

A DEVELOPMENT BY THE CITY COUNCIL

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

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

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

5. Implications of Proposal:

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

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

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

5.4 Disabled People's Access: None applicable.

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

6. Publicity:

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

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

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8. Consultations:

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 It is unconvinced of the arguments for reducing the rebuilt height and considers that the application should be withdrawn. If not withdrawn, it should be refused.

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

9. Summary of policies most relevant:

Derby and Derbyshire Adopted Structure Plan April 2001

Transport Policy 14 - Identifies Derby City Centre Integrated Transport Improvements

Adopted CDLP policies:

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

CDLP review, Relevant Review Policies:

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

Planning Policy Guidance Notes:

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

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

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

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

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

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

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

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

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

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

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

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

Conclusions

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

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

11. Recommended decision and summary of reasons:

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

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

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

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

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

11.2 Conditions

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

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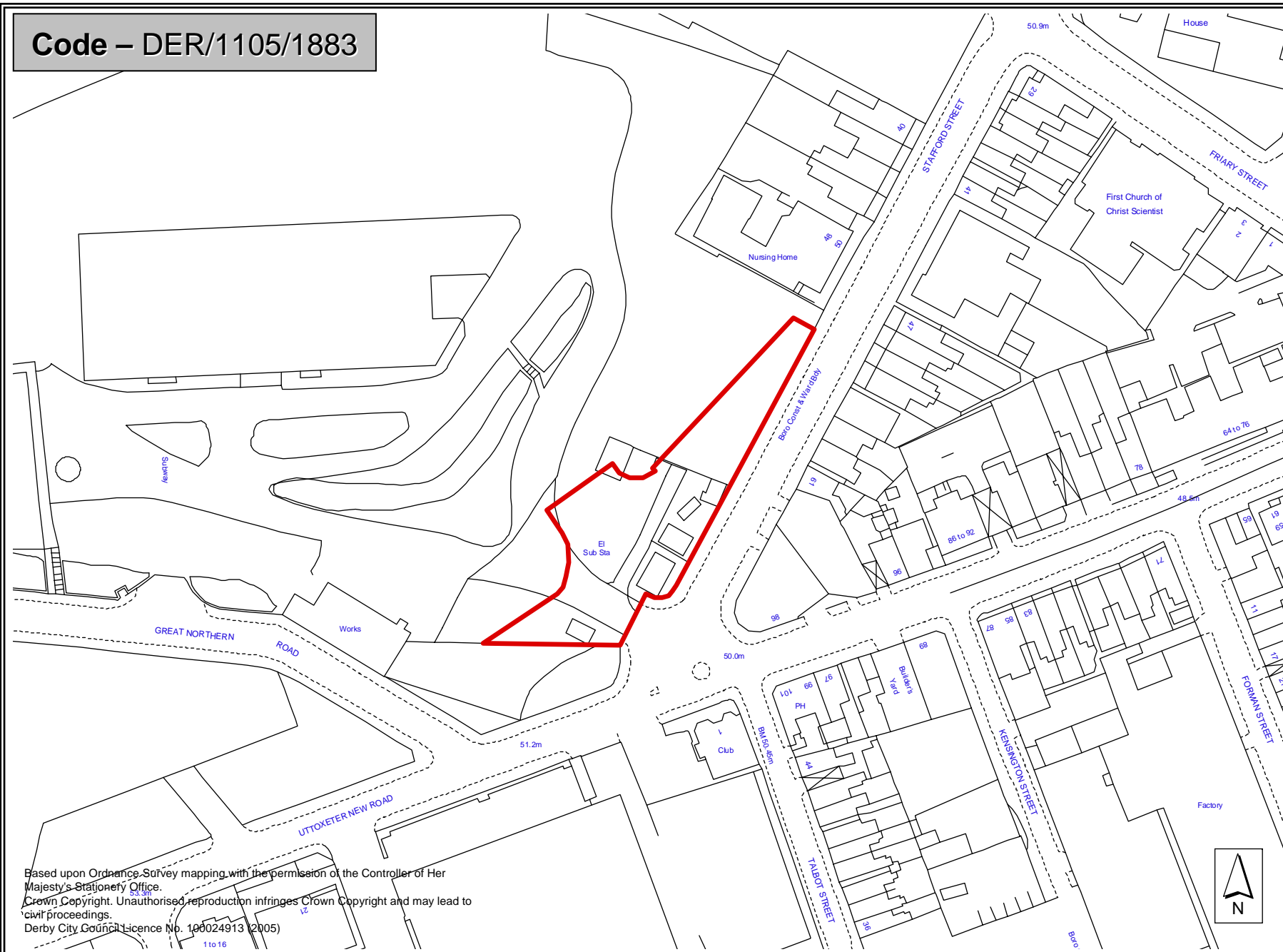
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DER/704/1380 – To be reported to a future meeting.

11.3 Reason for conditions

To be reported to a future meeting

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B1 APPLICATIONS

1 Code No: DER/1005/1693

Type: Full

1. **Address:** Land at side of 1 Oakover Drive, Allestree
2. **Proposal:** Erection of dwelling house
3. **Description:** The site is on the corner of Oakover Drive and Clifton Road and was previously the side garden area of 1 Oakover Drive. A 1.5-1.8m fence has been erected on the north western boundary with this property. A detached gabled roof dwelling is proposed virtually in line with the front of 1 Oakover Drive and is a similar size and design to this dwelling. The proposed dwelling would use the existing vehicle access off Clifton Road and two off street parking spaces are indicated.
4. **Relevant Planning History:** 1 Oakover Drive - DER/705/1185 – Extensions (attached garage), granted 4 September 2005.
5. **Implications of Proposal:**
 - 5.1 **Economic:** None.
 - 5.2 **Design and Community Safety:** I have no design or community safety objections to raise.
 - 5.3 **Highways:** The retained vehicle access and parking for the new dwelling off Clifton Road is satisfactory but the new parking area and vehicle access off Oakover Drive which is partially constructed has a problem in that the new vehicle access has been excavated within the highway verge. Arboricultural advice should be obtained with regard the tree.
 - 5.4 **Disabled People's Access:** Building Regulations will secure an accessible dwelling.
 - 5.5 **Other Environmental:** None.
6. **Publicity:**

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

B1 APPLICATIONS (cont'd)

1 Code No: DER/1005/1693

7. Representations:

... Five letters of objection have been received from neighbouring properties. These are reproduced. The Main concerns raised are as follows:

- Loss of view
- Construction traffic nuisance should be controlled by conditions – access parking only on Oakwood Drive and times of working.
- It would be visually intrusive and would detract from the street scene
- Loss of privacy
- As the dwelling is right on the south eastern boundary no planting can screen it
- Parking on Clifton Road would be dangerous especially close to the Oakover Drive junction.

8. Consultations:

DCommS (Arboricultural Officer) – no objections

9. Summary of policies most relevant:

H22 – Residential Development on Unallocated Land

H28 – Layout and Design of Residential Development

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

10. Officer Opinion: The principle of residential development on this site is accepted as it is within a predominately residential area. The site is brownfield land within the existing built-up area; it therefore accords with the principles of Planning Policy Statement 3 (Housing). There would be no significant loss of countryside and important landscape and natural history features. There are two fruit trees on site, however, the Arboricultural Officer does not object to their removal.

The majority of the site is flat where the dwelling is proposed with the front garden area adjacent to Oakover Drive sloping down to the road. There is an existing boundary fence on part of the south-eastern boundary with Clifton Road. Details of boundary treatment would be a condition of any permission.

The existing dwelling to the north-west has a blank gable adjacent to the site. Patio doors to the lounge, a kitchen window and door on the

B1 APPLICATIONS (cont'd)

1 Code No: DER/1005/1693

ground floor and en-suite window on the first floor of the north western elevation are proposed. I do not consider that these windows would pose an amenity concern due to the neighbouring property's blank gable being right on the boundary. The proposed property is 0.5m forward of the rear of the neighbouring property and is set 1m forward of the front of this property with the bay window extending a further 0.8m. There is a distance of 3m between the properties therefore overshadowing is not considered significant. There is only one landing window proposed on the first floor of the south eastern elevation. This is a non habitable room window and there is a distance of some 20.5-21 metres between properties over the road, therefore overlooking is not considered significant.

The property to the north-east has a landing window on the side elevation. This property is over the rear boundary of 1 Oakover Drive with the front garden adjacent to the rear boundary of the proposed property. The new dwelling would have a 9.5m rear private garden. I consider that due to the distance and orientation of the property to the north-east with the front facing Clifton Road the proposed dwelling would not significantly harm the amenity of this neighbour.

The design of the dwelling has a gable roof sloping to the sides and a bay window feature. This design is similar to that of adjacent dwellings and the size of the dwelling is also similar. I therefore consider that the dwelling would not appear dominant on this corner site and would be in keeping with neighbouring properties and the surrounding area.

Loss of view is not a material planning matter. I do not consider that conditions controlling the construction of the dwelling would be reasonable on such a small scale development. Two off street parking spaces have been provided and a new driveway for 1 Oakover Drive has been created, therefore there are no highway objections. The Arboricultural Officer has no objections to the construction of the new driveway adjacent to the tree on the frontage. As Oakover Drive is not a classified road the access does not require planning permission. The location plans indicate the possible location of a garage in the garden area, however, no details of a garage have been submitted therefore this does not form part of this permission. When the property is erected and occupied the property may be able to build a garage within its permitted development limits.

To conclude, the proposed dwelling would not have an adverse impact on the amenity of neighbouring properties and its appearance is considered to be in keeping with adjacent properties and the surrounding area. The proposal therefore accords with the above mentioned policies and approval is recommended.

B1 APPLICATIONS (cont'd)

1 Code No: DER/1005/1693

11. Recommended decision and summary of reasons:

11.1 To grant permission with conditions

11.2 Summary of reasons: The proposal has been considered in relation to the provisions of the City of Derby Local Plan and all other material considerations as indicated in 9 above. The proposal is acceptable as it is not considered to significantly impact upon the amenities of neighbouring residential properties and is acceptable in terms of its design.

11.3 Conditions

1. Standard condition 27 (materials)
2. Standard condition 19 (means of enclosure)
3. Standard condition 30 (surfaces to be drained)
4. Standard condition 38 (disposal of sewage)

11.4 Reasons

1. Standard reason E14policy H22
2. Standard reason E14policy H22
3. Standard reason E21
4. Standard reason E21

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B1 APPLICATIONS (cont'd)

2 Code No: DER/1105/1880

Type: Full

1. **Address:** 25 Chain Lane, Mickleover
2. **Proposal:** Erection of double garage
3. **Description:** Permission is sought for the erection of a double garage in the rear garden of the site. The garage would be sited at the rear of the garden and would measure 5.8 metres in width, 7.8 metres in length, to a minimum height of 2.4 metres at the eaves level, which is nearest the boundaries of 23 and 27 Chain Lane, and to a maximum height of 4.3 metres. A roller shutter style door is proposed on the elevation facing the dwelling. No other windows or doors are proposed on the building. The proposed building would be sited to the rear of the garden approximately 22 metres from the dwelling.
4. **Relevant Planning History:** DER/205/306 - Extension to dwelling house (dining room, kitchen, w.c, garage, porch, 2 bedrooms and bathroom) - granted conditionally 6 July 2005.

5. Implications of Proposal:

5.1 Economic: -

5.2 Design and Community Safety: I raise no overriding objections to the design of the garage.

5.3 Highways: -

5.4 Disabled People's Access: -

5.5 Other Environmental: -

6. Publicity:

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

7. **Representations:** Four letters of objection have been received from neighbouring residents on Chain Lane and Muirfield Drive. All are reproduced. Any further letters of representation received prior to the meeting will be made available for Members' consideration. Objections raised relate to:

B1 APPLICATIONS (cont'd)

2 Code No: DER/1105/1880

- No vehicular access to the rear; concern relating to the proposed access to the garage due to recent extension at the property
- Loss of outlook and amenity
- Size of the garage
- Concern over use of garage as living accommodation or for business use
- Potential damage to wildlife and hedges.

8. Consultations: -

9. Summary of policies most relevant:

E31 – Design

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

10. Officer Opinion: I have no objections to raise to this application. The proposed building only requires planning permission by virtue of its height as the building is more than 5 metres away from the dwelling; therefore there is no volume restriction. The height of the building is only 30 centimetres above what would constitute “permitted development” for such a building.

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 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 residential amenity terms in this location.

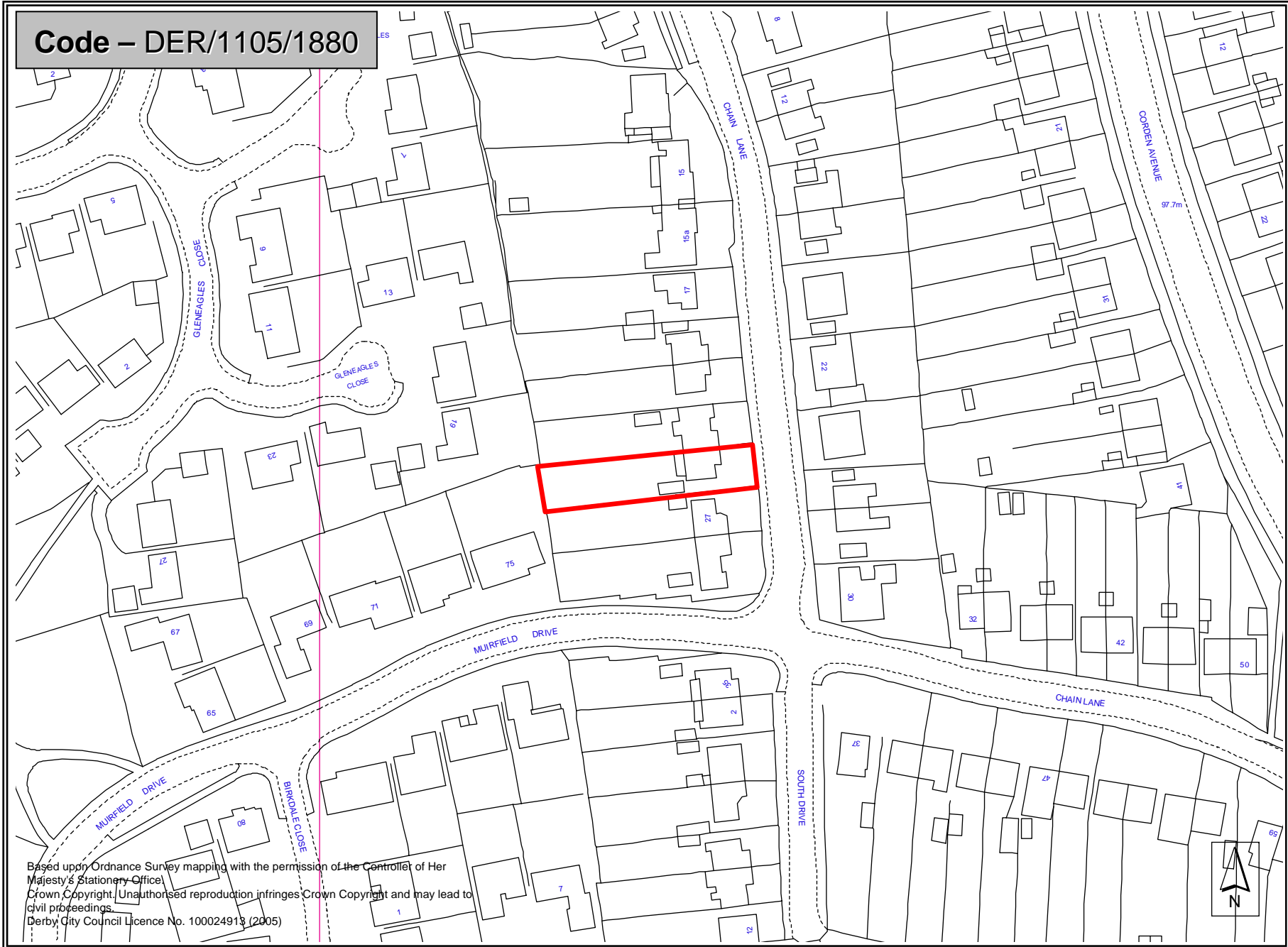
11.3 Conditions

1. Standard condition 13 (garage- private use only)
2. Standard condition 27 (external materials)

11.4 Reasons

1. Standard Reason E07
2. Standard Reason E14...policy E31

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B1 APPLICATIONS (cont'd)

3 Code No: DER/1105/1875

Type: Full

1. **Address:** 27 Duffield Road (Allens Service Station)
2. **Proposal:** Erection of petrol filling station including retail sales building (Use Class A1) forecourt, car parking and underground tanks.
3. **Description:** This application relates to an existing petrol station at Five Lamps, which is sited between Duffield Road and Garden Street. It currently has petrol forecourts on both road frontages, with a small retail unit in the centre. The site is located in a mixed commercial area, with traditional residential properties on Duffield Road and post war flats off Garden Street. There is a hot food takeaway and dental surgery adjacent to the site on Duffield Road. A single dwelling abuts the southern boundary on Garden Street. The Strutts Park Conservation Area and World Heritage buffer zone lies to the east of the petrol station with the boundary running along Duffield Road.

The proposal would involve redevelopment of the whole site and erection of a new petrol station, with a larger retail unit. The arrangement of the petrol pumps would be altered to form a single forecourt extending west to east across the site, to be accessed from both Duffield Road and Garden Street. The existing vehicle access points on both highway frontages would be retained, although three of them would be widened slightly to accommodate the proposed layout. The forecourt would comprise 4 petrol pump islands under a single canopy. The proposed building would be sited close to the southern boundary and consist primarily of a retail unit, which would have a sales area of some 194 square metres. The building would be 29.5 metres x 11 metres in area, with a shallow mono pitched roofline 5 metres high. It would be of simple and functional design with walls faced in aluminium cladding.

4. **Relevant Planning History:** None.
5. **Implications of Proposal:**
 - 5.1 **Economic:** The proposal would replace an existing petrol station and would have similar trading and operational characteristics. However, the increase in retail floor space is likely to result in some additional staff.
 - 5.2 **Design and Community Safety:** The proposed retail building would be of a contemporary and functional appearance of limited architectural merit. There would be no adverse community safety implications.

B1 APPLICATIONS (cont'd)

3 Code No: DER/1105/1875

5.3 Highways: There are no objections raised to the proposal subject to minor alterations to the proposed layout. Specific pedestrian routes from the highway frontages to the shop should be included. New dropped and taper kerbs should be added to the widened accesses and include provision of tactile paving. Cycle hoops for staff/ customers should also be provided.

5.4 Disabled People's Access: The service station entrance is accessible but controllable under Building Regulations.

5.5 Other Environmental: None.

6. Publicity:

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

7. Representations: A 168 signature petition and 12 letters of objection have been received, copies of which will be available in the Members' Rooms. The main issues raised are as follows:

- The reduced number of petrol pumps would lead to vehicles queuing onto the highway, causing traffic congestion.
- The proposed building would block a pedestrian exit from the adjacent hot food takeaway onto the existing forecourt and it would obscure daylight from the neighbouring property.
- The proposal would be an inappropriate development adjacent to a conservation area and world heritage buffer zone in terms of size, scale and design.
- The retail use would lead to an increase in traffic, with resulting dangers on nearby roads.

8. Consultations:

EnvHealth – There is likely to be contamination of the ground adjacent to the old petrol storage tanks, due to fuel leaks. Should any contaminated material be uncovered, a remediation scheme must be agreed and completed before excavation is back filled.

STW – No objection subject to a drainage condition.

B1 APPLICATIONS (cont'd)

3 Code No: DER/1105/1875

Police – The scheme should include window panels within the side elevation to provide suitable surveillance. A comprehensive CCTV system and white lighting scheme should be included.

DcommS (Arboricultural) – to be reported.

9. Summary of policies most relevant: Adopted Local Plan policies:

- T16 – Rights of way and routes for cyclists/ pedestrians
- T22 – Car parking standards
- E24 – Protection of Conservation Areas
- E31 – Design
- EMP17 – Darley Abbey and Markeaton Brook
- EMP24 – Alternative uses in Business and Industrial areas
- T4 – King Street / Duffield Road improvements
- S1 – Retail objectives
- S14 – Small shops
- S15 – Extensions to shops
- S18 – Trade and showroom types sales
- E18 – Contamination

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

10. Officer Opinion: The proposed refurbishment of the existing petrol station on Duffield Road would amount to extensions and alterations to upgrade the petrol station and expand the sales building. As a redevelopment of the existing facility the proposal would be appropriate in principle. This is subject to accordance with Local Plan shopping policies. The scheme would also need to preserve the character and appearance of the nearby Strutts Park Conservation Area.

The layout of the filling station would be substantially altered to accommodate a larger sales building along the southern boundary. The amount of retail floor space would significantly increase from 67 square metres to 194 square metres, although it would continue to provide convenience goods and items ancillary to motoring. The retail element would therefore continue to be ancillary to the primary use as a filling station. The sales function is covered by Policy S14 of the Local Plan, which states that conditions will be imposed to restrict the range of goods sold from petrol filling stations to those reasonably related to or ancillary to that use. This is to protect the vitality and viability of existing centres, which in this case includes a neighbourhood centre within 400 metres. The proposed expansion of the retail unit would have an impact on the nearby neighbourhood centre. However the unit is likely to provide primarily convenience

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shopping to passing trade from a relatively small local catchment. It should therefore enhance the local shopping provision in an area which currently has a limited level of retail provision. Overall I am satisfied that the new retail facility would be appropriate in this location and would maintain the vitality and viability of the existing neighbourhood centres, subject to a restrictive goods condition.

The proposed redevelopment of the filling station would not unduly affect the amenities of neighbouring properties, which primarily comprise of non-residential uses. The amenities of nearby dwellings would also not be particularly undermined by the proposal.

Despite concerns about potential traffic congestion on both road frontages, resulting from the redeveloped filling station, the scheme is unlikely to lead to a significant increase in vehicles visiting the site. All vehicle accesses would be retained for use and circulation around the site would be adequate. The proposed layout would also include designated parking for customers/ staff. The Highway Officer has no objections subject to minor alterations. There is no evidence that this proposal would result in queuing on the public highway and as such highway safety would not be compromised. Provision for pedestrians and cyclists to access the sales building would be desirable and can be secured, through planning conditions.

The eastern elevation of the proposed petrol station would abut Duffield Road, which forms the boundary of the Conservation Area and World Heritage buffer zone. This scheme would therefore have a visual impact on the nearby Conservation Area and buffer zone. The existing filling station is solely functional in design and appearance, with limited streetscene merit. The sales building is in the centre of the site and partially obscured from the road frontage. It is a modest brick and tile form. The proposed development would incorporate a canopy of similar appearance to existing and a large sales building of a modern functional style. The building would be of relatively limited design quality and is intended to be faced with cladding panels. It would have a simple form and would be of appropriate scale or height, which would not detract unduly from the visual amenities of the surrounding streetscene. The proposed use of coloured cladding would have a stark and incongruous appearance from the Conservation Area and would be somewhat intrusive in the context of red brick and tile buildings. The applicant has agreed to incorporate brick panels on the side elevations to soften the visual impact and amended plans are awaited. However, overall the design and form of the proposed building would not be detrimental to the traditional character of the nearby Conservation Area. The proposal would therefore be

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appropriate in this location and it is considered that full permission should be granted.

11. Recommended decision and summary of reasons:

11.1 To grant permission with conditions.

11.2 Summary of reasons: The proposal has been considered against the policies of the adopted City of Derby Local Plan as summarised at 9 above and is an appropriate form of development, which will preserve the amenities of nearby residential properties and would not compromise highway safety.

11.3 Conditions

1. Standard 09 A (revised site layout plan – received 6 January 2006)
2. This permission does not imply approval for the use of the external materials indicated on the submitted drawings for the proposed sales building.
3. Standard 27 (external materials)
4. Vehicle access shall be widened with the insertion of dropped and taper kerbs in accordance with a scheme to be agreed with the Local Planning Authority.
5. The retail unit shall be operated in conjunction with the petrol filling station and shall not be severed from this use to form a separate planning unit.
6. Standard condition 30 (surfaces to be hardsurfaced and drained)
7. Standard condition 38 (details of drainage)
8. Standard condition 70 (cycle parking)
9. Standard condition 100 (delete reference to gas emissions)

11.4 Reasons

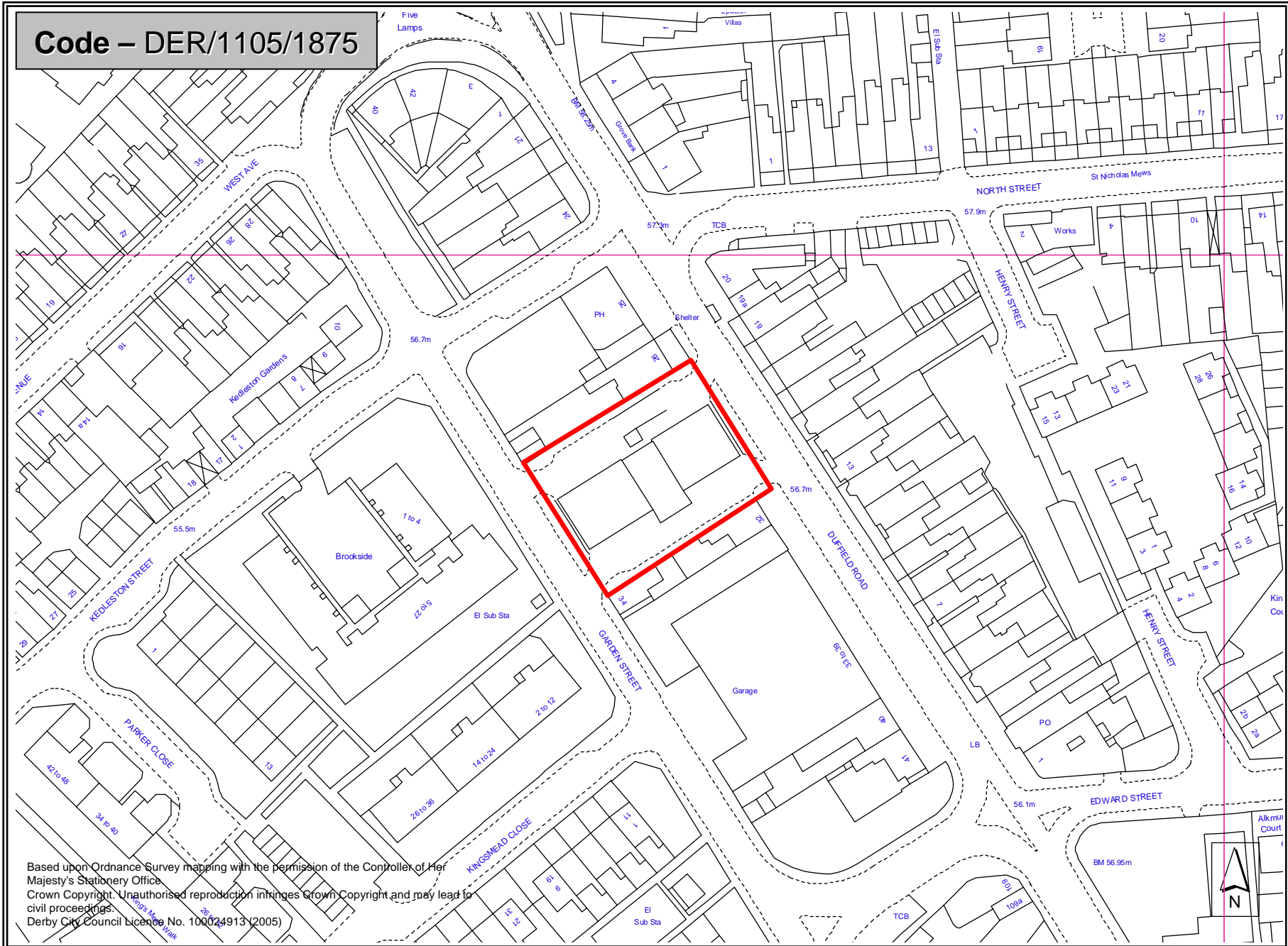
1. Standard reason E04
2. To preserve the visual amenities of the surrounding area and safeguard the character of the nearby Conservation Area and World Heritage buffer zone....policies E31 and E24
3. E14 and to safeguard the appearance and character of the conservation area....policies E31 and E24.

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4. Standard reason E17...policy T16
5. To ensure the retail element of the use is ancillary to the primary function of the site as a petrol filling station.
6. Standard reason E21
7. Standard reason E21
8. Standard reason E35....policy T22
9. Standard reason E49....policy E18

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B1 APPLICATIONS (cont'd)

4 Code No: DER/1105/1824

Type: Full

1. **Address:** Site of Mickleover British Legion Lodge, and sports field to rear of Western Road, Mickleover
2. **Proposal:** Erection of clubhouse, bowling green, multi-use games area, and erection of 24 dwellings, car parking and access road.
3. **Description:** This application refers to land occupied by the Royal British Legion, to the rear of Nos. 30-90 (even) Western Road. It is proposed to retain the existing high quality soccer pitch to the west of the site, and to relocate the bowling green to the north of the site adjacent to a surface car parking area for 42 cars. The remainder of the site would be redeveloped to provide a clubhouse/activity hall and a floodlit multi-use games area adjacent to a further parking area of 31 spaces, together with 24 detached and semi-detached dwelling houses.

It is proposed to provide a new access road immediately to the west of No. 90 Western Road. In addition, a private driveway would link this road to an existing secondary access retained between Nos. 64 and 66 Western Road. This access would be used predominantly to service the sports and community facilities on the site and would mostly be blocked.

The site is surrounded by residential properties on all four sides. Western Road is a busy classified road that links Station Road to Uttoxeter Road, and is a public transport route. The site has for many years been used as the Lodge of the Royal British Legion, and would be regarded as a brownfield site and greenfield site under the guidance of PPG3. This application follows lengthy dialogue between the applicants and officers of the Council.

4. **Relevant Planning History:** None relevant.
5. **Implications of Proposal:**
 - 5.1 **Economic:** None.
 - 5.2 **Design and Community Safety:** I have no objections to raise.
 - 5.3 **Highways:** The proposal has been designed with highway guidance from officers, and there are no major objections. Secure cycle and motorcycle parking should be provided for the recreational facilities.
 - 5.4 **Disabled People's Access:** Compliance with the Building Regulations with ensure accessible dwellings.

B1 APPLICATIONS (cont'd)

4 Code No: DER/1105/1824

5.5 Other Environmental: The advice of the Arboricultural Officer has been sought regarding trees and hedges on the site.

6. Publicity:

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

7. Representations: I have received 139 letters of objection, and 42 letters and three petitions in support of the proposal.

These are all available in the Council Chamber Foyer. The main issues raised by the objectors are:

- that the British Legion should not sell off land for development
- loss of existing green area
- loss of residential amenity
- inevitable traffic problems on Western Road
- wildlife implications
- loss of facilities for Scouts etc
- lack of car parking on the site
- outrage at the general actions of the applicant
- lack of public consultation before application was made.

A statement of support by the applicant is also available for Members' attention. A letter has also been received not objecting to the proposal, but requesting fencing of sufficient height, to prevent balls going over into adjacent residential curtilages.

8. Consultations:

DCommS (Arboricultural Officer) – to be reported.

Police ALO – to be reported.

Sport England – to be reported.

9. Summary of policies most relevant: CDLP policies:

City of Derby Local Plan (Adopted 1998)

H20 - Mobility Housing

H22 - Residential Development on Unallocated Land

H28 - Layout and Design of Residential Development

B1 APPLICATIONS (cont'd)

4 Code No: DER/1105/1824

- E11 - Protection of trees
- E31 - Design
- E32 - Community Safety and Crime Prevention
- L3 - Public Open Space Standards
- L4 - Provision of Public Open Space within Housing Development
- L7 - Loss of Sports Grounds
- C1 - Community Facilities
- C3 - Protection of Existing Community Facilities
- T22 - Parking Standards

City of Derby Local Plan Review (Revised Deposit Autumn 2002)

- H21 - Residential Development – General Criteria
- L7 - Sports Pitches and Playing Fields
- E23 - Landscaping schemes

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

The guidance in PPG3 (Housing) and PPG17 (Planning for open space, sport and recreation) is also directly relevant.

- 10. Officer Opinion:** The application follows lengthy discussions between officers and the applicant over a considerable period. Pre-application discussions took place with Sports England regarding the issue of sports facilities on the site. Members visited the site on 10 December.

The site of the proposal is not allocated for any specific use in the adopted CDLP. It is designated as private open space in the Local Plan Review under policy L7. The proposal can be considered under three headings: housing, open space/sports pitches, and community facilities. As regards housing, Local Plan policy H22 allows for residential development on unallocated land subject to a number of criteria. Those most relevant are that:

- the development and its design relates well to the existing built-up area and the character of the surrounding area
- there are no significant adverse impacts on existing levels of amenity or the local environment; and
- a satisfactory form of development and living environment can be created.

A development of this type and size gives rise to a requirement for mobility housing and public open space provision. These would form

B1 APPLICATIONS (cont'd)

4 Code No: DER/1105/1824

the substance of a Section 106 Agreement linked to any permission granted. That part of the site currently in playing field/open space use would be classified as a greenfield site. Policy H21 of the Local Plan review contains the requirement that priority should be given to previously developed windfall sites. The information given by the applicant clearly indicates that the residential development proposed is to fund the development of the new clubhouse. Seven of the proposed houses would be on the greenfield part of the application site. It is indicated that four of these would be retained by the Royal British Legion to let for members in need of residential assistance. The scheme in total is acceptable as an enabling development, for an improvement to community and sports facilities, and to provide some local needs housing.

A number of the houses, part of the access road, the club house and car parking would be constructed on what is currently part of the sports ground with the potential to form a pitch. The proposal has been considered against the provisions of Local Plan policy 7 and the guidance of PPG17. On the basis of the information provided, early discussions with Sports England indicate that they are satisfied that the overall proposal would constitute an overall improvement in sports provision on the site, even though there would be a net loss of open land. They are satisfied that the clubhouse, the Multi-Use Games Area and the replacement bowling green would replace the part of the field that would be lost. They also consider that there is the potential to make the facilities much more accessible to the local community. The field is currently a private sports area with poor ancillary facilities. The nature of the current application is a very substantial improvement, particularly as it would be made more available to the local community. The proposed community facilities would be used by a number of local groups (Cubs, Scouts etc) and are likely to be an improvement on the existing, dated level of provision on the site. To conclude, the new clubhouse Mixed Use Games Area and bowling green are acceptable on the site, even though part of it is greenfield in nature.

I have no objections to raise to the physical form of the buildings proposed. The clubhouse and proposed activity hall would be a substantial distance away from the residential properties. The Multi Use Games Area would be quite close to proposed units 12, 13 and 14 and a time limit is proposed regarding the use of floodlights there. The relationship of the proposed houses to the existing properties in Western Road and Chatsworth Drive is quite acceptable, and are in line with the Council's current standard regarding residential development. Similarly, I have concluded that the proposed surface parking area to the north of the site, subject to an appropriate boundary treatment,

B1 APPLICATIONS (cont'd)

4 Code No: DER/1105/1824

would not have an unreasonable effect on nearby residential properties.

This application has generated a huge amount of local interest, as indicated by the large number of representations received. I have looked carefully at the points raised by the objectors, and have concluded:

- that adequate access can be gained to the site from Western Road
- that the applicant is entitled to dispose of part of the site
- that an overall improvement in sports facilities will be achieved
- that a provision of 73 car parking spaces is sufficient for most circumstances
- that the principle of residential development on the site is acceptable, and that the overall effect of this is not unreasonable, and is in line with the Council's current standards.

The proposal represents a modern and logical use of this extensive site, in line with the central government guidance in PPG3 and PPG17. I have concluded that there would be considerable benefit to the community as a whole and that the proposal is in line with the relevant Local Plan policies. A considerable amount of work went into this proposal before the application was submitted and, despite the large number of objections received, I am of the opinion that a refusal of planning permission would not be sustained at appeal. A Section 106 Agreement would secure mobility housing, public open space provision, replacement sports pitches, community use of pitches and highway works.

11. Recommended decision and summary of reasons:

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

C. If the applicant fails to sign the S106 Agreement by the expiry of the 13-week target period (7 February) 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 Development Plan and all other material

B1 APPLICATIONS (cont'd)

4 Code No: DER/1105/1824

considerations as indicated at 9 above. The proposal involves residential development and the re-development, partly, of brownfield land and would create an acceptable living environment without unreasonably affecting amenities at existing properties or the character of the area.

11.3 Conditions

1. Standard condition 09A (amended plans 21 December 2004)
2. Standard condition (external materials)
3. Standard condition 20 (landscaping)
4. Standard condition 22 (landscaping maintenance)
5. Standard condition 30 (hard surfacing)
6. Standard condition 19 (means of enclosure)
7. Standard condition 38 (drainage details)
8. Standard condition 24 (protection of trees and hedges)

9. The proposed floodlights shall be used only between the hours of 9.00 am – 9.00 pm, unless otherwise agreed in writing by the Local Planning Authority.

10. Before the development commences, details of the proposed floodlights shall be submitted to approved in writing by the Local Planning Authority.

11. Standard condition 13 (domestic use of garages)
12. Standard condition 69 (cycle/motor cycle parking)

11.4 Reasons

1. Standard reason E04
2. Standard reason E14 ... policy E31
3. Standard reason E18 ... policy E23
4. Standard reason E18 ... policy E23
5. Standard reason E14 ... policy T22
6. Standard reason E14 ... policy H28
7. Standard reason E21
8. Standard reason E32 ... policy E11

9. To preserve the amenities of existing and future nearby residents ... policy H28

10. No details have yet been submitted, and the proposed floodlights would be in close proximity to dwelling houses ... policy E31

11. Standard reason E07 ... policy H28
12. Standard reason E35 ... policy T22

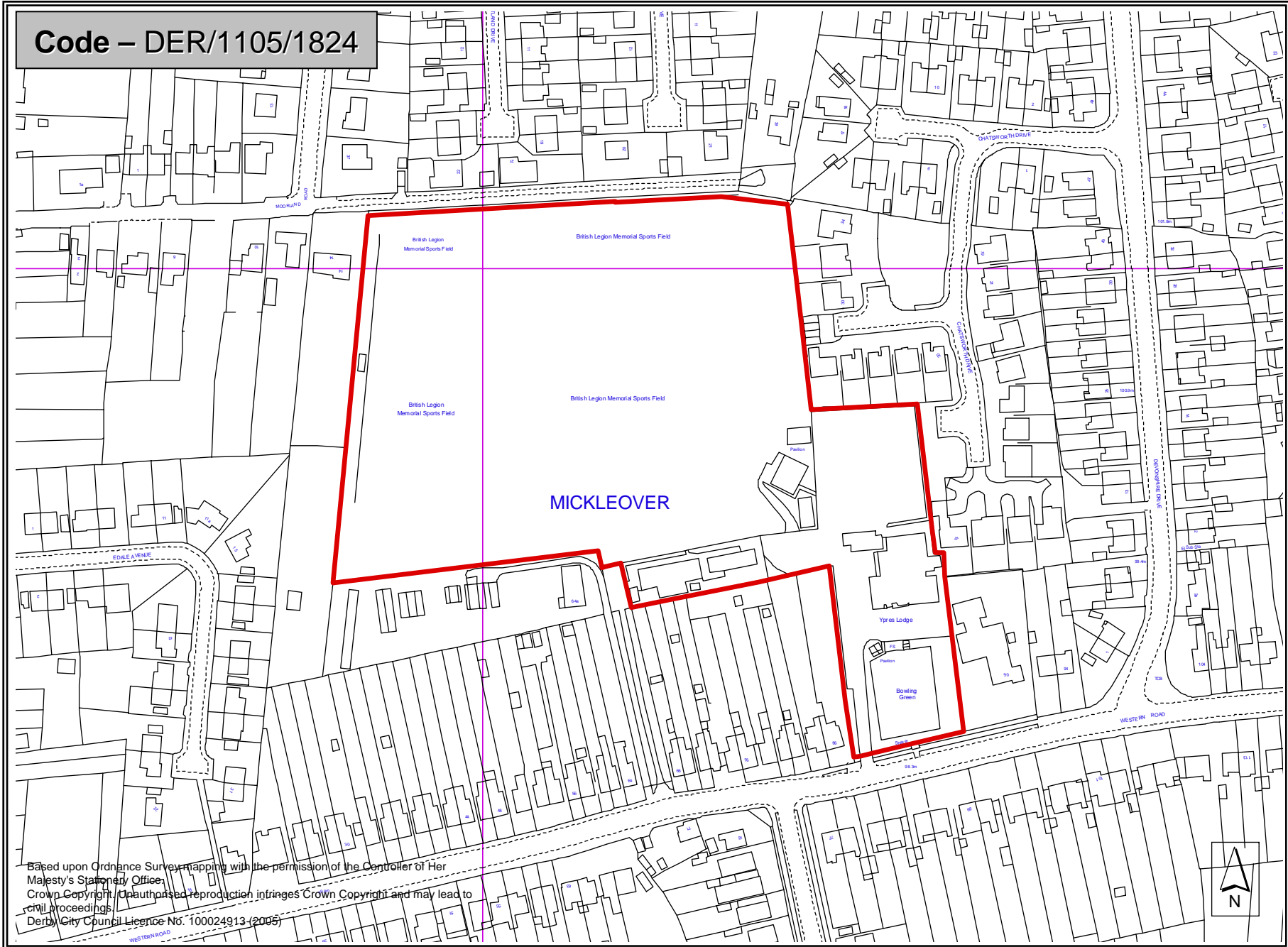
B1 APPLICATIONS (cont'd)

4 Code No: DER/1105/1824

11.5 S106 requirements where appropriate: Section 106 requirements where appropriate.

Mobility housing, public open space provision, replacement sports pitches, community use of pitches, and highways works.

Code – DER/1105/1824



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B1 APPLICATIONS (cont'd)

5 Code No: DER/1105/1862

Type: Full

1. **Address:** Site of 235 Village Street
2. **Proposal:** Erection of 24 apartments
3. **Description:** Located on the southern side of Village Street, this site is currently occupied by a large detached dwelling. The dwelling is located towards the centre of the site with garden area surrounding. Access from Village Street is via a driveway, located in the northeast corner. This access is currently shared with the access to a doctor's surgery at 233 Village Street. The site is in an elevated position from the highway and it measures approximately 44m in width and 53m in length. It contains a number of trees and a mature group, which sit along the Village Street frontage, are protected by a tree preservation order. Located to the south of the site is a complex of two storey flats, which are occupied by the elderly. The Knoll, which is located to the west of the site, is also two storey and also offers accommodation for the elderly. To the north and southeast of the site are residential dwellings.

Planning permission is sought for residential development on this site. 24, two bedroomed apartments are proposed to be accommodated within two blocks. The main block, containing 18 apartments would comprise a three-storey building and would sit in the southwest corner of the site. The building would extend into close proximity with the site's southern and western boundaries. The other smaller, three-storey block is proposed to be located towards the southeastern corner of the site and would accommodate 6 apartments. Both blocks are of a simple hip roof design. Car parking for the development is proposed to be located towards the northern end of the site, close to the sites Village Street frontage.

4. **Relevant Planning History:**

DER/1104/2224 Planning permission was sought for the erection of 24 apartments on the site. This application was withdrawn in June 2005.

DER/798/883 Planning permission granted 24/08/98 for extensions to dwelling (pitched roof, additional rooms and entrance canopy) and erection of double garage.

5. **Implications of Proposal:**

5.1 **Economic:** None

5.2 **Design and Community Safety:** Subject to the use of appropriate materials, I have no objections to the design of this scheme or to the

B1 APPLICATIONS (cont'd)

5 Code No: DER/1105/1862

position and orientation of the buildings on the site. Parking areas would be open to surveillance from the apartments and screened from the street by the protected trees. The development is acceptable from a community safety point of view.

5.3 Highways: There are no objections to the use of the existing access to the site and parking provision is considered adequate. Secure internal cycle parking should be provided. A Section 106 contribution is required towards transport corridor improvements and to assist with District Centre improvements.

5.4 Disabled People's Access: Disabled people's parking is satisfactory. Two mobility dwellings are to be secured at ground floor level through the Section 106 agreement.

5.5 Other Environmental: The site layout has been designed to accommodate the group of mature trees located alongside the sites Village Street frontage which are protected by a Tree Preservation Order.

6. Publicity:

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

7. Representations Seven letters of objection and one letter of comment have been received in response to this application and are in the Members' Room. Any further representations received will be made available for Member's consideration. Objections to the proposals and the main issues raised are as follows:

- The three storey development would appear overbearing and over intrusive from neighbouring dwellings given the buildings close proximity to the boundary
- The three storey development is out of character with adjacent two storey buildings
- The development would result in a loss of privacy, daylight and view for neighbouring residents
- The close proximity of the building to the boundary would result in the formation of a narrow enclosed path on the adjacent site

B1 APPLICATIONS (cont'd)

5 Code No: DER/1105/1862

- The development would lead to an unacceptable increase in noise and activity on the site from cars and residents which would compromise the amenity of neighbouring residents
- The development would increase parking and congestion on Village Street
- Noise, activity and congestion would increase further if in the future, the developers also chose to convert the existing doctors surgery at 233 Village Street into flats

8. Consultations

DCorpS (Health) – before development is commenced, a preliminary site investigation report shall be submitted to the Council, which identifies any possible contamination on the site. If the investigation confirms that contamination exists, a remediation report and validation statement should also be submitted. The details of that report will need to be approved by the Council, prior to development commencing.

DCommS (Arboricultural Officer) – to be reported.

9. Summary of policies most relevant: CDLP policies:

- H20 - Mobility Housing
- H22 - Residential development on unallocated land
- H28 - Layout and design of residential development
- E11 - Trees and woodland
- E31 - Design
- E32 - Community safety and crime prevention
- L3 - Public open space standards
- L4 - Provision of public open space within housing development
- T22 - Parking standards
- E18 - Contaminated land

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

10. Officer Opinion:

This site is not allocated for any particular use in the adopted Local Plan. Local plan policy H22 allows for residential development on unallocated land subject to a number of criteria and I am satisfied that the submitted scheme meets that criteria. The site is within an existing built up area and many of the buildings, which surround the site, are predominantly in some form of residential use. The site is currently

B1 APPLICATIONS (cont'd)

5 Code No: DER/1105/1862

occupied by a single dwelling and the provision of 24 flats upon it will increase levels of activity on the site, which is a concern that has been raised by local residents. However, due to the residential nature of surrounding land uses, a residential use on this site is appropriate and I do not consider that it would cause harm to the amenities enjoyed by neighbours significant enough to offer grounds for refusal of planning permission. Central Government Guidance in PPG3 (Housing) would encourage a high density of development on this brownfield site and I do not consider the provision of 24 units upon it to be excessive.

I have given careful consideration to the layout of the buildings on this site and their relationship to existing neighbouring properties including the flats for the elderly at Normanton Lodge to the south and The Knoll to the West. In my assessment, I have considered the distance between properties and principal windows, the orientation of the proposal and the relationship of the development to private garden areas. Amendments have been sought to the position of some windows in various elevations of both apartment buildings to ensure that the privacy of neighbouring properties and their private garden areas are not compromised. Amendments to the siting of the buildings have also been sought in order to ensure that they meet with space standards. The new apartment buildings would extend into close proximity with the site's boundaries but would be an acceptable distance from both the dwellings on Grange Avenue and buildings at The Knoll. The relationship with some of the flats at Normanton Lodge, to the south, would be closer. However, the apartment block would not impinge on a 45 degree line taken from the principal windows in the eastern elevation of the buildings at Normanton Lodge and I am satisfied that it would not offer any unreasonable massing or overshadowing implications for the flats.

Views into the application site from Village Street are screened by a group of mature trees that sit alongside the site's Village Street frontage. The trees are protected by a preservation order and has high amenity value. A tree survey has been submitted as part of this application. However, further information from the applicants have been sought to ensure adequate protection of these trees and the views of the City Councils Arboricultural Officer will be reported at the meeting. The trees that are protected by a preservation order are proposed to be retained as part of this development and they would continue to limit views into the site from the street. The parking areas are proposed to be located close up to the site's frontage and extend under the canopy of the trees. This siting would make vehicles more visible from the street but the trees would offer adequate screening. Views of the apartment blocks would still be achieved from the street given their height, but from a design point of view, I consider them to

B1 APPLICATIONS (cont'd)

5 Code No: DER/1105/1862

be acceptable additions to this part of Village Street. The elevations are simple but proportionate and have some interest with the modest gables at second floor level punctuating into the main roof slope. The original submission proposed a gable roof to the buildings but these have been amended to a hip, in order to offer some reduction in the mass of the buildings when they are viewed from neighbouring sites. Objectors have suggested that a three storey development on the site would be out of keeping with the area. Surrounding buildings are two storey and in my opinion this development would not appear excessive or dominant in this location.

The proposed layout shows that a satisfactory living environment can be created within the flats and in policy terms the proposed development would fulfil the objectives of Local Plan Policy H28. A development of this size and type gives rise to a requirement for public open space. As this cannot be accommodated on site, contributions would be secured through the Section 106 agreement along with the contributions to highway improvements. Local residents have raised concerns with regards to the implications of this development for traffic and parking on Village Street and its implications for highway safety. A transport assessment was submitted with the planning application and is considered satisfactory. There are no highway objections to the access to the site, the parking layout or levels of parking provision. Although cycle parking within the buildings would be desirable, the scheme incorporates two separate lockable, covered cycle stores, which I consider would offer adequate provision for cycle storage on the site.

To conclude, there are no policy objections to development of this site for residential use. I acknowledge that this is a more intensive use of the site than its current use and I have given careful consideration to the concerns raised by local residents. However, I am satisfied that the design and layout of the development can accommodate a satisfactory living environment for future occupiers, without significant detriment being caused to the amenity of neighbouring properties and the area generally. I therefore recommend accordingly.

11. Recommended decision and summary of reasons:

- 11.1 A. **To authorise** the Assistant Director – Development 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/1105/1862

- 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 S106 Agreement by the expiry of the 13 week target period, (17 February) 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 Development Plan and all other material considerations as indicated in 9. above. The development is considered acceptable as it provides an appropriate use of the site, meeting the Councils space standards. The proposal is acceptable in design, street scene and amenity terms.

11.3 Conditions

1. Standard condition 09A (revised plans...received 12 January 2006)
2. Standard condition 27 (external materials)
3. Standard condition 19 (means of enclosure)
4. Standard condition 30 (hard surfacing)
5. Standard condition 51 (service runs and trees)
6. Standard condition 20 (landscaping scheme)
7. Standard condition 22 (landscaping maintenance condition 6)
8. Standard condition 38 (drainage details)
9. Standard condition 24A (vegetation protection)

10. The development shall not be occupied until the cycle parking has been provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

11. Standard condition 100 (contamination)

11.4 Reasons

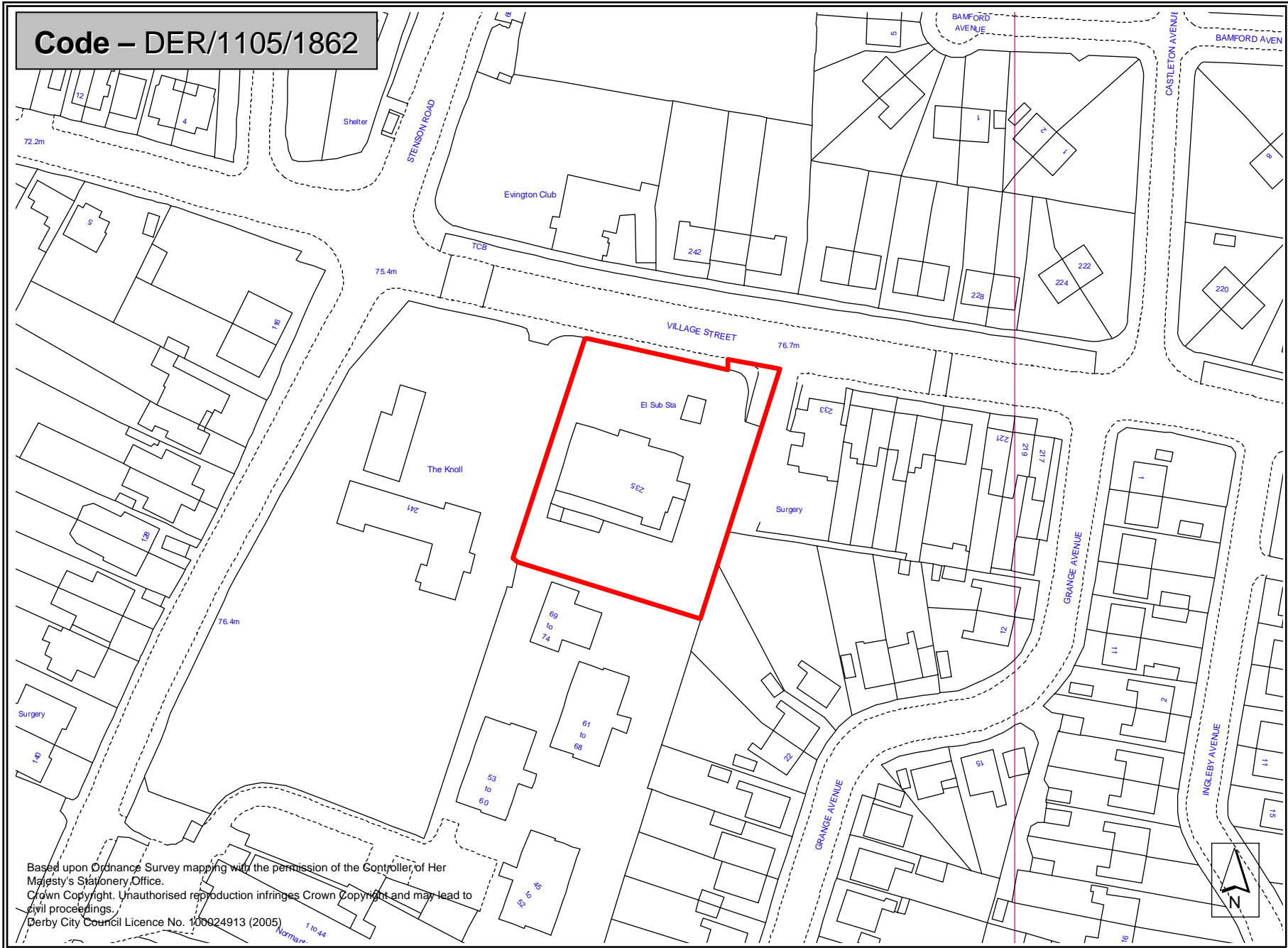
1. Standard reason E04
2. Standard reason E14 ... policy H28
3. Standard reason E09 ... policy H28
4. Standard reason E09 ... policy H28
5. Standard reason E11 ... policy E11
6. Standard reason E18 ... policy H28
7. Standard reason E18 ... policy H28
8. Standard reason E21 ... policy H28
9. Standard reason E32 ... policy E11
10. Standard reason E35 ... policy T22
11. Standard reason E49 ... policy E18

B1 APPLICATIONS (cont'd)

5 Code No: DER/1105/1862

11.5 S106 requirements where appropriate: Mobility housing, public open space and highway contributions.

Code – DER/1105/1862



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1 to 44
Norman

B1 APPLICATIONS (cont'd)

6 Code No: DER/1005/1699

Type: Full

1. **Address:** Land at 446 Nottingham Road
2. **Proposal:** Alteration and extensions to retail unit to form six retail units
3. **Description:** The site contains a single storey motor accessories and cycle shop of some 721 sq m floorspace located at the rear of the site with a delivery bay to the north west side and an open rotary car wash to the south east side. On the south eastern boundary is a covered car wash building and the site provides some 26 car parking spaces with two access points to the highway.

The proposal as submitted indicates the removal of the forward projection of the existing building and extensions to create a building of 16m depth and 36m length with a flat roof behind a parapet upstand. The external materials are indicated as facing brick with a steel profiled roof. The development creates six retail units ranging from 144 sq m to 324 sq m, resulting in a total floorspace of some 1157 sq m.

The existing two access points are retained but narrowed to 8m width and marked as a separate in and out. Forty five car spaces, including five spaces for disabled people, are proposed together with a covered cycle shed and bin enclosure.

4. **Relevant Planning History:** The site was originally in use as a petrol station, became a car sales site in the late 70's/early 80's, before conversion to shop and lastly to its current use as a motor accessories and cycle shop.
5. **Implications of Proposal:**
 - 5.1 **Economic:** The proposal would give the potential to increase the variety of retail operations at the district centre. Although perhaps speculative at this stage, the application indicates an increase in staff from eight to 15.
 - 5.2 **Design and Community Safety:** The conversion of the existing store results in a row of single storey shops set at the rear of the site with parking in front and open to the main road giving the development an active site frontage with good passing surveillance over the access, parking and the shop frontages.

The design of the development needs to take into account its isolated setting adjacent to the Cemetery.

B1 APPLICATIONS (cont'd)

6 Code No: DER/1005/1699

5.3 Highways: The access points should be narrowed to 4m and converted to dropped and taper kerbs to give priority to pedestrians, with any access signing located outside the highway. Pedestrian access to the site is not indicated and the fronting footway to the units needs to be a minimum of 2m width to allow for vehicle overhang. Cycle hoops should be located outside each unit and not just at the end as shown on the plans. These aspects and the Travel Plan required for transport corridor improvements can be conditioned.

5.4 Disabled People's Access: The Building Regulations will control accessibility to the building. The parking design will require amendment to meet best practice guidance; this can be conditioned.

5.5 Other Environmental: The site contains no significant vegetation but adjoins trees to the north west in the Cemetery and additional tree planting is indicated within the site and in the verge adjacent to the footway.

6. Publicity:

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

7. Representations: No representations to date.

8. Consultations:

STW – no objections subject to a condition requiring details of a drainage scheme for surface water and foul sewerage.

Police CPDA – the layout is acceptable on grounds of community safety and crime prevention. Further advice is given on physical security of the building with a recommendation that laminated glass to at least 8.8mm thickness be fitted to doors and display windows, increasing to 11.5mm if high value goods are to be displayed, and with well rebated and designed frames and heavy duty fixings to meet this higher standard. This is recommended not only to be secure but to obviate the need for roller shutters and, therefore, be better aesthetically.

9. Summary of policies most relevant: Adopted CDLP:

S1 - Retail strategy objectives

B1 APPLICATIONS (cont'd)

6 Code No: DER/1005/1699

- S2 - Shopping centre hierarchy
- S3 - Retail location criteria
- S4 - Retail design objectives
- S17 - Range of goods conditions
- S18 - Off-centre trade and showroom type sales
- E15 - Sustainable development
- E31 - Design
- E32 - Community safety and crime prevention
- E33 - Building security measures
- T17 - Accesses for disabled people
- T22 - Car parking standards

Relevant CDLP Review policies:

- S1 - Retail hierarchy
- S2 - retail location criteria
- S3 - District and neighbourhood centres
- E26 - Design
- E27 - Community safety
- E28 - Building security measures
- T4 - Access, parking and servicing
- T6 - Provisions for pedestrians
- T7 - Provisions for cyclists
- T8 - Provision for public transport
- T10 - Access for disabled people

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

- 10. Officer Opinion:** The site is not covered by any site specific policy in the adopted Local Plan and is not located within the Chaddesden District Centre; in accordance with the currently adopted local plan it would normally be tested against locational shopping policies and only granted permission if it satisfactorily met the sequential tests required by those policies. However, the local plan Review includes the site within the District Centre and in that context the principle of retail development would be acceptable in policy terms. No objections were raised to the inclusion within the Centre and the policy is not proposed to be modified in this respect. In view of the weight which can be attached to this Review policy and the impending adoption of the Review Plan, I consider that the principle of the development has to be considered acceptable in policy terms.

I have considered the basic design and layout of the proposal and concluded that the best arrangement for this site is that proposed. The site adjoins an electricity sub station and the Cemetery and is,

B1 APPLICATIONS (cont'd)

6 Code No: DER/1005/1699

therefore, isolated in terms of a built frontage. On the opposite site of the road the buildings are set back behind relatively long front gardens or yards. The District Centre itself also has buildings on the northern side of Nottingham Road set well back behind a service road and parking and even on the southern side there is a wide forecourt area in front of the buildings. Attempting to locating a building on the street frontage would be different to the general pattern of the Centre and would lead to difficulties with vehicle access visibility and increase the potential for community safety problems at the site.

The submitted scheme is not detailed in design terms and I would recommend a condition for further details. Whilst a building with a pitch roof may be considered more interesting, I consider that the proposed flat roof building is acceptable in its context of more open uses as it reduces the visual impact of the development.

I have noted the comments of the CPD Advisor on the shop windows and whilst it would be difficult in planning policy terms to regulate the thickness of the glass, it is appropriate for the Planning Authority to impose conditions to protect the visual quality of the buildings by controlling the details of the frontages to exclude unsightly roller shutters.

In layout terms the parking provision is below adopted plan standards by seven spaces and almost up to Review Plan standards by one space. In this District Centre location, the parking levels could be reduced to increase the provision for cycles, motorcycles and to provide better pedestrian access into and within the site. The disabled people's provision is more than required but needs to be amended to meet current space requirements. Accordingly, conditions are proposed to require amended and further details. The level of contribution towards transport corridor improvements is being negotiated and this should also reduce the access by private car and meet policy requirements.

11. Recommended decision and summary of reasons:

- 11.1 A. **To authorise** the Assistant Director 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; and
- B. **To authorise** the Assistant Director – Regeneration and Community **to grant** planning permission on the conclusion of the above Agreement, with conditions.

B1 APPLICATIONS (cont'd)

6 Code No: DER/1005/1699

11.2 Summary of reasons: The proposal has been considered against the City of Derby Local Plan policies, the Review Plan policies and other material considerations as summarised in 9 in the attached report and in view of the status of the Review Plan the merits of the proposal are considered to be acceptable.

11.3 Conditions

1. This permission relates to the drawings received on 12 October 2005 under plan number MW.05.1A.
2. Before the development commences further elevational drawings at a scale of 1:100 or 1:50 shall have been submitted to and approved in writing by the Local Planning Authority.
3. Standard condition 27 (materials)
4. Notwithstanding the submitted details further plans of the following shall be submitted to and approved in writing by the Local Planning Authority before any development is commenced with the agreed details being implemented in accordance with an approved timetable:
 - a. access and exit widths reduced to 4m or other approved width
 - b. kerb and access radii details
 - c. pedestrian routes into the site and between the car parking spaces and the shop fronts
 - d. cycle parking, including visitor parking outside each unit in addition to provision for staff
 - e. motor cycle parking
 - f. parking for disabled people with level or ramped access from those spaces and into the buildings, all designed in accordance with BS 5810:1979 (Access for the Disabled to Buildings)
5. Standard condition 20 (landscaping scheme)
6. Standard condition 22 (landscaping maintenance)
7. Standard condition 24A (protection of vegetation)
8. The protection measures required under condition 7 above shall include protection of the roots of the adjoining trees in the cemetery grounds.
9. Standard condition 19 (boundary treatment)
10. The development hereby permitted shall not commence until drainage works for the dispersal of both surface water and foul

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sewage have been carried out in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

11. Within 12 months of the commencement of development the occupiers of each unit shall carry out an employees travel to work study and develop a commuter plan (a "Green Travel Plan") and submit these details to be agreed in writing by the Local Planning Authority. The plan shall include action to be taken to encourage car sharing and use of alternative modes of transport.
12. The development shall incorporate security features designed to meet the security requirements of the proposal whilst creating a development of visual quality. Any external features shall be agreed in writing by the Local Planning Authority before construction commences.

11.4 Reasons

1. Standard reason E04
2. To enable the Local Planning Authority to exercise proper control over these details in the interests of design quality and the visual amenities of the area....policies S4 and E31.
3. Standard reason E14....policies S4 and E31
4. The details as submitted are not considered acceptable in relation to pedestrian and vehicular safety and in relation to encouraging travel by means other than the private car....policies S4, T17 and T24.
5. Standard reason E14....policy S4
6. Standard reason E14....policy S4
7. Standard reason E11....policy S4
8. Standard reason E10....policy S4
9. Standard reason E14....policy S4
10. To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution....policy E17.
11. To encourage and provide for a varied means of transport to work in accordance with policy T22 of the adopted City of Derby Local Plan and advice of PPG13 (transport).

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12. Security features designed into the building, such as laminated glass of appropriate thickness, can overcome the need for visually intrusive later additions such as roller shutters and in accordance with policies S4, E32 and E33 of the adopted City of Derby Local Plan.

11.5 S106 requirements where appropriate: Contribution towards Highway transport corridor improvements.

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Type: Outline

1. **Address:** South side of Nottingham Road, Spondon
2. **Proposal:** Residential development.
3. **Description:** This site extends to some 2.39ha and lies to the south and east of the premises of Technograv Ltd. Slightly over half is agricultural, although it has not been cultivated for some time and is in poor condition. To the south of this part is a strip of former canal and running across the whole, from north to south, is an electricity transmission line with one pylon within the site. The remainder of the application site is vacant land, largely scrub, originally within the industrial curtilage but fenced off from it for some years.

Outline permission is sought for residential development with all matters reserved except for access, which is shown as being via a conventional T-junction with Nottingham Road. A notional density of 35/ha would give some 84 dwellings although the constraints of the site, such as the electricity line, may make it difficult to achieve this.

The application is accompanied by a general planning statement and reports on transport, air quality, noise and electromagnetic radiation. The general statement summarises the conclusions of the specialist studies and makes a comprehensive case for approval of the development in policy terms.

4. **Relevant Planning History:** There are a substantial number of previous applications related to industrial development for Technograv, mainly within the area to be retained by that company. The only significant application relates to the field on the eastern side where outline permission was granted under code No. DER/900/1156 for industrial development. Details of roads and sewers were approved under DER/1201/1557 but nothing further was submitted and the permission lapsed.
5. **Implications of Proposal:**
 - 5.1 **Economic:** There would be a loss of employment land. See "Officer Opinion".
 - 5.2 **Design and Community Safety:** There are no special design restraints on this site. The eventual scheme is likely to follow the market as perceived once the site has been acquired by a specialist housebuilder. There are no special community safety implications.
 - 5.3 **Highways:** The views of the Assistant Director – Highways, Transportation and Waste Management are as follows: "I have great

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concern with regard to the amount of new residential development along Nottingham Road, in particular with regard to the increase in traffic along this important route and the impact on congestion at the Willowcroft Road/Nottingham Road Junction. Due to this I have looked at this application and the supplied Transport Assessment in great detail.

The applicants Transport Assessment acknowledges that this junction is already over-capacity during the morning peak period and that the additional traffic generated by this development makes this situation worse.

The transport consultant has suggested some mitigation measures at the Willowcroft Road / Nottingham Road junction. These were limited to either altering the timings at the traffic signals or introducing a new type of traffic signal controller to optimise the traffic flow through the junction. However, neither of these proposals would 'solve' the fundamental problem of a lack of capacity at this junction. Therefore I have to conclude that the Willowcroft Road / Nottingham Road junction will not cope with the extra traffic from this development.

This development will have a significant worsening effect on the operation of the Willowcroft Road / Nottingham Road junction compared with the current situation. Highway officers are already very concerned about the combined effects of all the various housing developments in the Nottingham Road corridor which have been given planning consent and how, collectively, they will cause significantly longer queues and delays at the Nottingham Road corridor junctions that are already at or over capacity.

In conclusion, it seems that the application is a further piecemeal housing development in this corridor in which there is limited highway capacity and no real scope to improve it. The site is currently allocated for employment uses in the Local Plan and I would suggest that seeking to develop this site for employment or industrial uses with a low traffic generation would be more appropriate than housing. In view of this I recommend that this development is refused planning permission."

5.4 Disabled People's Access: All dwellings will be visitable and a proportion of mobility standard units is included in the draft Section 106 Agreement.

5.5 Other Environmental: The site is affected by railway noise and the impact on air quality of the Acetate Products Limited. Works.

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6. Publicity:

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

7. Representations: None.

8. Consultations:

EA – objects because of the lack of a flood risk assessment. See “Officer Opinion”.

STW – no objection subject to details of drainage being approved.
DCommS – to be reported.

DCorpS (AD - EH&TS) – draws attention to the air quality problems arising from the nearby Acetate Products works and that the completion of a detailed assessment of benzene levels will not be completed until Spring of this year; this will inform whether an Air Quality Management Area should be declared. He also points out that the impact of road and rail traffic noise is such that permission should not normally be granted; if it is a noise mitigation scheme will be required. There is also the possibility of contamination of groundwater from adjacent sites.

9. Summary of policies most relevant: Adopted CDLP:

- EMP11(v) - Business, industrial and storage uses on the majority of this specific site.
- EMP15 - Existing Business and Industrial (Core Areas) (Small part of site)
- EMP24 - Alternative Uses of Business and Industry Areas
- H18 - Affordable Housing
- H20 - Mobility Housing
- H22 - Residential Development on Unallocated Land
- E8 - Wildlife Corridors
- E9 - Habitats protected by law
- E15 - Sustainable development
- E17 - Pollution
- E22 - Landscape
- E23 - Landscaping schemes
- E32 - Community Safety and Crime Prevention
- L3 - Public open Space Standards

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- L4 - Provision of Public Open Space within Housing Development
- L12 - Former Derby Canal
- T16 - Rights of Way and Routes for Cyclists, Pedestrians and Horse Riders
- T18 - Safeguarding Routes of Former Canals and Railways
- T19 - Safeguarding development options
- T22 - Parking standards

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

By the date of any issue of permission it is expected that the CDLP Review will be the adopted Local Plan. I will incorporate reference to the equivalent policies in the decision notice. For completeness they are set out below but policies quoted in the reasons at the end of this report are from the current CDLP.

- EP9d - General Business and Industrial Opportunity Sites
- EP12 - Alternative Uses of Proposed Business and Industrial Areas
- H19 - Affordable Housing
- H20 - Lifetime Homes
- H21 - Residential Development – General Criteria
- E8 - Wildlife Corridors
- E19 - Development Close to Important Open Land
- E20 - Landscaping Schemes
- E27 - Community Safety
- L3 - Public Open Space Standards
- L4 - Public Open Space Requirements in New Development
- L10 - Former Derby Canal
- T4 - Access, Parking and Servicing

Comment on policies

The proposal should be considered against policy EMP24. This policy allows for permission to be granted for alternative uses on business and industrial sites provided that:

- a. the proposal will not prejudice the development potential of land identified for business and industrial purposes
- b. the proposal will not cause or worsen any shortage of land for business and industry, whether quantitative or qualitative

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- c. the proposal will not unduly inhibit existing business and industrial activity in the area or adversely affect residential amenity.

The essential test here is whether its loss would conflict with criterion (b). Whilst the cumulative loss of existing employment land has to be monitored, I do not think that it would be possible to make a convincing case in this location and at this time to retain the land for employment purposes. Over the City as a whole we have a slight over-supply of employment land.

Policy H22 allows for residential development on land not allocated for such uses subject to a number of criteria. These are that:

- a. the site is within, and does not extend, the built up area
- b. there is no loss of countryside and important landscape and natural history features and that archaeological remains are retained
- c. the development and its design relates well to the existing built up area and the character of the surrounding area
- d. there are no significant adverse impacts on existing levels of amenity or the local environment; and
- e. a satisfactory form of development and living environment can be created.

The site is on the edge of the built up area in that the land to the south (across the canal, railway and river) is of an open nature, but its redevelopment would not extend the built area and so it would meet criterion (a). The canal part of the site would remain open in accordance with criterion (b). It should be possible to come up with a scheme which relates well to the existing area and creates a satisfactory living environment meeting (c), (d) and (e).

Incidental open space will need to be provided in accordance with dwelling numbers but it is unlikely that major open space will be required as dwelling numbers are unlikely to exceed that threshold of 100. The corridor along the southern edge of the site is designated as a wildlife corridor, a route for cyclists, pedestrians and horse riders, and is safeguarded for the restoration of the Derby Canal. I explain the opportunities for this and the advancement of policy L12 in "Officer opinion" below.

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10. Officer Opinion:

Principle of Residential, rather than Employment, Use

The key to the acceptability of this proposal is the acceptance that the site does not need to be retained for employment purposes. Its current CDLP allocation reflects the existing use and the fact that the CDLP Review carries that employment allocation forward is because no-one made representations for any alternative at the appropriate time. In my view the loss of this employment allocation is not significant in City-wide terms and is outweighed by the benefits of residential development that would provide housing in a specific part of the City without extending the built-up area.

Government guidance in PPG3 e.g. in paras 31, 38 and 42a, is that priority should be given to the development of brownfield sites. This requirement can, in appropriate circumstances, be justification to control the timing of the development in the interests of bringing forward brownfield sites first. I do not think that effective postponement would be justified because the site largely fits the policy advice circumstances in the more up to date part of the guidance (paragraph 42a). This indicates that, on sites allocated for industrial use that are no longer needed for such use, applications for housing should be considered favourably. The evidence provided as part of the application indicates that there is a long history of permitted industrial development not coming to fruition. The site, therefore, falls within the category of site referred to in the guidance.

Because of its meeting the criteria for alternative development under EMP24, the development is not contrary to the provisions of the Development Plan and permission can therefore be granted in accordance with the principle of Section 54a of the Act rather than by way of "other material circumstances". For this reason also, the application does not need to be referred to the Secretary of State as a departure.

Traffic matters

As set out in "Highway Implications" above, Nottingham Road, Spondon, has a substantial traffic congestion problem at peak periods, the pinch point being the Willowcroft Road junction. Members will recall that the developers of the Anglers' Lane site entered into an Agreement under which they would pay for the upgrading of the traffic light control system at Willowcroft Road with the City Council undertaking to repay half the cost from the proceeds of subsequent Section 106 Agreements for sites on the same stretch of road.

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Any development of this site will generate traffic and there has to be a presumption that the traffic generation implications of the proposals in the Local Plan (EMP11(v) of the CDLP and EP9(d) of the CDLP Review) have been allowed for in the formulation of those policies.

The current proposal will add to traffic in general and peak hours flows in particular. Its Transport Impact Assessment is based on the wrong site area of 3.2ha whereas it is in fact 2.39ha. Whilst all calculations in it are therefore some 33% in excess of reality for any given density assumption, this affects only the gross generation and is immaterial to the comparison between employment and residential development.

The particular capacity problems on this length of road bring to a specific focus the general capacity problems throughout the City. The employment allocation in the adopted Local Plan has an inherent traffic generation assumption. Such development would have different traffic characteristics to residential and the congestion from residential at certain times may be worse.

I do not have the benefit of a Transport Impact Assessment based on employment uses on a B1 / B2 / B8 mix but I have asked the applicant's agent to have this work undertaken and for it to be available sufficiently before the date of the meeting to enable officers to analyse it. Pending that, a comparison of parking spaces in line with Local Plan standards is relatively easy.

- Residential: 2.39ha @ 35/ha = 84 dwellings x 2 spaces per dwelling = 168 spaces.

- Under CDLP policies with parking at policy T22 maxima:

Alternatives are: Business (B1): 2.39ha @ 40% coverage = 9560sq m = 319 spaces, or:

Industry (B2): 2.39ha @ 40% coverage = 9560sq m = 192 spaces.

- Under CDLP Review policies with parking at T4 maxima, and taking account of the requirement that B1(a) (office) uses over 2500sq m are subject to the sequential test approach:

40% site coverage = 9560sq m; 2500sq m B1(a) = 62 spaces, plus 7060sq m of B2 = 83 spaces giving a total of 145 spaces.

Residential development would therefore result in only slightly more parking spaces and to show a materially worse traffic generation impact one has to rely on the difference in trip generation. I understand that family housing is now assessed on the basis of 8

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single movement trips per house a day, so 84 houses would generate a notional 672 movements a day. For employment uses much depends on the particular trading style of the occupiers but one might expect between 2.5 and 3 trips per space per day, that is between 362 and 435 car movements plus commercial traffic. The requested TIA work based on a notional commercial / industrial development can be compared with the is approach in due course.

As with all forecasts there will be a range of possible outcomes. These are not errors but simply reflect the imprecision of comparing employment with residential at outline stage where one can only make the standard case assumptions about density, floor space, parking spaces and, above all, the transport attitude and behaviour of either employees or residents. I am satisfied that a material difference could be demonstrated and the question has to be whether this is likely to be sufficient to base a sound case for refusal, having regard to non-transport matters.

Apart from capacity issues, there is the question of the difference in type of traffic. Industrial and commercial development would involve additional HCV traffic on a road where there is substantial public sensitivity to such. Recent decisions have been part of a change in character of the area from one that was residential north of Nottingham Road and mainly commercial, with some residential south of that road, to one where the south side is more balanced between residential and commercial.

Members will know that objections from residents to development of large residential rear gardens are often based on the traffic local implications. My advice has consistently been that such redevelopment, to a higher density, where sites perform well in terms of public transport accessibility, is beneficial in that, by reducing the pressures for development on the periphery or outside the City, overall transport problems are reduced. It is essentially a question of a denser, more compact, City generating less movement than a more dispersed one.

This site is not required to meet employment land needs and the site immediately to the east, which is also allocated for employment purposes in the adopted Local Plan, is currently being developed for residential purposes. It was largely this decision that led me to suggest to the current applicants that there seemed no obvious reason for residential, rather than employment, development, would be acceptable on this site.

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A refusal solely on traffic generation grounds could, arguably, address the local situation on this stretch of road and, in particular, the situation at the Willowcroft Road junction. Whether there would be an overall traffic benefit would rather depend on where the residential development pressure was diverted to. If it took place in Borrowash to the east matters would probably be worsened because we could have employment uses generating traffic on this site and residential traffic from outside the City passing it. If elsewhere, the effects would be more diffuse.

In relation to the detail of access to the site, this can be achieved in a safe and convenient manner but I do not think that the Local Planning authority should be committed to the detail currently shown. This should more appropriately be determined as part of the reserved matters application and I recommend a condition to this effect.

There is justification for a substantial contribution to transport needs in the Nottingham Road corridor. As explained above, further alleviation of the Willowcroft Road pinch point appears not to be possible but there is a range of pedestrian, cycle and public transport enhancements that should be pursued and which will bring direct benefits to future residents. The applicants have offered a contribution of £1000 per house. Of any sum raised £10 000 has to be repaid to the Anglers' Lane developer who has undertaken to finance the Willowcroft Road traffic light improvements.

Housing and Open Space

Turning now to matters that are relevant to the details of any future housing scheme, these cover open space, canal restoration, mobility and affordable housing.

The number of dwellings envisaged will generate a requirement for incidental open space, which is normally provided on site and that part of the former canal within the site will have to take priority. As in the development immediately to the east (the Wimpey estate on the former Teich site) the opportunity is therefore offered to retrieve a past decision, the incorporation of most of the canal width into the agricultural land to the north, which, whilst understandable in the context of the time, must now be seen as unfortunate. Whilst it is unlikely that more than 100 units will be proposed at reserved matters stage, the negotiated Section 106 terms make provision for major open space should this happen.

This (with the ex-Teich site to the east) is the only length of canal where partial width has been lost, as opposed to total route destruction

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nearer to the City Centre. I would expect that, like the site to the east, a housing layout would provide an arrangement of dwellings fronting an interim grassed strip that would work equally well if it became partially water space in the future; a planted margin would still be retained.

Affordable housing has been negotiated on the basis of 26%, split equally between rental and shared ownership. Mobility housing will be at not less than 10%. There is no requirement for educational contribution.

Environmental Matters

Noise can be dealt with in the same way as has been accepted for the adjacent site to the east and is being implemented. Any contamination by migrating groundwater can be identified and addressed by examination and appropriate treatment / precautions. Neither of these is a problem in my view.

Air quality is altogether more difficult and the advice now available highlights the difficulties of maintaining a consistent line in decision making in the light of evolving knowledge. To remind Members very briefly, permission was granted for residential development at Anglers' Lane and at the ex-Teich site in the knowledge that there were problems but on the basis that there were no current recommended levels for benzene and that the levels due to come into force in 2010 would not be exceeded.

At Station Road, after one refusal Permission was granted for the second application. This was for a site closer to the source of the pollution but experiencing lower levels of air-borne benzene because of the effect of the prevailing winds. At that time my detailed comment was as set out below. I have reprinted this in full in italics below as I believe that the principles of the approach are applicable to all of these sites.

"The position on this, [Benzene] in summary, is:

- given the reasonable assumption of a continued improvement in "routine" emissions, there will be no need for an AQMA and any new development south of Nottingham Road will not be exposed to benzene levels above the 2010 target by that date*
- scientific opinion, some of which believes there is no safe level of exposure to benzene, contrasts with the Government's national air quality objective, which specifies annual mean levels of 5µg/m³ to be achieved by 2010*

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- *an industrial accident could expose people to high levels of toxic gas, albeit for a very short period.*

There is, therefore, a somewhat additional judgement to be made from the more normal cases of poor air quality. In these, "risk" tends to be a question of whether pollutants may drift above the threshold level. That type of risk is present here, and I am reasonably satisfied that normal conditions will be acceptable. The weight that should be given to the accident risk is of a different order. The advice in PPS23 says (my underlining): "Where for example new housing is proposed close to a source of potential pollution, the risk of pollution from the normal operation of the process or the potential impacts and the extent to which the proposals address such risks will influence whether or not the development should proceed". There is the strong suggestion that it is the normal operation against which risk has to be judged, not the abnormal release or accident possibilities.

It may help Members to consider other risks commonly dealt with through the planning process. There is a contrast with the often-quoted "1 in 100 year flood risk", in the sense that whilst both are remote possibilities, there are important differences. With floods, the normal situation is that there is none, and the precautionary approach is to deal with something that is quite likely, albeit at lengthy intervals. There is usually reasonable warning of floods and, unless they are of the raging torrent variety, there is usually little harm beyond the cost of everything getting wet.

With benzene, there is a background level, which would be experienced at virtually any site in the City. Typically this would be 1.5 to 2 parts per billion. At the application site the levels are typically 3 to 4, but existing housing locations in line with the prevailing wind are experiencing levels of 10 to 12. Using another analogy to try to put risk in context, crossing the road is a risk that everyone takes in daily life and the figures are rather like comparing road crossing in a remote part of the country, in a typical city suburb and in the city centre.

It was, as I understand matters, the risk of abnormal releases that substantially influenced Members to refuse the previous application. An appeal against that decision is scheduled to be dealt with by a public inquiry on 4 October, with Councillor Care presenting evidence as to the reasons that the Committee came to the conclusion that it did.

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Whilst the form of the application has to remain as considered by this Committee, the inquiry would hear new evidence, including that from DNV Technica reproduced in this report and the results of the Council's own monitoring in the last eight months.

It very much appears that the mass of the evidence will support the acceptability of residential development if health risks are assessed, as expressed in PPS23, relative to the normal operation of the plant. It is very difficult for me to forecast the view that an Inspector might take of the "moral" responsibility that a Local Planning Authority might feel that it has in relation to abnormal risks. We have to deal here not with risks that are remote but catastrophic if they occur, (such as explosion) as with risks that are remote, without obvious immediate impact but possibly with an impact in the longer term.

The possible health risk in the form of psychological harm through the fear that exposure to a known carcinogen may lead to illness developing after many years is a very difficult matter for a Local Planning Authority to deal with. It is the type of fear that some objectors to telecommunications transmitters have but perhaps a better analogy would be with the fears of those people who have worked with asbestos in the past, before its risks were known. I very much suspect that an appeal Inspector would err on the side of the stated PPS23 advice that it is the risks from normal operation, not abnormal occurrences, should be those on which a decision is based.

Members will be aware that permissions have been granted in recent years for residential development south of Nottingham Road. That at the northern end of Station Road has been built and those at Anglers' Lane and Nottingham Road (Teich Flexibles) are under construction. These sites are further away but the Anglers' Lane site is one of those subject to higher levels of Benzene than the current application site because of the prevailing wind."

The site of this current application is further away from the pollution source than is Anglers' Lane. Also, in relation to a precise south-west prevailing wind, it is further from the track of such a wind. Acceptance of residential development here could, if the improvement in air quality is not maintained, lead to more people being within an AQMA.

Conversely, rejection would give an unfortunate message to residents moving into the Anglers' Lane properties, that the Local Planning Authority was now taking the view that the health risk from poor air quality was such that people should not be permitted to live on a site

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not far away with, in all probability, marginally less effects. The perception of the message to residents on the site under development to the east would be scarcely better.

My conclusion on this aspect has to be, as in the case of Station Road, that in the absence of a clearly definable health risk, the Local Planning Authority would have a weak case in now taking the view that a virtual moratorium has to be placed on residential development south of Nottingham Road.

In relation to the Environment Agency comments, the site is in a low flood risk area, that is the chances of flood are less than one in a thousand years. However, the likely amount of impermeability on sites over 1ha could lead to flood risks elsewhere if surface water run-off is not handled properly. The applicant's agent has agreed to have a flood risk assessment done and this may be available by the date of the meeting. If not, my recommendation allows for its later receipt.

Conclusions

My recommendation is based on these premises:

- We cannot allow land allocated for development to lie fallow because of traffic capacity problems in this corridor. There is a commitment to the type of development in the adopted Local Plan and there are traffic generation implications from this.
- The difference between the impact of the allocated employment uses and residential is demonstrable but unlikely to be of a scale that is critical, bearing in mind the traffic-related amenity implications of employment uses. In any case the Local Plan allows for alternative uses to the principal allocation. There is already disquiet amongst residents over their perception of the impact of certain industrially-related development on this road, although that did not surface in the Local Plan preparation process.
- The proposal will complement the residential development currently under way on the larger site to the east and make a desirable consolidation of residential on the southern side of Nottingham Road.
- Public transport viability will be improved by introducing a further substantial number of residents within a short distance of a well-served bus route.

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- The air quality situation is as acceptable as on nearby recently-approved residential developments.
- It will be possible to demonstrate, in a flood risk assessment, that development of this site will not exacerbate problems elsewhere.

Overall the proposal offers significant opportunities to achieve residential provision, which will consolidate other such development currently under construction, in a part of the City where there is a demand, with no peripheral expansion, will allow the elimination of inappropriate past development and facilitate canal restoration. The downside of the traffic implications should be accepted in view of the overall benefits.

11. Recommended decision and summary of reasons:

11.1 **A.** **To authorise** the Director of Corporate Services to enter into a Section 106 Agreement incorporating the terms set out below.

B: Subject to the receipt of a flood risk assessment to the satisfaction of the Environment Agency, **To authorise** the Assistant Director – Development to grant planning permission on the conclusion of the above agreement subject to conditions as set below with the addition of any further ones arising from the flood risk assessment.

11.2 **Summary of reasons:** The proposal has been considered in relation to the provisions of the Development Plan and all other material circumstances as indicated in (9) above. It is considered that the provisions of CDLP policy EMP24 allow redevelopment other than for employment purposes and that the proposal is not contrary to the Development Plan, nor is it a departure of a type that has to be referred to the Secretary of State. The redevelopment is in accordance with PPG3 objectives. It facilitates the achievement of CDLP policy L12 and allows for facilitation of access to the open countryside to the east.

11.3 **Conditions**

1. Standard condition 01 (outline)
2. Standard condition 02 (time limit)
3. Standard condition 04 (exclude plans)
4. Standard condition 21 (landscaping maintenance)
5. Standard condition 24 (protection of vegetation)
6. The details submitted under condition (1) above shall include incidental open space at the Council's current standards.

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7. The details required under condition (1) above shall have particular regard to:
 - a. the need to relate appropriately to the former canal both in its current form as linear open space and to the implications of restoration
 - b. the connection of this site with that to the east
 - c. the submitted Transport Impact assessment
 - d. the submitted Noise Survey Report
 - e. the Flood Risk Assessment.

8. No development approved by this permission shall be commenced until a scheme for the provision and implementation of surface water run-off limitation has been submitted to and approved in writing by of the Local Planning Authority. The scheme shall incorporate sustainable drainage principles and shall be implemented in accordance with the approved programme and details.

9. No development shall be commenced until:
 - a. the application site has been subjected to a detailed scheme for the investigation and recording of contamination and a report has been submitted to and approved by the Local Planning Authority

 - b. detailed proposals in line with current best practice for the removal, containment or otherwise rendering harmless such contamination (the "Contamination Proposals") have been submitted to and approved by the Local Planning Authority.

 - b. for each part of the development contamination proposals relevant to that part (or any part that would be affected by the development) shall be carried out either before or during such development as appropriate

 - d. if during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the "Contamination Proposals" then revised "Contamination Proposals" shall be submitted to the Local Planning Authority

 - e. if during development work site contaminants are found in areas previously expected to be clean, then their remediation

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shall be carried out in line with the agreed "Contamination Proposals".

11.4 Reasons

1. Standard reason E01
2. Standard reason E02
3. Whilst there is no objection to the use of a single access to Nottingham Road at the point shown, the detailed design of this is more appropriately dealt with as part of an application for the approval of reserved matters.
4. Standard reason E10 (add: in accordance with policies E6(34), E11, E22 and E23 of the adopted CDLP).
5. Standard reason E11 (add: in accordance with policy E23 of the adopted CDLP).
6. Standard reason E12 (add: in accordance with policy L4 of the adopted CDLP).
7. In order to ensure that the mitigation measures identified as necessary in the outline application are carried forward to the details of the development, in particular to meet the following policies of the adopted Local Plan:
 - a. L12 and T19
 - b. H22(c)
 - c. T22
 - d. E17
 - e. E20
8. In order to prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal.
9. To ensure that any contamination arising from the past use of the site is identified and remediated in accordance with policy E18 of the adopted CDLP.

11.5 S106 requirements where appropriate:

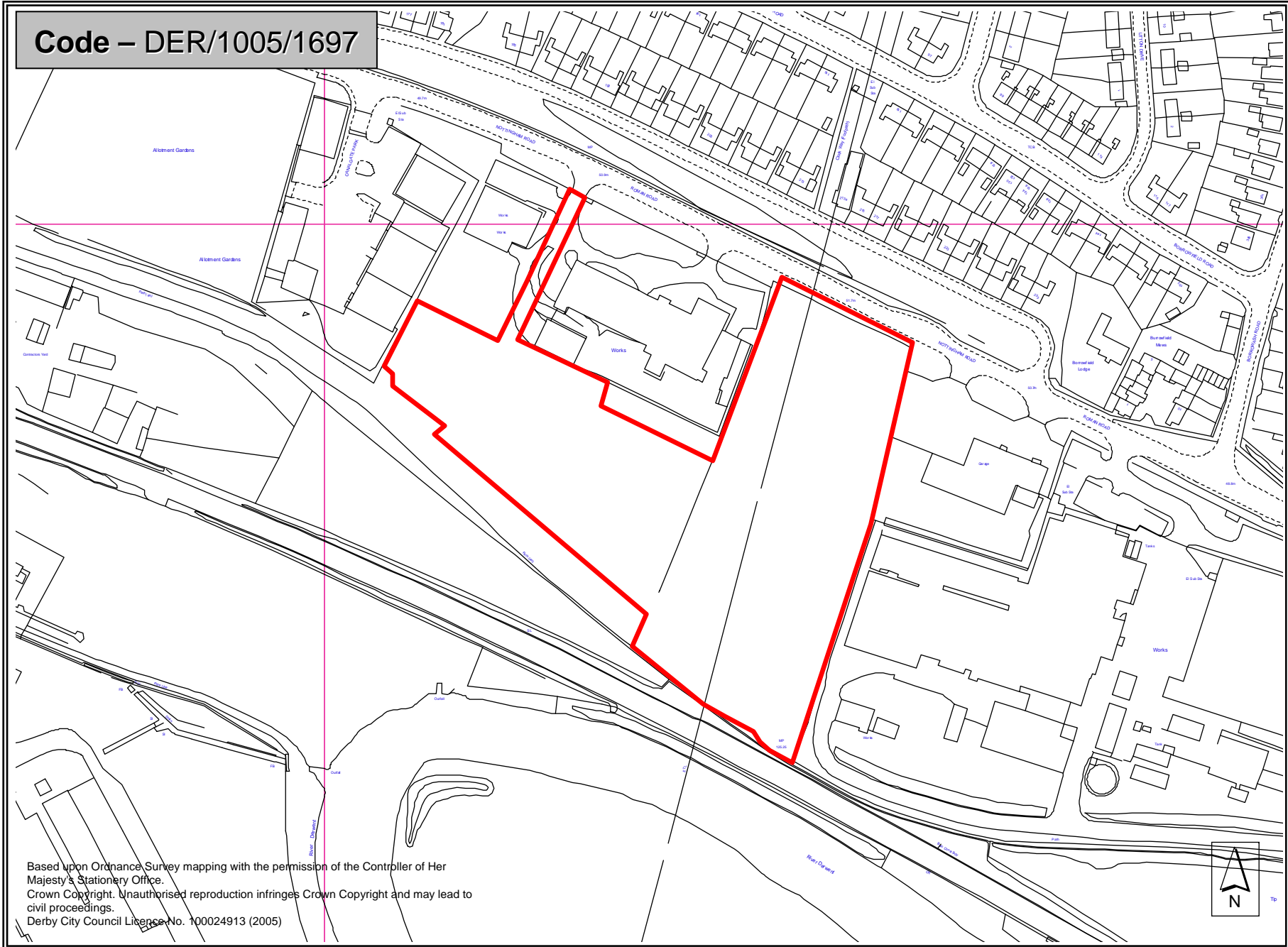
- affordable housing at the rate of 26% of all units, tenure split equally between rental and shared ownership.
- mobility housing at 10%

B1 APPLICATIONS (cont'd)

7 Code No: DER/1005/1697

- the location of incidental open space primarily on the canal corridor and its subsequent transfer to the City Council
- a contribution of £1000 per dwelling for highway and transport-related improvements.

Code – DER/1005/1697



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D2 SPECIAL ITEMS

1 APPEALS DECISIONS

Appeals against planning refusal

Code No	Proposal	Location	Decision
DER/405/612	Formation of room in roof space	105 Arthur Street	Dismissed
Comments: The Inspector agreed with the City Council's view that Arthur Street, with its unbroken roofline, is a pivotal part of the appearance of the Conservation Area. The proposed front dormer, despite a traditional design, would significantly exceed the special character and identity of the Streetscene. It would, thereby, fail to preserve the appearance of the Strutts Park Conservation Area.			

Code No	Proposal	Location	Decision
Comments:			

Code No	Proposal	Location	Decision
Comments:			

RECOMMENDATION: To note the report.