

Appeal Decisions

RECOMMENDATION

1. Committee is asked to note the decisions on appeals taken in the last month.

SUPPORTING INFORMATION

- 2.1 The attached appendix 2 gives details of decisions taken.
- 2.2 The intention is that a report will be taken to a Committee meeting each month.

For more information contact:	Paul Clarke 01332 255942 e-mail paul.clarke@derby.gov.uk
Background papers:	See application files
List of appendices:	Response to appeal decision

IMPLICATIONS

Financial

1. None.

Legal

2. None.

Personnel

3. None.

Corporate objectives and priorities for change

4. None.

Appeals Decisions

Appeal against refusal of Planning Permission

Code No	Proposal	Location	Decision
DER/10/09/01159	Extensions to dwelling house	34 Vauxhall Avenue, Mackworth.	Dismissed

Comments:

This application was submitted to the City Council following a previous refusal. The principle element of the proposal was a large two storey extension on the west elevation of the dwelling. This would result in a blank wall, at its closest only 3m, from the boundary with No. 36 Vauxhall Avenue. I considered that the existence of 7 windows in the east elevation of No. 36, facing the application site, was a material consideration when assessing this proposal and concluded that it would have an overbearing impact and result in an unacceptable loss of amenity to the occupiers of No.36. The proposal was therefore considered to be contrary to policies H16 and GD5 of the City of Derby Local Plan Review. Because of its size and design and prominent location on a corner plot the proposal would also detract from the appearance of the dwelling house and nearby properties in the street. This would also be contrary to policy H16 and E23 in the CDLPR.

The Inspector too, expressed concerns about the design of the proposed extension and agreed with the City Council that the proposal would significantly increase the visual impact of the dwelling in the street scene. He commented that the properties on Vauxhall Avenue were well spaced apart but the proposed extension would result in an uncomfortable close relationship with the neighbouring property and agreed with the assessment of the City Council that the design was in harmful conflict with policies E23 and H16 of the CDLPR.

When considering the impact of the proposal on No. 36 Vauxhall Avenue the Inspector agreed to some extent that there would be a loss of daylight and sunlight but he did comment that many of the windows were of a secondary nature. However this did not outweigh the harmful conflict resulting, and given that policies GD5 and H16 seek to protect residential amenity he concluded that the scheme was unacceptable. He noted that the proposal was a revision of an earlier refusal but did not conclude that the alterations had successfully overcome the harm caused to the street scene or the occupiers of No. 36 Vauxhall Avenue. Accordingly the appeal was dismissed.

Recommendation: To note the report.



Appeal Decision

Site visit made on 1 March 2010

by Martin Andrews MA (Planning)
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**an Inspector appointed by the Secretary of State
for Communities and Local Government**

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Decision date:
12 March 2010

Appeal Ref: APP/C1055/D/10/2120829

34 Vauxhall Avenue, Mackworth, Derby DE22 4DZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr & Mrs P Ross against the decision of Derby City Council.
- The application, Ref. DER/10/09/01159/PRI, dated 30 September 2009, was refused by notice dated 25 November 2009.
- The development proposed is a two storey side extension (hall, garage with en-suite bedroom over).

Decision

1. For the reasons given below I dismiss the appeal.

Reasons

2. The amount of additional floorspace proposed in the appeal scheme is in principle capable of being acceptable given the size of the existing dwelling footprint relative to the extent of the curtilage. However in my view the choice of a gabled first floor extension above the replacement garage does raise legitimate concerns in respect of the issues referred to by the Council.
3. Firstly, in respect of the effect on the character and appearance of the area, I saw on my visit that No. 34 is particularly prominent in the streetscene, especially when seen from Holborn Drive at its junction with Vauxhall Avenue and from the first section of the Avenue before it turns eastwards.
4. The substantial increase in width at first floor level would in itself significantly increase the visual impact of the dwelling, but there would be a specific problem arising from its resultant proximity to No. 36. For the most part the properties in Vauxhall Avenue are spaced well apart, especially at first floor level. In contrast to this the extended building would appear uncomfortably close to its neighbour, especially as the front gable would add to the actual and perceived bulk at roof level. In my view this relationship would be out of keeping with the locality in harmful conflict with Policy E23 and provisos b, c & d of Policy H16 of the City of Derby Local Plan Review 2006 which respectively seek a high standard of design and to ensure that house extensions have an appropriate regard for their context.
5. Secondly, the substantial size of the extension and its relative closeness to the boundary with No. 36 and hence the flank of that property with its variety of windows, including to a dining room and bedroom, is considered by the Council to adversely affect the living conditions for the occupiers through loss of light and outlook. I acknowledge that the loss of direct sunlight would be limited and

that the secondary nature of the windows would to an extent mitigate the effect of loss of daylight and outlook. However to some degree there would still be a harmful conflict with Local Plan Review Policies H16 a and GD b & c which share the objective of safeguarding residential amenity and this reinforces my conclusion on the first issue that the appeal scheme is unacceptable.

6. I have taken into account all the other matters raised for the appellant including the support of some local residents. I have also noted that the appeal scheme is a revision of an earlier proposal which seeks to overcome the latter's reasons for refusal. However on balance I have concluded that these matters do not outweigh the adverse effect of the first floor element of the scheme on the streetscene and the living conditions for the occupiers of No. 36. I shall therefore dismiss the appeal.

Martin Andrews

Inspector

Appeals Decisions

Appeal against refusal of Planning Permission

Code No	Proposal	Location	Decision
DER/05/09/00504	Erection of a dwelling house	Land adjacent 3 Beech Gardens, Alvaston	Dismissed

Comments:

This proposal sought planning permission for a single dwelling house on land that was formerly the garden of No. 3 Beech Gardens. A previous application for a similar proposal was also refused. My officers had engaged in pre-application discussions with the applicant and had concluded that it would be difficult to present a proposal which would be acceptable in this location; however the applicant chose to continue.

This 'T' shaped cul-de-sac enjoys a very regular built form with similar architectural details on pairs of semi-detached properties. In the opinion of the City Council to insert a single detached dwelling into this street scene would alter the character and fail to respect the urban grain of the locality. There were also concerns raised by our Highways team and a considerable number of objections raised by local residents. The application was refused as it would result in an intrusive and overly prominent form of development, out of character with the street scene and contrary to policies H13, E23, GD4 of the City of Derby Local Plan Review and PPS3.

The Inspector noted the regular development of dwellings in Beech Gardens and commented upon the openness of the gardens of No's.3 and 4 which in his opinion was complimented by the 'T' shaped road form which provided an important counterbalance to the regimented development opposite. He considered that the addition of the proposed house would remove this open character and this would be detrimental to the living environment for the existing residents.

In the Inspector's opinion the judgement of the City Council was accurate and he agreed that the objectives of policies in the CDLPR were to encourage high standards of design which compliment the surrounding area and respect the urban grain. In his opinion the appeal proposal was in conflict with those aspirations and he therefore dismissed the appeal.

This is an encouraging decision which reinforces the soundness and implementation of City Council policies and demonstrates that whilst minimum living standards may be met, not all plots of previously developed land may be suitable for further development. It is also essential to take into account the existing character and street scene and those proposals should seek to respond to and seek to enhance this to create a harmonious and therefore high quality living environment for existing as well as new residents.

Recommendation: To note the report.



Appeal Decision

Site visit made on 1 March 2010

by Martin Andrews MA (Planning)
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Decision date:
16 March 2010

Appeal Ref: APP/C1055/A/09/2118973

3 Beech Gardens, Alvaston, Derby DE24 0EB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant, planning permission.
- The appeal is made by Mr D Stack, Chevin Homes Limited, against the decision of Derby City Council.
- The application Ref. DER/05/09/00504/PRI, dated 6 May 2009, was refused by notice dated 8 July 2009.
- The development proposed is one dwelling.

Decision

1. For the reasons given below I dismiss the appeal.

Reasons

2. The appeal scheme is a revision of an earlier refused scheme and I acknowledge that the appellants have done all that they possibly could in terms of design and layout to make the proposal acceptable.
3. However on my visit on the site I saw that the side / rear garden of No. 3 which would be severed to create the plot makes an important contribution to the character and appearance of the cul-de-sac and that this asset to the streetscene would be lost if a new detached dwelling is erected.
4. When travelling down Beech Gardens from Beech Avenue the view ahead is effectively one of a continuous 'terrace' of dwellings on a modest building line to the road and with only a couple of gaps between them. The openness and green space of the gardens to the sides of Nos. 3 and 4 (albeit less so with the latter given the two-storey extension) and further complemented by the curvature of the radii to form the 'T' shaped road pattern is in my view an important counterbalance to the more regimented development pattern opposite.
5. I consider that the addition of the proposed house would remove that element of open and varied character which is important to the living environment for the existing residents. Even though the various minimum technical standards may have been met in this instance, in my judgement the Council has accurately summed up the effect of the development by its observation that *'when viewed from all aspects (the building) would appear over-intensive and contrived by virtue of its exaggerated prominence resulting in a visually incongruous element in the street scene'*.
6. Policy H13 of the City of Derby Local Plan Review sets out general criteria for residential development whilst Policy E23 expects proposals to be of a high

standard of design and to complement the surrounding area. Policy GD4 sets out objectives for development including respect for the urban grain of the surrounding area, including in terms of its scale, layout and density. In my view the appeal scheme is in conflict rather than compliance with these policies, or at least key parts of them, for the reasons I have already explained.

7. I have had regard to all the other matters raised for the appellants but have found nothing to alter my conclusion that the development would be harmful to the character and appearance of Beech Gardens. I shall therefore dismiss the appeal.

Martin Andrews

Inspector

Appeals Decisions

Appeal against refusal of Tree Planning Permission

Code No	Proposal	Location	Decision
DER/10/09/01171	Extensions to dwelling house	24 Royal Hill Road, Spondon	Allowed

Comments:

This application sought permission for an extension at first floor over an existing garage. The application was refused under delegated powers because my officers considered that the proposed design would result in an incongruous form of development, due to the lack of any setback at first floor. If repeated on other properties in the street the overall effect would create an undesirable change in the appearance of the street scene. The proposal was therefore, considered to be contrary to policies E23 and H16 in the City of Derby Local Plan Review.

However the Inspector did not share the City Council's assessment of the proposal, reasoning that the original design of the dwelling with a large projecting front gable and curved bay dominated the appearance of the building in the street scene and considered that this would not be harmed by the addition of the side extension on the narrow and already subservient set back portion of the original dwelling house.

The Inspector noted the normal policy requiring a set back at first floor on side extensions, but considered in this case such a prescriptive requirement would result in a 'fussy' design. Due to the prominent projecting gable feature in the original dwelling house there would, in his opinion, be no unbalancing of the pair of semi detached properties as a result of this extension. He therefore concluded that the proposal was not contrary to policies H16 and E23 which seek to safeguard the appearance of the dwelling house and the street scene. Because he considered that no harm would be caused by the proposal any precedent this set would not be detrimental to the street scene as a whole. He therefore allowed the appeal.

Recommendation: To note the report.



Appeal Decision

Site visit made on 1 March 2010

by Martin Andrews MA (Planning)
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Decision date:
12 March 2010

Appeal Ref: APP/C1055/D/10/2121083

24 Royal Hill Road, Spondon, Derby DE21 7AH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr T Middleton against the decision of Derby City Council.
- The application Ref. DER/10/09/01171/PRI, dated 1 October 2009, was refused by notice dated 26 November 2009.
- The development proposed is a first floor extension above the existing garage and a new roof layout.

Decision

1. I allow the appeal, and grant planning permission for a first floor extension above the existing garage and a new roof layout at 24 Royal Hill Road, Spondon, Derby in accordance with the terms of the application, Ref. DER/10/09/01171/PRI, dated 1 October 2009, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.
 - 3) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, Ref. SB Middleton 01 & O.S. 1:1250 Location plan.

Reasons

2. A reasonable degree of set back / set down is the standard technique in ensuring that an extension appears subservient and thereby maintains the design integrity of the host building and in turn the quality of the streetscene or context.
3. However there are occasionally justifiable exceptions to a rule and the proposal in this appeal is a case in point. The projecting front gable with its curved bays dominates the appearance of the building from the road and there is an existing set back of the remainder of the front elevation. This part of the elevation is so narrow that it almost gives the original dwelling an incongruously truncated appearance, albeit in this case this is offset by the ground floor extension of the attached garage.
4. The Council recognises that its normal 2 metre set back would be inappropriate but seeks a depth of 'at least one brick'. However whether it is one or two

bricks, because of the narrowness of this part of the dwelling's front elevation a set back of this type would appear 'fussy' and not read appropriately with the existing building. The Council has also referred to an unbalancing of the semi-detached pair but in this instance the dominance of the shared front gable effectively precludes any ready comparison between the recessed parts of Nos. 24 and 26.

5. For these reasons I do not consider that there would be any harmful conflict with Policies H16 and E23 of the City of Derby Local Plan Review 2006 which respectively seek to safeguard the appearance of the dwelling and streetscene and secure a high standard of design complementary to the surrounding area. And because no harm would be caused, any setting of a precedent (assuming there are no material differences in other cases) would not be detrimental to the character or appearance of Royal Hill Road.
6. In allowing the appeal and granting permission I shall impose a condition to require matching external materials to ensure a harmonious form of development, and a condition to ensure compliance with the submitted plans in the interests of accuracy and proper planning.

Martin Andrews

Inspector

Appeals Decisions

Appeal against refusal of Planning Permission

Code No	Proposal	Location	Decision
DER/09/09/01083	Residential Development	Land rear of Mayfield Road, Chaddesden	Allowed

Comments:

Members may recall that outline planning permission was previously granted on this site in May 2008 for residential development. The appeal proposal, for full planning permission for five dwelling houses, came before Committee in November 2009 where it was refused against officer advice. Members were concerned that the proposal was overly intrusive and out of keeping in the street scene. Concerns were also raised regarding parking and access and the provision of adequate bin stores.

The Inspector firstly noted that the site already had outline planning permission for residential development so this principle was established. He considered that there were three main issues in the appeal. The effect upon the character of the area, the effect upon the living conditions of existing residents and whether or not it was possible to form a satisfactory layout in terms of parking, access and bin stores.

In commenting on the urban grain, the inspector noted that there were terraced properties in the locality amongst a variety of house types and styles and as such the proposed terrace of 'conventional and inoffensive design' would not, in his opinion, be out of keeping in the surroundings. Whilst the proposed gardens were small he regarded them as adequate for normal domestic purposes. He concluded therefore that the proposal was not in conflict with the aims of policies GD4 and H13 of the City of Derby Local Plan Review.

The Inspector considered that the relationship between the existing properties and the proposed terrace would not cause unacceptable problems of outlook, overshadowing or privacy. The nearest existing property affected by the proposal would be almost twelve metres away from the blank end elevation of the terrace. As such, in his opinion the proposal was in accordance with policy GD5.

Parking provision in the front gardens of properties was now a very common feature the Inspector noted and he did not anticipate that any significant parking problems would be created in the locality by the development. He noted the Council's concerns in this matter but gave weight to the fact that the highway officer had not objected to the proposal on grounds of highway safety or convenience. He commented that Roe Farm Lane was a minor road and even taking into account activities at the nearby church and social facility the proposals would be acceptable in terms of their impact upon traffic and highways. Therefore the proposal was in accordance with policy T4.

On the matter of bin storage, which was concern raised by the Council, the Inspector noted that a plan showing the provision of bin stores had been provided by the appellant and this was adequate in terms of access and could be screened by planting so it would not be overly prominent in the street scene.

Taking into account all the matters raised and the objections to the proposals by residents, the Inspector concluded that the proposals did accord with Local Plan policies and granted conditional planning permission in line with that recommended by officers when the application was previously brought before Planning Control Committee.

Recommendation: To note the report.



Appeal Decision

Site visit made on 12th February 2010

by **B C Wilkinson** BEng DipTP MRTPI

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Decision date:
9 March 2010

Appeal Ref: APP/C1055/A/09/2117753

Land to the rear of 77-81 Mayfield Road, Chaddesden, Derby

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr D Stack against the decision of Derby City Council.
- The application Ref DER/09/09/01083/PRI, dated 10th September 2009, was refused by notice dated 6th November 2009.
- The development proposed is the erection of 5 town houses.

Decision

1. I allow the appeal, and grant planning permission for the erection of 5 town houses on land at the rear of 77-81 Mayfield Road, Chaddesden in accordance with the terms of the application, Ref DER/09/09/01083/PRI, dated 10th September 2009, and the plans submitted with it, subject to the conditions set out in Appendix A to this decision.

Main issues

2. The appeal site has the benefit of outline planning permission and the principle of residential development upon it has already been established. From what I have seen and read I consider that there are three main issues in determining this appeal. The first is the effect of the development upon the character and appearance of the area. The second is its effect upon living conditions in nearby residential properties. The third is whether it can achieve a satisfactory layout in terms of parking, access, and the provisions made for the disposal of refuse.

Reasons

3. The appeal site is within a mainly residential area, but its immediate surroundings include several non-residential buildings, some of residential scale but others larger. Housing in the area also displays variety in terms of design, materials and character. The predominant types are modest detached or semi-detached housing in linear frontages. The present proposal is for a terrace of conventional, inoffensive, design and materials and it would not extend the degree of variation already present in the area. During my site visit I noted that close by on Roe Farm Lane are two examples of terraces whose layout and form are similar to the present proposals. There are other such terraces a little further away. I do not consider that, in such surroundings, the terrace proposed would appear obtrusive or out of place. The proposed rear gardens, whilst considerably smaller than average for the area, would provide adequate levels of private amenity space for normal garden and domestic purposes.

4. Taking into account all of these matters, as well as others raised, I conclude that the proposed development would not significantly harm the character or appearance of the area. On that basis it would not contravene local planning policies such as GD4 and H13¹ which seek to ensure that new development pays due heed to its surroundings. It would also be in accord with the general support provided by H13 towards higher residential densities.
5. The houses would be small, but the area includes some of comparable size and national guidelines encourage a mix of houses of various sizes. The distances between the proposed terrace and existing houses would not be so small as to cause unacceptable problems of outlook, overshadowing, or privacy. The property most affected in this regard would be 84 Suffolk Avenue but there would be almost 12m between rear windows of that property and the blank gable end of the proposed terrace. As that gable would be to the north of No 84's garden, I do not anticipate significant problems due to overshadowing. Bearing in mind, too, that No 84 is on a fairly large corner plot I do not consider that living conditions there, or on any other nearby property, would be unacceptably affected by the proposed development. In this regard it would comply with local policy GD5.
6. The Council accepts that the parking provision is satisfactory in terms of the number of spaces. However, these are to be provided in the front garden with direct access onto the road, and the Council is concerned that manoeuvres such as reversing onto that road would be a source of danger. They also consider that on-street parking might block the parking spaces. I recognise that reversing onto or off a road is by no means ideal, but using front gardens as parking spaces is very common nowadays and rarely leads to substantial problems on residential or minor roads. Roe Farm Lane, although it appears to be reasonably well used, is a minor road. I have given due weight to the fact that the Council's highway officer does not object to the proposals on grounds of highway safety or convenience.
7. I realise that a church and social facility are close to the site but there is some parking provision nearby and I see no reason why the proposed parking spaces would be blocked on more than rare occasions. Moreover, this possibility would apply however the site was developed. Having taken into account all of the relevant factors, I conclude that the proposals would be acceptable in terms of their impact upon highways and traffic. They would not, therefore, contravene Policy T4.
8. Concern has also been expressed that it would be hard to find a reasonable position for the storage of refuse bins. However, the appellant has submitted a plan showing locations for bin stores at both ends of the front garden area. This would be available for the three middle units of the terrace and the two end ones would be able to keep bins in their rear gardens. I do not believe that the bin stores would be unacceptably prominent in the street scene, particularly if screened by fences or planting. On balance I conclude that the proposals are satisfactory in terms of parking, access, and the provisions made for the disposal of refuse.

¹ All policies referred to are from the City of Derby Local Plan Review 2006

9. I have taken into account all other matters raised including the contents of objections to the proposals by some local residents. However, my overall conclusion is that the proposals are acceptable and for the reasons given above I conclude that the appeal should be allowed and conditional planning permission should be granted.

Conditions

10. The Council has submitted a schedule of conditions for use in the event that the appeal succeeds. The appellant has raised no significant objections to any of them, and I have based my consideration largely upon that schedule. In the interest of an attractive street scene I shall impose conditions controlling the design and materials to be used in the houses, bin stores, and means of enclosure. For similar reasons conditions will be imposed requiring the submission and maintenance of a scheme of tree planting and the protection of existing planting during construction works. To secure adequate levels of traffic safety and convenience details will be required of the treatment of the parking areas and the access to them. In the interests of energy and drainage sustainability, I shall impose conditions requiring the submission of schemes regarding drainage and energy consumption. Finally, in addition to the conditions in the Council's schedule, I shall impose a condition requiring that the development shall be carried out entirely in accordance with the submitted plans. This is because my assessment and conclusions are based upon such details.

B C Wilkinson

Inspector

Appendix A

APP/C1055/A/09/2117753

Conditions to be Imposed

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
3. No development shall take place until detailed plans showing the design, location and materials to be used on all boundary walls/fences/screen walls and other means of enclosure, including the bin storage areas for plots 2-4, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
4. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority, and these works shall be carried out as approved. These details shall include trees, shrubs and the treatment of paved and other areas.
5. The landscaping scheme submitted pursuant to Condition 4 above shall be carried out within 12 months of the completion of the development or the first planting season whichever is the sooner, and any trees or plants which, within a period of five years from the date of such landscaping works, die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the local planning authority gives written consent to any variation.
6. During the period of construction works all trees, hedgerows and other vegetation to be retained, including any which are on adjoining land but which overhang the site, shall be protected in accordance with BS:5837:2005 ("Trees in relation to construction") and in accordance with the following requirements:
 - a) A scheme of protection shall be submitted to and agreed in writing before any development commences.
 - b) The date of 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.
 - c) The agreed protection measures shall be carried out in accordance with the dates agreed under 6 b) and shall be retained in position at all times, with no use of or interference with the land contained within the protection zone, until completion of construction works, unless otherwise agreed in writing by the local planning authority.

7. The development shall not be brought into use until those parts of the site to be hard surfaced or used by vehicles have been properly laid out, drained and surfaced in a manner previously approved by the local planning authority. Such areas shall not thereafter be used for any other purpose.
8. None of the dwellings shall be occupied until the proposed access onto Roe Farm Lane has been constructed with a dropped and tapered kerb crossing, in accordance with details previously approved in writing by the local planning authority.
9. No development shall take place until details of foul and surface water drainage have been submitted to and approved in writing by the local planning authority. This scheme shall include details of sustainable drainage features unless otherwise agreed in writing. The development shall not be carried out except in accordance with such details.
10. No development shall take place until a scheme has been submitted and approved in writing by the local planning authority demonstrating that the construction of the dwellings has full regard to the need to reduce energy consumption. The approved scheme shall be implemented in its entirety prior to the occupation of any dwelling.
11. The development hereby permitted shall be carried out in accordance with the three plans, un-named but dated September 2009, submitted with the application, as amended by Plan RFL/001 Revision A.