surface water drainage and foul water drainage provision implemented on site shall accord with the details provided in drawing no. E247-LIT-100 Rev A and the Flood Risk Assessment dated 3 March 2009 unless otherwise agreed in writing by the Local Planning Authority.
8. The construction of the development shall have full regard to the need to reduce energy consumption and a scheme shall be submitted 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

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implemented in its entirety before the development is brought into use.

9. Before any development is commenced, including demolition of the existing building, a survey of roosting bats and the potential for roosting bats shall be undertaken. This shall be in the form of emergence/roost survey to determine the exact nature of bat presence on site. Depending on the results of the survey: necessary measures to protect the species through mitigation proposals shall be submitted to and agreed in writing by the Local Planning Authority. All such agreed measures shall be implemented in their entirety. DEFRA licence shall be secured to legitimise destruction of any bat roost.
10. No development shall be commenced until a detailed scheme of remedial works with respect to land contamination has been submitted to and agreed in writing by the Local Planning Authority. This scheme shall include a Remediation Method statement and Risk Assessment Strategy to avoid any risk arising when the site is developed or occupied.
11. The development shall not be occupied until a written Validation Report has been submitted to and agreed in writing by the Local Planning authority. A Validation Report shall be submitted to confirm that all remedial works have been completed and validated in accordance with the agreed Remediation Method Statement.

11.4 Reasons

1. Standard reason E04
2. Standard reason E10 (policies H13, E23 and E17)
3. Standard reason E10 (policies H13, E23 and E17)
4. Standard reason E09 (policies GD4 and E23)
5. Standard reason E29 (policy E9)
6. Standard reason E11 (policy E9)
7. Standard reason E21 (policy GD3)
8. To help reduce energy consumption, pollution and waste in accordance with policy E10 of the adopted City of Derby Local Plan Review.
9. To ensure that the existence of any bat roosts at the site is fully investigated and that there is minimal disturbance and protection of this protected species in accordance with the principles of Planning Policy Statement 9 and policy E7 of the adopted City of Derby Local

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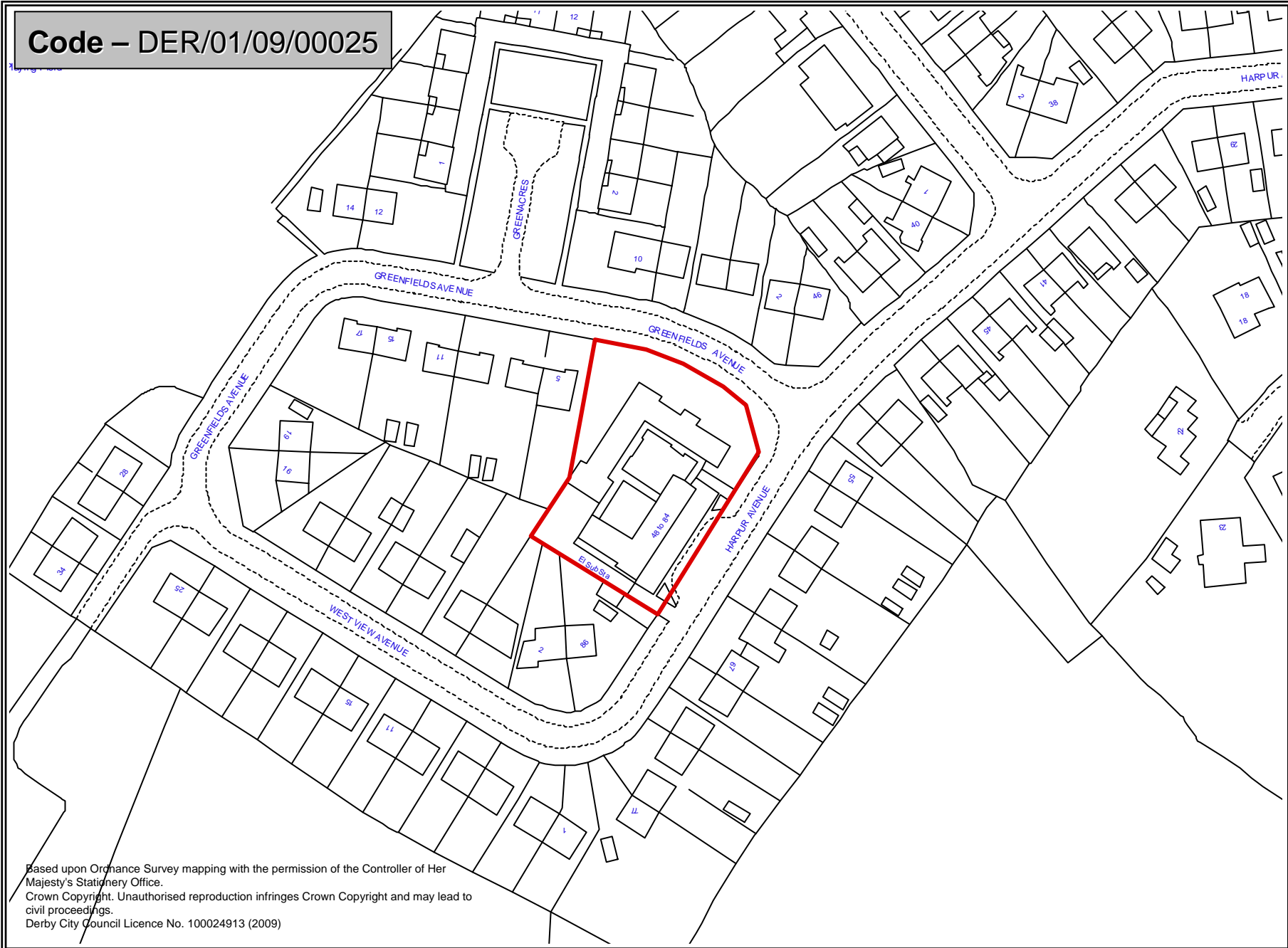
Plan Review.

10. In the interests of public health and safety and in accordance with policy E13 of the adopted City of Derby Local Plan Review.

11. For the avoidance of doubt and in the interests of public health and safety in accordance with Policy E13 of the adopted City of Derby Local Plan.

11. 5 S106 requirements where appropriate: None.

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