

**A DEVELOPMENT BY THE CITY COUNCIL**

**1 Code No: DER/1005/1800**

**Type: Reg 3**

1. **Address:** Lees Brook Community School, Morley Road, Chaddesden
2. **Proposal:** Construction of artificial turf pitch, floodlighting and 4 metre high fencing.
3. **Description:** The proposed pitch would be located 36 metres to the south west of existing school buildings and parallel to them. The pitch would measure 105m x 71m. Eight floodlighting columns are proposed; these would be 15.5 metres high and contain two lights per column. Three-metre high weld mesh fencing is proposed on the sides, with 4 metre high fencing at the goal ends.

The proposed pitch would be located approximately 84m from the rear boundaries of properties on Morley Road and 110m from the rear boundaries on properties in Lawrence Avenue. Diagrams supplied with the application show the spread of light from the floodlights. To the south east and north west the spread would be 41m and to the north and south it would be 37m. The floodlights would have a maintained illuminance of 235 Lux.

**4. Relevant Planning History:**

DER/905/1608 - Erection of changing rooms and formation of car parking area – undecided and being reported also to this meeting.

DER/305/506 - Formation of car parking area – granted May 2004.

DER/1004/2029 - Erection of classroom – granted December 2004.

DER/804/1607 - Erection of double classroom – withdrawn May 2005.

DER/104/7 - Replacement of the fence, vehicular and pedestrian access gates to a height of 2.4m – granted March 2003.

DER/1103/2082 - Erection of replacement garage and store and retention of existing garage – granted March 2003.

DER/302/300 - Extension to existing dance studio and retention of car park – granted April 2002.

**5. Implications of Proposal:**

**5.1 Economic: -**

**A DEVELOPMENT BY THE CITY COUNCIL (cont'd)**

**1 Code No: DER/1005/1800**

**5.2 Design and Community Safety:** The proposal does not raise any significant community safety concerns.

**5.3 Highways:** The existing Travel Plan for the school should be amended to include the above development and parking implications and approved by our Travel Plan Officer within six months of consent.

**5.4 Disabled People's Access:** The design principles seem to meet Sport England Guidance on facilities for disabled people. The proposal will also be subject to a Building Regulation accessibility check.

**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:** Seven letters of objection have been received. These are available in the Members' Rooms. Reasons for objection are:

- disruption to wildlife
- increase in traffic and car parking with associated noises
- contrary to Green Wedge Policy
- it should be sited well away from residential properties and have strict controls similar to the Derby County training ground and not be used at evenings and weekends
- light pollution – no shielding on lights
- height of floodlights and fencing would be intrusive
- a condition to limit use to 8 pm is reasonable
- a condition retaining existing shrubbery on boundary with the Brook is required
- requires the right to use the school fields.

**8. Consultations:**

Environment Agency – to be reported.

DCorpS (Health) – to be reported.

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

**A     DEVELOPMENT BY THE CITY COUNCIL     (cont'd)**

**1     Code No: DER/1005/1800**

- C1 - Community facilities
- E2 - Green wedge
- E11 - Green wedge
- E32 - Community Safety and Crime Prevention
- T17 - Access for Disabled People
- T21 - Off-street parking
- 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.*

- 10.   Officer Opinion:** The site is allocated as Green Wedge. Policy E2 allows for a limited range of uses in Green Wedges, including essential buildings and activities ancillary to existing educational establishments. This is provided that the open and undeveloped character of the wedge is protected and there would not be an excessive increase in numbers of people, traffic and noise.

The main issues with regard to this proposal are whether the floodlit sports pitch would have an adverse impact on the amenity of neighbouring properties and affect the openness of the Green Wedge. The proposed pitch is sited as close to the main school buildings as possible. There is a steep bank up to the school buildings from the playing fields and extensive excavation would be required if it were sited any closer to the buildings.

The proposed pitch is over 100 metres from the nearest dwellings on Morley Road and if it were sited further away from houses its impact on the openness of the Green Wedge would be increased. A balance between these two concerns has to be struck and I consider that, due to the spread of the lights only extending to 41m, the impact on nearby residents is not considered to be significant. A condition that requires the floodlights to be shielded and directed down to prevent glare to nearby residential properties and not operated after 21.30 on any day should be placed on any permission. I consider such a condition would be adequate to minimise the impact on properties bounding the site. When the lights are switched off it is immediate and they do not take time to dim. After 4000 hours of use the brightness of the lights would be reduced by 20%. The colour of fencing would be controlled by condition.

I am satisfied that the level of parking can be controlled through an amended Travel Plan for the school. Travel Plans by their very nature seek to encourage other more sustainable forms of transport than the private car. This site is on a main bus route and is accessible by bike.

**A     DEVELOPMENT BY THE CITY COUNCIL     (cont'd)**

**1     Code No: DER/1005/1800**

The Travel Plan sets targets to reduce car use. The facilities are proposed for dual use by the school and the local community. There are land level changes on the playing fields. A section indicating finished land levels has been submitted. A flood risk assessment has been submitted with the application; this concludes that the development would not have a detrimental effect on the possibility of flooding within the area. The site is currently considered to be at risk from flooding only in the south eastern section of the site, during a 1% event. The properties in the vicinity should not be affected by flooding as a consequence of the construction of the new artificial surface.

The right to use the school fields is not a material planning concern.

The pitch would be 36m from the existing four-storey block to the south east of the main school buildings. I do not consider that the sports pitch would have a significant impact on the openness of the Green Wedge as it is located as close to existing school buildings as possible. A large area of the playing field adjacent to the boundary with Lees Brook will remain. All trees and shrubs on the site or boundary of the site will be retained. The proposal is some distance from the Brook and woodland in the south western corner of the site; therefore, I do not consider wildlife habitats would be significantly affected during construction and use.

Similar proposals for multi –use games areas that are used by the community at evenings and weekends have been approved throughout the city. This is a large community sports college which requires this facility to benefit both pupils and the local community as a whole. The noise and activity at the site will inevitably be increased by this proposal. I do, however, consider that it would be unreasonable to resist the proposal, on noise and activity grounds, on this established school site.

The Football Foundation would regard a school site being a focal point for the community and would require the hours of use to be a minimum of 85 hours per week (35 hours for community use) therefore maximising income by opening till 10.00 pm. An alternative option would be 10.00 pm on Monday to Thursday and 9.30 pm on Fridays and then 8.00 pm on Saturday, Sunday and Bank Holidays. By using these times the facility would be at maximum use during the week for club training especially for partner clubs.

To conclude, I do not consider the proposed floodlit sports pitch would have a significant impact on the amenity of neighbouring residential properties. I have carefully considered the merits of this application and recommend accordingly.

**A     DEVELOPMENT BY THE CITY COUNCIL     (cont'd)**

**1     Code No: DER/1005/1800**

**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 impact significantly upon the amenities of neighbouring residential properties in relation to noise and visual amenity.

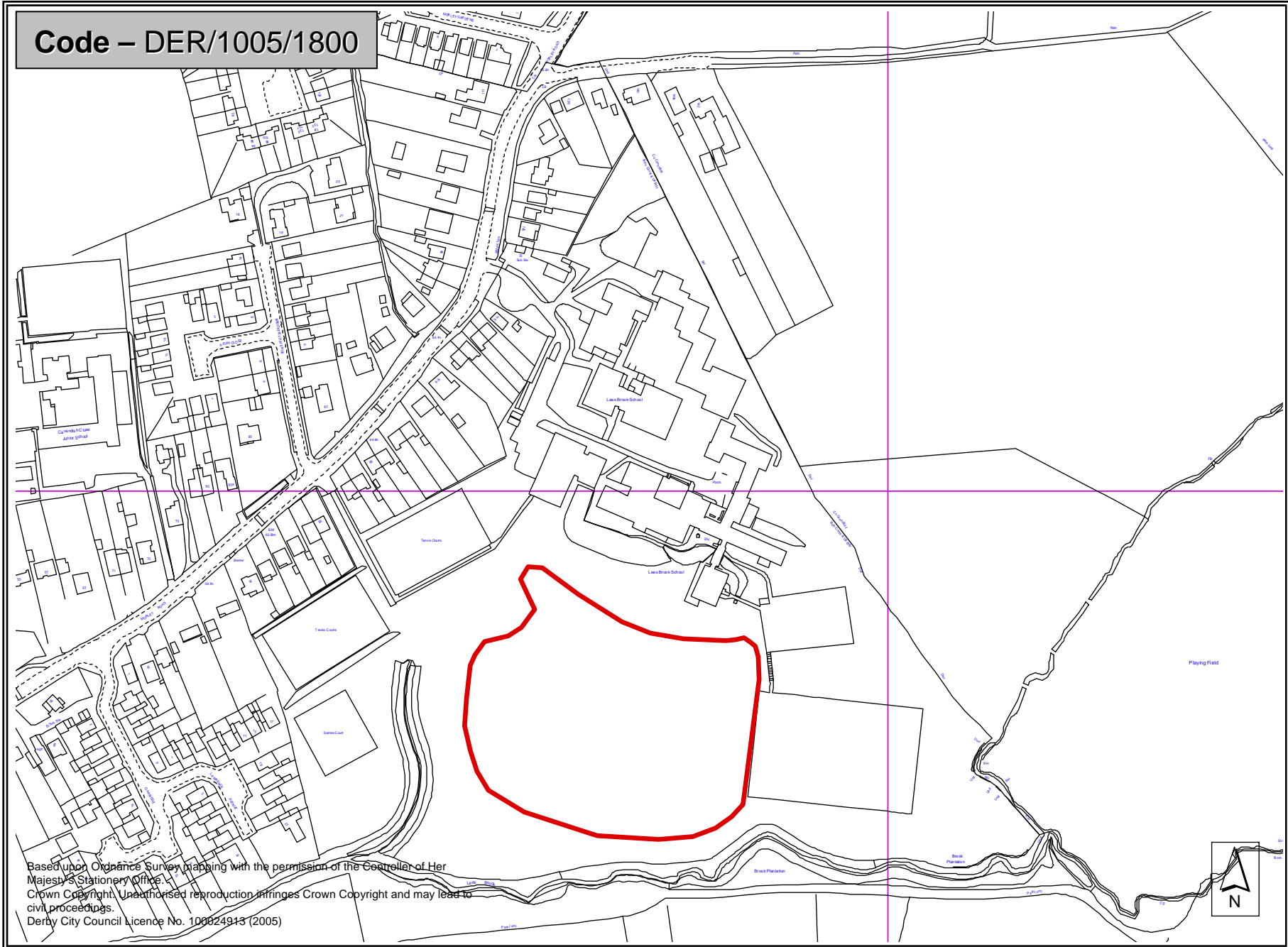
**11.3   Conditions**

1. Prior to the erection of the fencing, details of its colour shall be submitted to and agreed in writing by the Local Planning Authority.
2. The existing Travel Plan for the school shall be amended and approved in writing in agreement with the Local Authority Travel Plan Officer to include the new sports pitch facilities within six months of this permission.
3. The individual floodlights shall be properly shielded and directed to prevent glare to nearby residential properties and they shall not be operated after 22:00 hours on any day, unless otherwise agreed in writing by the Local Planning Authority. Details of the shielding shall be submitted to and approved in writing by the Local Planning Authority before development commences.
4. Prior to the commencement of development, details of finished land levels shall be submitted to and approved by the Local Planning Authority.
5. Standard condition 22 (landscaping)
6. Standard condition 23 (landscaping)

**11.4   Reasons**

1. Standard reason E14....policy E2
2. Standard reason E47....policy T22
3. Standard reason E07....policy C1
4. Standard reason E18....policy E2
5. Standard reason E18....policy E2
6. Standard reason E18....policy E2

**Code – DER/1005/1800**



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**A     DEVELOPMENT BY THE CITY COUNCIL     (cont'd)**

**2     Code No: DER/905/1608**

**Type:** Reg 3

1.     **Address:** Lees Brook Community School, Morley Road, Chaddesden
2.     **Proposal:** Erection of changing rooms and formation of car parking area
3.     **Description:** The proposed car parking area would be located in between the existing car parking to the south of the school entrance adjacent to the sports hall and the tennis court on the north western boundary. There would be a sloped access way as the parking area has a 0.5m lower land level than the existing car park. Thirty eight car park spaces are indicated on the plan. A path linking the car park with the changing room building is also shown. The changing room building would measure 11.3m x 20.7m to a height of 3.3m. The building would have an upper structure of ribbed metal cladding and the lower part would be brickwork masonry with corbelled corner piers. Both the car parking and changing room block are linked to the proposal for a floodlit artificial turf pitch at the site, the application for which is also reported to this meeting.

**4.     Relevant Planning History:**

DER/1005/1800 - Construction of artificial turf pitch, floodlighting and 4m high fencing - undecided and reported to this meeting.

DER/305/506 - Formation of car parking area - granted May 2005

DER/1004/2029 - Erection of classroom - granted Dec 2004

DER/804/1607 - Erection of double classroom - withdrawn May 2005

DER/104/7 - Replacement of the fence, vehicular and pedestrian access gates to a height of 2.4m - granted March 2003

DER/1103/2082 - Erection of replacement garage and store and retention of existing garage, granted March 2003

DER/302/300 - Extension to existing dance studio and retention of car park - granted April 2002.

**5.     Implications of Proposal:**

**5.1    Economic: -**

**A     DEVELOPMENT BY THE CITY COUNCIL     (cont'd)**

**2     Code No: DER/905/1608**

**5.2    Design and Community Safety:** Assessment of the design can be found in part 10 of the report - Officer Opinion. The proposal does not have any significant community safety concerns.

**5.3    Highways:** The existing Travel Plan for the school should be amended to include the above development and parking implications and approved by our Travel Plan Officer within 6 months of consent.

**5.4    Disabled People's Access:** The design principles seem to meet Sport England Guidance on facilities for disabled people. The proposal will also be subject to a Building Regulation accessibility check.

**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:** Seven letters of objection have been received from local residents on Morley Road and Lawrence Avenue and are available in the Members' Rooms. Reasons for objection are:

- it is a linked application with the artificial turf pitch
- car parking proposed is sited close to residents' gardens and may be floodlit
- increase in traffic and car parking with associated noises of car doors slamming, car alarms and car lights
- disturbance to wildlife habitats
- contrary to Green Wedge Policy
- devaluation of properties
- oppose the use for adults at evenings and weekends
- contrary to travel plans as it will encourage the use of cars.
- car parking sharing by using existing parking areas that are empty outside school hours
- the use is not essential for the school as it will be used by the public
- the existing changing facilities are adequate for Derby Football Association.



**A     DEVELOPMENT BY THE CITY COUNCIL     (cont'd)**

**2     Code No: DER/905/1608**

**8.     Consultations:**

Environment Agency – no objection, subject to hardstanding drainage condition.

DCorpS (Health) – no comments.

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

- C1 - Community Facilities
- E2 - Green Wedge
- E11 - Trees and Woodland
- E32 - Community Safety and Crime Prevention
- T17 - Access for Disabled People
- T21 - Off-Street Parking
- 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.*

- 10.   Officer Opinion:** 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 in relation to noise and visual amenity. The site is allocated as Green Wedge. Policy E2 allows for a limited range of uses in Green Wedges including essential buildings and activities ancillary to existing educational establishments. This is provided that the open and undeveloped character of the wedge is protected and there would not be an excessive increase in numbers of people, traffic and noise.

The main issues with regard to this proposal are whether the car parking area and changing room building would have an adverse impact on the amenity of neighbouring properties or affect the openness of the Green Wedge.

The proposed car park would be over the rear boundaries of two properties on Morley Road. These properties have 42m and 40m long rear gardens and the boundary has 3m high trees and bushes along the boundary. Other properties' gardens that back on to the adjacent tennis courts have 30m rear gardens. No lighting for the car parking is shown on the plans submitted. Due to the length of the rear gardens of properties immediately adjacent to where the car park is proposed and the screening on the boundaries, I do not consider that the amenity of these properties would be unduly adversely affected.

**A     DEVELOPMENT BY THE CITY COUNCIL     (cont'd)**

**2     Code No: DER/905/1608**

I am satisfied that the level of parking can be controlled through an amended Travel Plan for the school. Travel Plans by their very nature seek to encourage other more sustainable forms of transport than the private car. This site is on a main bus route and is accessible by bike. The Travel Plan sets targets to reduce car use. The facilities are proposed for dual use by the school and the local community.

The changing room building is proposed 80 metres from the rear boundaries of properties on Morley Road. The building would be only 3 metres in height and would be partially screened from these houses by two 10m high mature trees. The building is a high-quality design which is considered to be in keeping with the school buildings and surrounding area. There are land level changes on the playing fields and a finished land level condition should be placed on any permission.

The proposed changing room is 55m from the existing sports hall. This is largely due to the siting of the artificial turf pitch, which has been located as near to the school's existing buildings as possible. The pitch would be 36m from the existing four-storey block to the south of the main school buildings. I do not consider that the car park and building would have a significant impact on the openness of the Green Wedge as they are located as close to existing school buildings as possible. A large area of the playing field adjacent to the boundary with Lees Brook will remain. The proposed changing room building is small scale in comparison to the existing school buildings on site and would not be visually intrusive as it is a low level building. Details of materials would be controlled by condition.

The footpath created would run through large established trees. A condition requiring the protection of these trees during construction should be placed on any permission. As the site is close to main school buildings that are some distance from the brook and woodland in the south western corner of the site, I do not consider wildlife habitats would be significantly affected during construction and use.

To conclude, I do not consider the proposed car park and changing room building would have a significant impact on the amenity of neighbouring residential properties and is acceptable in terms of its design. The proposal therefore accords with the above mentioned policies and I recommend accordingly.

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

**11.1    To grant permission with conditions.**

**A     DEVELOPMENT BY THE CITY COUNCIL     (cont'd)**

**2     Code No: DER/905/1608**

**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 impact significantly upon the amenities of neighbouring residential properties in relation to noise and visual amenity.

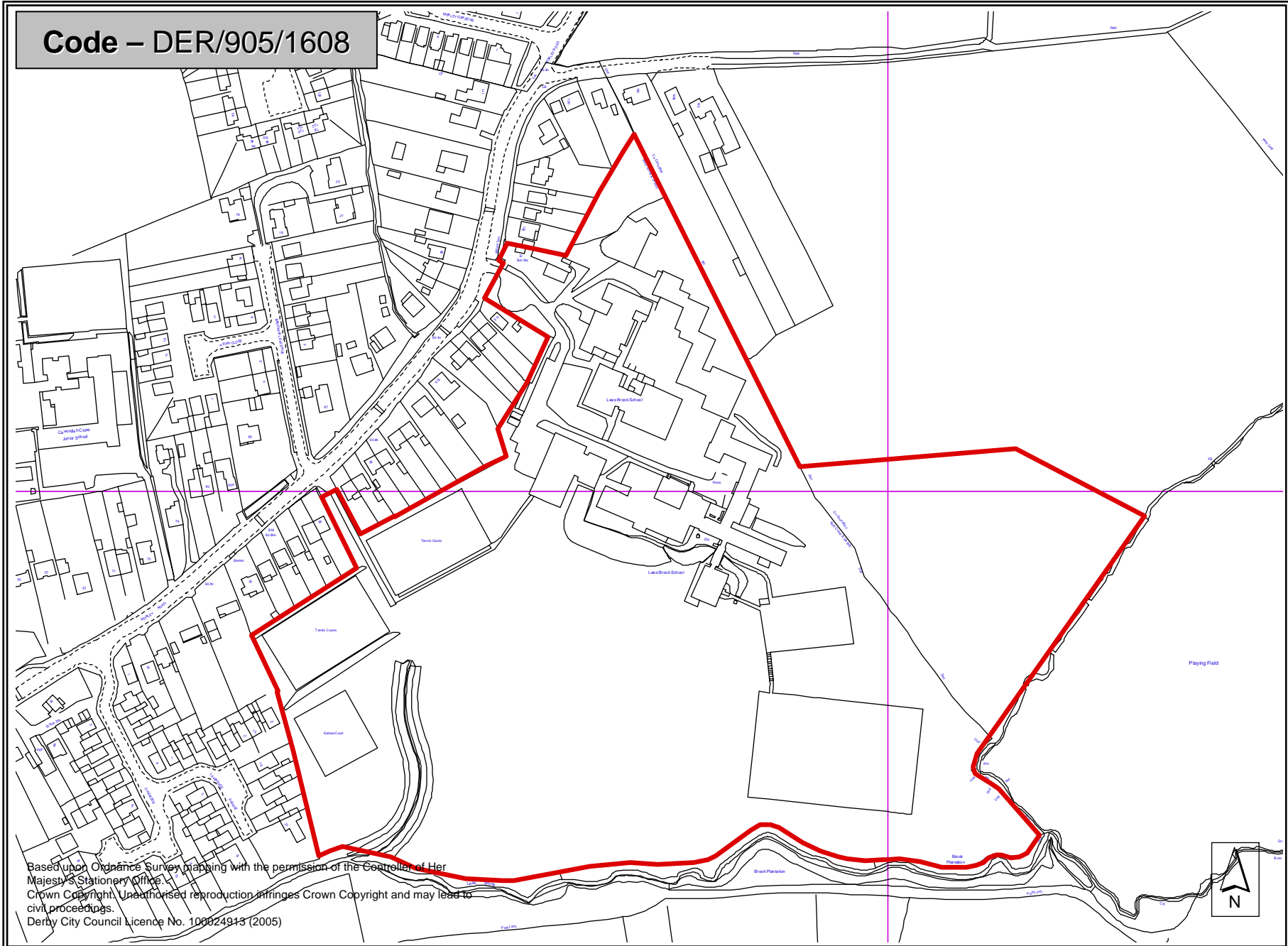
**11.3 Conditions**

1. Standard condition 27 (details of materials)
2. The existing mature trees adjacent to the footpath shall be protected during construction in accordance with BS:5837:1991 (Trees in relation to Construction). Such protection shall be provided before other site works commence and shall be retained in position at all times until completion of construction works, unless otherwise agreed in writing by the Local Planning Authority.
3. The existing Travel Plan for the School shall be amended and approved in writing in agreement with the Local Authority Travel Plan Officer to include the new car park within 6 months of this permission.
4. Prior to the commencement of development, details of finished land levels shall be submitted to and approved by the Local Planning Authority.
5. Standard condition 22 (landscaping)
6. Standard condition 23 (landscaping maintenance)
7. Standard condition 30 (surfaces to be drained)

**11.4 Reasons**

1. Standard reason E14....policy E2
2. Standard reason E11....policy E11
3. Standard reason E47....policy T22
4. Standard reason E14....policy E2
5. Standard reason E14....policy E2
6. Standard reason E14....policy E2
7. Standard reason E21

**Code – DER/905/1608**



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**A     APPLICATIONS (cont'd)**

**3     Code No: DER/1005/1749**

**Type:** Full (Reg 3)

1.     **Address:** West Park Community School, West Road, Spondon
2.     **Proposal:** Change of use of school land to public highway path and erection of 1.8 m high fence.
3.     **Description:** This is a retrospective planning application. Prior to the work taking place, there was a footpath running between the school and Devas Gardens properties. The footpath linked West Road to the north of the school to Park Road, in the south. Until it reached the boundary with 6 Devas Gardens, the footpath almost abutted the adjacent residential properties. At the boundary between 6 and 4 Devas Gardens, the path was aligned at an angle of about 45 degrees away from the residential properties. The triangle of land between the path and the rear boundaries of 2 and 4 Devas Gardens was grassed.

This application seeks retrospective permission to make changes to the part of the footpath and adjoining land near to West Road and to the rear of 2 Devas Gardens. The application is to change the use of this land to public highway and to erect fencing to separate the path from the school. A gate allowing access to the school has been added 0.4 m south of the boundary of the site with West Road.

The intention is that the footpath within the site would become part of the improved cycle and footpath routes programme that is being developed across the City. To this end, I understand that the Governors of the school have made arrangements with the City Council to transfer the land to City Council control as public highway. Separately from this transfer, planning permission is required to formally change the use. If a change of use permission is granted, the realignment to the footpath that has taken place would be permitted development under Part 12, Class A of the General Permitted Development Order 1995.

That part of the proposed fencing that lies within 2 m of the highway requires planning permission and would be 1.8 m in height, metal palisade fencing coated in dark green. Any fencing within the site that is over 2m away from the highway is permitted development under Part 2, Class A of the General Permitted Development Order 1995.

The rear boundary of 2 Devas Gardens is marked by a low fence with a hedge between the fence and the proposed path. There is also an earth verge between the boundary and the path that contains two established trees.

**A APPLICATIONS (cont'd)**

**3 Code No: DER/10051749**

**4. Relevant Planning History:**

DER/504/913 – Erection of 2.1 m high fencing to West Park School perimeter – granted.

**5. Implications of Proposal:**

**5.1 Economic:** -

**5.2 Design and Community Safety:** I am satisfied that the proposal would be acceptable in terms of the impact upon the appearance of the street scene. I await comments from the police regarding the community safety aspects of the proposal.

**5.3 Highways:** Pedestrian safety is maintained satisfactorily; therefore no objections.

**5.4 Disabled People's Access:** -

**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:** I have received one letter of objection to this proposal. The letter is reproduced in the report and concerns are summarised below:

- The change has significantly and adversely affected privacy at 2 Devas Gardens
- Neighbours are experiencing anti-social behaviour problems

**8. Consultations:**

Police Architectural Liaison Officer – Comments awaited

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

- E2 - Green Wedges
- T16 - Rights of Way and Routes for Cyclists, Pedestrians
- E31 - Design

**A     APPLICATIONS (cont'd)**

**3     Code No: DER/10051749**

E32 - Community Safety and Crime Prevention

*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 proposal involves development within a Green Wedge which is allowed by policy E2 when it is related to essential buildings and activities ancillary to existing educational establishments. Subject to design and traffic implications criteria, such developments should be allowed. This application site is situated between the school and an established built-up area and I do not consider that it would undermine the character of the green wedge. In terms of traffic and associated noise, the change of use would merely result in a realignment of an existing route and I am satisfied that there would not be any unreasonable increase in traffic or noise as a result.

With respect to policy T16, I consider that the proposal would result in improvements to the route for pedestrians and cyclists and, as such, complies with the objectives of this policy.

As outlined in section 5.2 of this report, I am satisfied that the visual impact of the proposal is acceptable.

Policy E32 deals with the community safety aspects of the scheme and I await Police comments to deal with this matter. I note the objector's comments and, whilst I sympathise with the problems that he is suffering, I do not consider that the proposed change of use and associated fencing is the root cause. I understand that the area directly to the rear of 2 Devas Gardens has always been open to the public and, although the path is now realigned nearer to this property, the access to the shared boundary remains the same. The fact that the path runs closer to the boundary does in fact afford a greater degree of surveillance of the boundary. I also note that the letter of objection cites the problems experienced over the last 12 months or so, whereas the pathway and fencing have been in place since August 2005.

In summary, the proposal complies with general principles of planning policy and I do not consider that it would be responsible for significantly undermining residential amenities. The letter of objection states that anti-social behaviour exists in the area, but in my view it would be inappropriate to seek to control this by refusing this planning application.

**A**     **APPLICATIONS** (cont'd)

**3**     **Code No:** DER/10051749

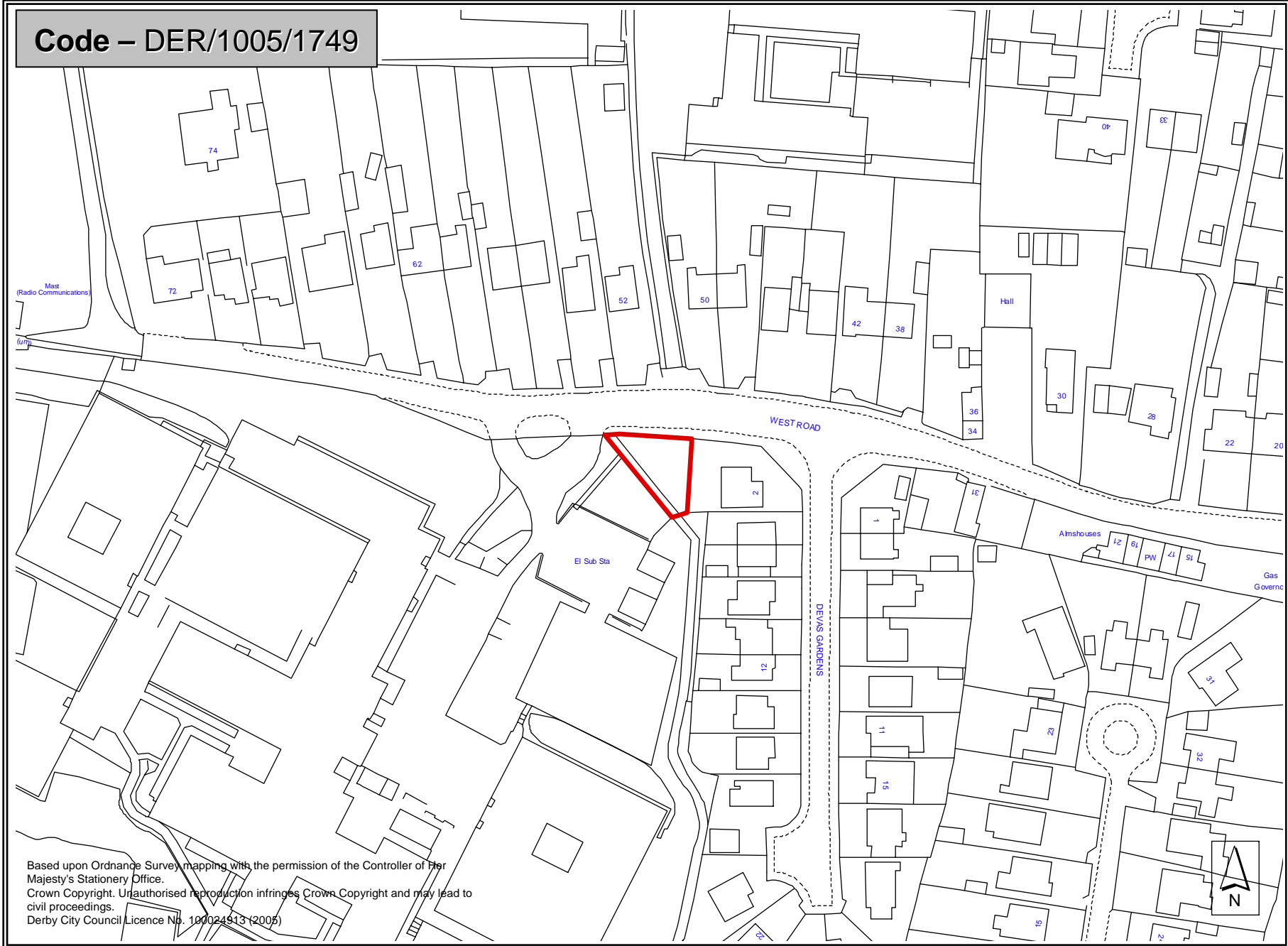
**11.**   **Recommended decision and summary of reasons:**

**11.1**   **To grant** permission.

**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 in design and community safety terms and would improve the pedestrian and cycling routes through the City without undermining the character of the Green Wedge or unreasonably affecting residential amenities.



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A **DEVELOPMENT BY THE CITY COUNCIL** (cont'd)

4 **Code No:** DER/1105/1883 **Type:** Listed Building  
DER/704/1380 Full

1. **Address:** (1) Former Friar Gate Goods Yard, Stafford Street  
(2) Various locations, proposed Inner Ring Road
2. **Proposal:** (1) Demolition of wall  
(2) Various minor amendments
3. **Description:** The origin of item (1) is in the response of English Heritage to the City Council's Inner Ring Road proposals, where they commented that a listed building consent would be needed to demolish the boundary walls to Stafford Street as they were deemed to be listed as curtilage structures to the Warehouse and Engine House.

The demolition part of the proposal, listed building application DER/1105/1883, is exactly as envisaged in the planning application DER/704/1380 considered by Members in February this year, when Members resolved that they were minded to grant permission subject to the Secretary of State not calling in the application for his own determination.

As a specific listed building application has now been made it is necessary to indicate how the demolition will be mitigated. The amendment to the planning application DER/704/1380 does this by proposing a 1.2m high wall. The applicant's reason for choosing this is twofold, firstly it is estimated that there would only be sufficient sound bricks to achieve this height and, secondly, it is considered that a screen/security wall would be inappropriate in the future circumstances of this site.

The amendments, in item (2), to the principal application DER/704/1380 are to cover a variety of minor matters where adjoining owners have asked for a revised detail to meet their reasonable operational requirements. In detail the changes are:

- (a) Revised highway alignment, some 1.5m to the east, adjacent to Lonsdale House, Lodge Lane to address an objection from the adjacent owners.
- (b) Revised turning head in Wilmot Street to avoid operational conflict with the access to the adjacent car park.
- (c) Parking area to be constructed adjacent to the Seven Stars public house, King Street, on land shown for "possible parking" on the previously advertised scheme. This, and item (d) below, both seek to secure planning permission for these car parks as part of the principal planning application rather than at a later date under

**A**     **DEVELOPMENT BY THE CITY COUNCIL**    **(cont'd)**

**4**     **Code No:** DER/1105/1883  
          DER/704/1380

a separate planning application, in each case to meet the requirements of the adjacent owners.

- (d) Parking area to be constructed for Lonsdale House, Lodge Lane, similarly on land shown for "possible" parking on the previously advertised scheme. Reason as above.
- (e) Access, turning area and extension to 48-50 Stafford Street to meet the requirements of the operators of the nursing home premises.
- (f) Rebuilding to a height of 1.2m of the walls intended to be demolished at Stafford Street under the above listed building application DER/1105/1883 to clarify the mitigation measures proposed in respect of the demolition of the wall.

**4.     Relevant Planning History:** In relation to the listed building application, none. In advising on the preparation of the Connecting Derby planning submission, I had not treated these walls as listed. The 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. At the time of preparation of this report no decision on whether it will be called in has been made.

**5.     Implications of Proposal:**

**5.1    **Economic:**** In relation to the scheme in general, as in the report to 3 February meeting. In relation to the amendments, each of them would enable the relevant owners and occupiers (including the City Council for the Wilmot Street car park) to operate more efficiently than under the original proposals.

**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 if the form of rebuilding under DER/704/1380 and also a design impact in the context of the setting of the listed buildings.

**A DEVELOPMENT BY THE CITY COUNCIL (cont'd)**

**4 Code No:** DER/1105/1883  
DER/704/1380

- 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. The slight realignment of the King Street Link still gives a quite satisfactory carriageway alignment. The two car park areas (items (c) and (d) above) were shown as possible car parks in the original design and the impact of their eventual construction was taken into account. The other minor works will have no impact.
- 5.4 Disabled People's Access:** Item (e), at 48-50 Stafford Street, is specifically for the convenience of disabled and infirm people.
- 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			

The publicity period will not expire until 30 December. Any representations received by the date of the meeting will be circulated or reported orally. As the determination of the listed building application will be by the Secretary of State and not by this Committee, and as the planning application has already been referred to the Secretary of State, I do not consider that anyone could be disadvantaged by Members considering the matter at this meeting.

**7. Representations:** None at the time of the preparation of this report.

**8. Consultations:**

EH – to be reported. However, as the demolition is exactly as in the principal application, the comments made at that time will presumably stand. They are as follows:

"The boundary wall is a curtilage structure which contributes to the special interest of the listed buildings, and its removal would, in our view, harm the special interest of the buildings. The degree of harm would be reduced to an acceptable level if the wall and gateposts were reconstructed along the street boundary in its new position – to the original pattern and re-using the original materials, and maintaining as

**A     DEVELOPMENT BY THE CITY COUNCIL     (cont'd)**

**4     Code No: DER/1105/1883  
                  DER/704/1380**

closely as possible the existing relationship between the wall and the contours of the site. Reconstruction would need to be co-ordinated with proposals for repairing and re-using the former Great Northern Railway warehouse. However, reconstruction should not be delayed by this: to avoid the risk of losing the historic materials, dismantling and reconstruction should take place as a single operation.”

CAAC – will consider the listed building application on 15 December. Views will be reported orally. When CAAC considered the entire scheme in August 2004 no specific comments were made about the removal and re-erection of the wall.

**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 policies that are relevant to the listed building application and to the amendments to the planning application. Members should refer to their*

**A     DEVELOPMENT BY THE CITY COUNCIL     (cont'd)**

**4     Code No: DER/1105/1883  
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*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 amendments 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 am reporting these matters to this meeting, rather than waiting until the end of the publicity period as they cannot be determined by the City Council and it is sensible that they be forwarded to the Secretary of State as soon as possible.

Wall demolition DER/1105/1883 and wall rebuilding DER/704/1380 amendment

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 was built under DER/704/1380, but the immediate vicinity of the Uttoxeter New Road junction 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 and 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.

**A     DEVELOPMENT BY THE CITY COUNCIL    (cont'd)**

**4     Code No: DER/1105/1883  
                  DER/704/1380**

Apart from the listed building aspect, this would have mixed safety 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.

Other amendments to DER/704/1380

These comprise a number of amendments that have emerged as desirable since the matter was considered by this Committee last February. Constant odd substitutions would lead to confusion in the public's mind and therefore they have been presented as a package.

They are, in relation to the overall scale of the scheme, very minor. I am satisfied that the view expressed by the Council's environmental consultants that they do not affect the conclusions of the Environmental Statement is a correct one.

**A     DEVELOPMENT BY THE CITY COUNCIL     (cont'd)**

**4     Code No: DER/1105/1883  
                  DER/704/1380**

If this were a private application referred to the Secretary of State and awaiting a decision on call-in, I would forward variations of this scale automatically after advertisement. As this is a City Council scheme, parts of which have proved to be highly controversial, I have reported it to this Committee so that it can be shown that Members have endorsed them.

Dealing with each part in turn:

- (a) Revised highway alignment, some 1.5m to the east, adjacent to Lonsdale House, Lodge Lane. This variation will be virtually unnoticeable but will make the adjacent owner, Lonsdale Travel, much happier with the distance between its building and the carriageway. I would remind Members that this building was designed to stand on the corner of Lodge Lane and the proposed road.
- (b) Reversal of the turning head in Wilmot Street. This will separate turning from the car park access and has no other significance.
- (c) The scheme as first considered by Members indicated this area for possible parking. As part of negotiations for the acquisition of part of their site the land owners have requested that its future use for parking is established concurrently with the principal scheme. As the land is within the application boundary of DER/704/1380 it is preferable to do this by an amendment rather than confuse matters by generating further applications. The likely impact of parking here is taken into account in the Environmental Statement.
- (d) As (c) above.
- (e) The "Lavender Lodge" nursing home has a special need to accommodate ambulances and other vehicles bringing disabled and infirm people. This was recognised in the original scheme but it has taken some time to agree the details. An entrance lobby 6.2m x 2.4m is included.
- (f) As in the section on wall demolition above.

**Conclusions**

Wall demolition is as was always envisaged. In relation to rebuilding there is no single unarguably better solution. The previously expressed views of English Heritage are valid in relation to the restricted aspect of the heritage environment. I am not convinced that rebuilding to full



**A     DEVELOPMENT BY THE CITY COUNCIL     (cont'd)**

**4     Code No: DER/1105/1883  
                  DER/704/1380**

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. These arguments can be debated at a public inquiry 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.

The other amendments are inconsequential and I see no difficulty in their being incorporated into the planning application now lodged with the Secretary of State.

My recommendation below covers the possibility of objections being received after the meeting of this Committee.

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

**11.1** Subject to the Chair and Vice-Chair being consulted in respect of any representations received by the end of the publicity period (in effect the first working day of 2006) and being satisfied that such would not justify the Committee coming to a different view.

DER/1105/1883 - **To forward** the application, 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 - **To forward** the amended details, all background documents and any representations received to the Secretary of State for incorporation into the application.

**11.2   Summary of reasons:**

DER/1105/1883 - As a decision 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 - There will be no change to the reasons put forward in relation to the original scheme.

**A     DEVELOPMENT BY THE CITY COUNCIL   (cont'd)**

**4     Code No: DER/1105/1883  
                  DER/704/1380**

**Conditions**

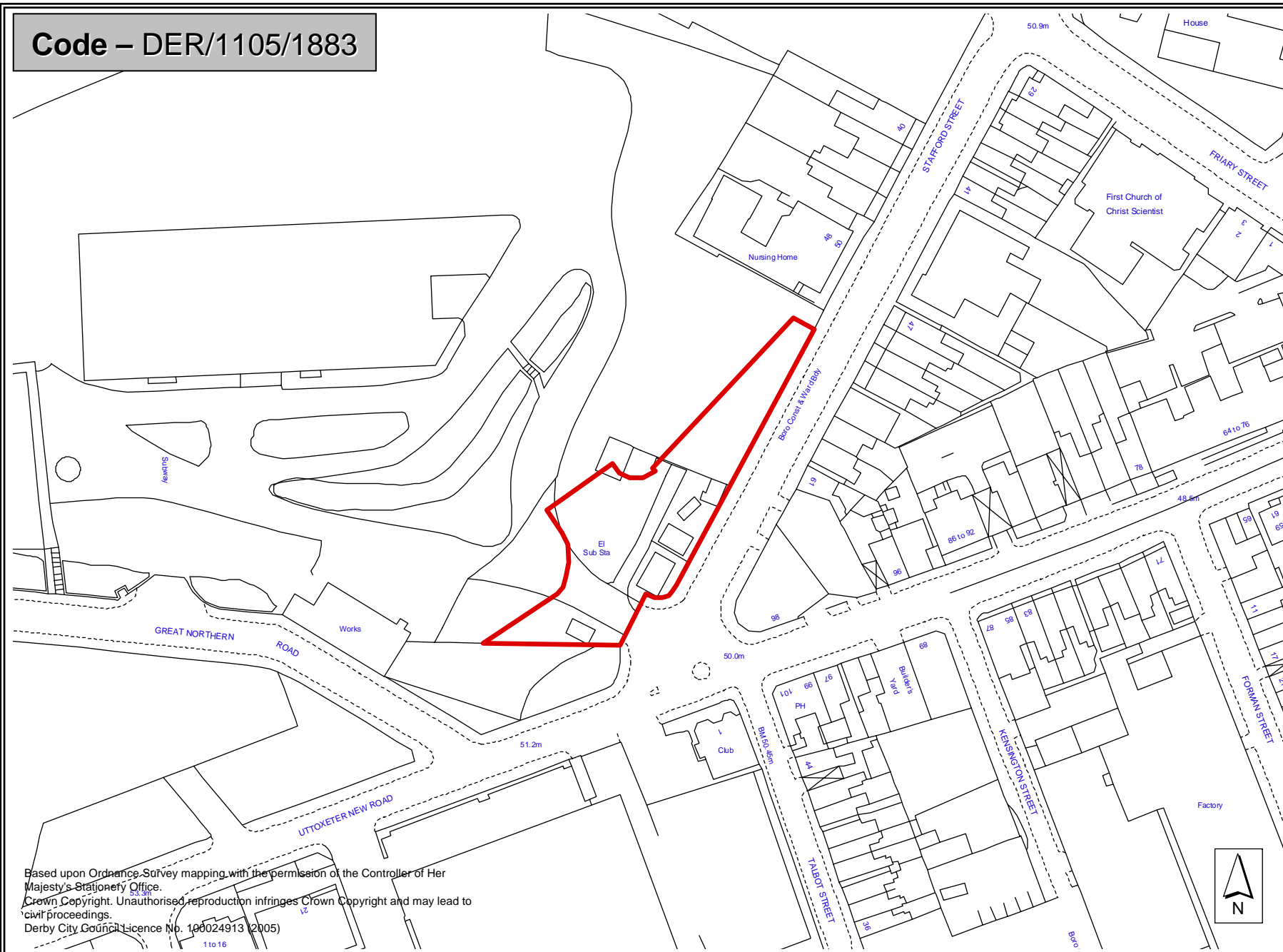
DER/1105/1883 - A way will need to be found to ensure that the wall is rebuilt to an appropriate height, on an alignment that meets both road and redevelopment requirements and to a timescale that avoids abortive work but does not allow the situation to drift in the event of redevelopment being delayed.

DER/704/1380 - There will be no change to the conditions put forward in relation to the original scheme apart from clarification of the substitution of the revised drawings.  
...

**Reasons**

If it is necessary for the Local Planning Authority to suggest these they will be prepared for any public inquiry.

Code – DER/1105/1883



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## B1 APPLICATIONS

1 Code No: DER/905/1612

**Type:** Full

1. **Address:** 10 Mercaston Road, Chaddesden
2. **Proposal:** Change of use of ground floor shop (Use Class A1 Retail) to hot food shop (Use Class A5)
3. **Description:** The premises is within a terrace with shops on the ground floor and flats above. The premises is adjacent to an existing Chinese takeaway. There is an off-licence and shop to the west with an anglers centre on the corner of Mercaston Road and Wollaton Road. There is a chemists and Co-op supermarket on Wollaton Road and a public house opposite the row of premises.
4. **Relevant Planning History:** -
5. **Implications of Proposal:**
  - 5.1 **Economic:** -
  - 5.2 **Design and Community Safety:** -
  - 5.3 **Highways:** It is not considered that the proposed change of use will have any significantly detrimental effects on existing on-street parking conditions; therefore there are no objections.
  - 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:** Three valid letters of objection were received and are reproduced. The Chinese takeaway at 14 Mercaston Road objected on the basis of competition which is not a valid objection and has not been treated as such.

Objections raised are that people would hang about outside the takeaway behaving in an anti-social manner and leaving litter, there is no need for another takeaway and it will devalue their property. Five other residents signed one of the letters of objection.

**B1 APPLICATIONS (cont'd)**

**1 Code No: DER/905/1612**

Councillor Rawson objected on the grounds of increase in litter, anti-social behaviour with groups hanging around the parade of shops and graffiti. He considered this proposal would exacerbate the situation.

**8. Consultations:**

DCorpS (Health) – ventilation and noise attenuation condition required – hours of use should be restricted.

Police – to be reported.

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

S2 - Shopping Centre Hierarchy  
S12 - Neighbourhood Centres  
S20 - Food and Drink  
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.*

**10. Officer Opinion: The site is within a Neighbourhood Centre. The policies in the CDLP refer to A3 uses. Whilst this position has been superseded by the new Use Classes Order they are still relevant in dealing with any food and drink uses.**

Policy S12 allows for a range of uses in Neighbourhood Centres, including food and drink uses, subject to Policy S20. It states that permission will only be granted for proposals which are compatible with the general scale, nature and function of the centre and would not unacceptably harm the basic shopping function of the centre. There is a convenience shop at No. 6 and the Co-op store is also in the centre on Wollation Road. Therefore, the basic local shopping facilities would remain.

Policy S20 allows for the establishment of food and drink uses (Use Class A3) subject to a number of criteria. As the proposal is in a centre in the main shopping hierarchy, the main policy concern is the effect that it may have on the vitality and viability of the centre. As has been stated above, local shopping facilities would remain and so it is unlikely that the vitality and viability of the centre would be affected.

Measures to protect the amenity of the flats above the shops through ventilation systems and noise insulation could be controlled by condition. Hours of opening can also be controlled by condition. The behaviour of customers cannot be influenced by planning control; it is a

## **B1 APPLICATIONS (cont'd)**

### **1 Code No: DER/905/1612**

police matter. However, there is a grant scheme for the area to improve security which includes better lighting etc. Need and devaluation of property are not material planning matters.

The proposal would not cause significantly detrimental effects on existing on-street parking conditions. Many dwellings are within walking distance of the centre.

Subject to the imposition of conditions to protect the amenity of neighbouring residential properties, the proposal accords with Policy S20 of the Adopted CDLP.

#### **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 within the Neighbourhood Centre, would not cause unacceptable harm to the amenities of nearby residents and would not compromise the safe movement of traffic.

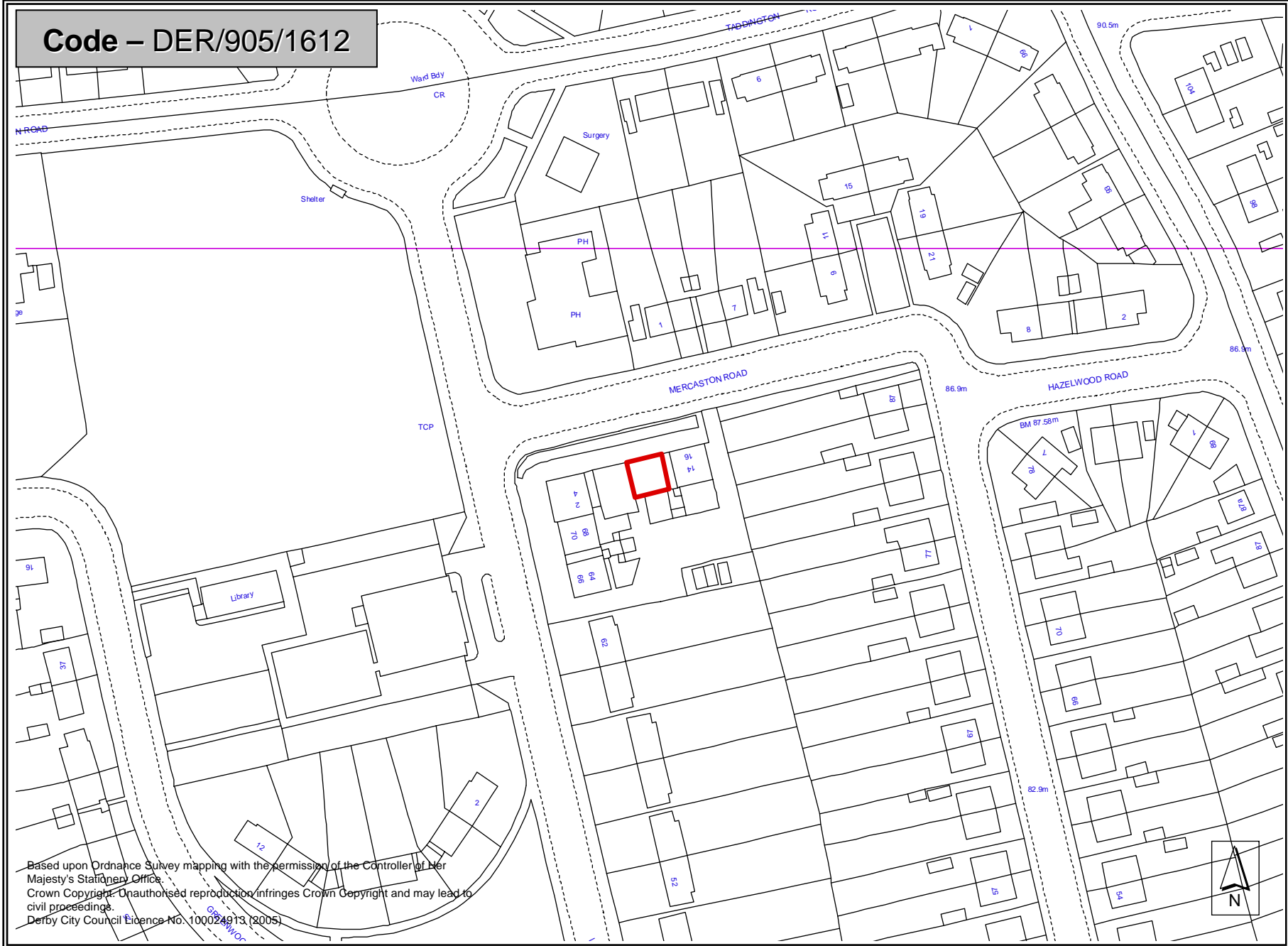
#### **11.3 Conditions**

1. Standard condition 47 (fume extraction)
2. Standard condition 49 (sound insulation)
3. Standard condition 50 (opening hours)

#### **11.4 Reasons**

1. Standard reason E07....policy S20
2. Standard reason E07....policy S20
3. Standard reason E07....policy S20

**Code – DER/905/1612**



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## B1 APPLICATIONS (cont'd)

2 Code No: DER/905/1528

**Type:** Full

1. **Address:** Land at the side of 48 Elms Avenue
2. **Proposal:** Erection of a detached dwelling house
3. **Description:** This proposal is being reported to Committee following consideration by Local Ward Councillors under the Chair and Ward Representatives' briefing note procedure. Councillor Allen did not agree to the proposal being determined under delegated powers.

Planning permission is sought for the erection of one three-bedroomed, two-storey dwelling house on an infill plot between two other houses on the highway frontage of Elms Avenue.

This is a re-application following the refusal of planning permission for a similar scheme submitted earlier this year. The reasons for refusal at that time are shown at 4 below. The current proposal has addressed all of the reasons for which the previous application was refused.

The application site stands between 48 and 50 Elms Avenue on land which currently forms part of the wide side garden of number 48. This garden tapers sharply from about 12.5 metres wide at the front to about 5.5 metre wide at the rear, thus restricting the rear garden area of the proposed house. However, the dwelling itself has been designed to accommodate this tapering width and yet maintain a fairly conventional front elevation. The depth of the rear garden would vary between a minimum of 5.8 metres and a maximum of 8.4 metres.

The established dwellings on Elms Avenue are a mixture of detached and semi-detached dwellings so that the proposal, being a detached dwelling between a semi-detached dwelling and a detached dwelling, would not be out of keeping with the character of the area.

The front of the house would be more or less in line with the fronts of the neighbouring houses and, as such, should not be out of keeping with them.

The design of the front elevation is also reasonably in keeping with the rest of the streetscene and amended plans have been received to incorporate windows more in proportion with those of the existing houses. The main entrance door is, however, on the side of the house, which would be different from the majority of the other houses nearby, which have main entrances on the front elevation.

Parking for both the existing and proposed dwellings would be on the front garden area, providing two spaces for each dwelling parking parallel to the highway.



## **B1 APPLICATIONS (cont'd)**

### **2 Code No: DER/905/1528**

The proposal would back onto the rear gardens of houses further along Elms Avenue, which loops round to the rear of the site. These houses sit at a slightly lower level, approximately 1 metre below the application site. The distance between windows to habitable rooms of the proposal and the existing houses to the rear is about 21 metres.

The applicant is a relative of the elderly owner of number 48 and has stated that it is his family's intention to live in the house if permission is granted, to provide some support for the owner. This could not be guaranteed but I have no reason to suspect the motives of the applicant. I would not, however, consider it appropriate to place a condition on any planning permission which may be granted requiring that the applicant be obliged to occupy the premises.

#### **4. Relevant Planning History: DER/205/328 – Erection of a dwelling house. Planning permission was refused on 21 April 2005 for the following reasons:**

- “1. The proposed dwelling would, by reason of its siting forward of the existing established line of development along Elms Avenue, and by reason of its contrived design would be out of keeping with the character and design of the existing pattern of development in the surrounding area. As such this over intensive development would be contrary to policy H22 of the adopted City of Derby Local Plan.
2. The proposed dwelling by reason of its siting and design would result in an unacceptable massing impact on the neighbouring property at 50 Elms Avenue as such it would be contrary to policy H22 of the adopted City of Derby Local Plan.
3. The proposal would result in a substandard level of parking provision both for the original dwelling at 48 Elms Avenue and for the proposed new dwelling. This would result in unacceptable on street parking to the detriment of pedestrian and highway safety generally. The proposal is accordingly contrary to policy T22 of the adopted City of Derby Local Plan.”

#### **5. Implications of Proposal:**

##### **5.1 Economic: None.**

##### **5.2 Design and Community Safety: The house is designed to take advantage of the tapering plot of land and yet maintain a fairly conventional front elevation to be reasonably in keeping with other houses in the locality.**

**B1 APPLICATIONS (cont'd)**

**2 Code No: DER/905/1528**

**5.3 Highways:** Access and parking is satisfactory. The vehicle crossing should be dropped and tapered kerbs, not radius kerbs as shown on the application plan.

**5.4 Disabled People's Access:** Not applicable.

**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:** Three letters of objection have been received, ...  
... copies of which are attached. The objections are to:

- loss of daylight to living rooms
- loss of outlook
- massing
- loss of property value, (not a valid planning consideration)
- visual terracing when seen from the rear
- overlooking
- design out of keeping
- contrived design
- derisory rear garden
- front garden turned into a car park.

A Chair's briefing note was sent to the Chair and the three Ward Councillors.

The Chair and Councillor Carr raised no objections to the proposal. Councillor Allen objects to the proposal on the following grounds:

- the plot is too small for a detached house
- the future sub-division of the two properties would not be achieved comfortably, position of boundary markers and agreement over vehicular access would have to be achieved
- the massing of the proposal would impact on properties to the rear and the proposal is too close
- the use of the front garden area for parking is totally out of character with this streetscene and environment
- the proposal stands forward of No. 50 and No. 48

**B1 APPLICATIONS (cont'd)**

**2 Code No: DER/905/1528**

- a site visit by the Committee would help with making the decision.

**8. Consultations:**

STW – no objection, but suggest the attachment of a condition to any planning permission that may be granted to prevent any building or planting of trees within 2.5 metres of a sewer that crosses the site.

**9. Summary of policies most relevant: CDLP policies:**

H22 – Residential development on unallocated land  
T22 – Parking standards  
E31 – Design  
T16 – Rights of way for pedestrians

*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 current proposal is a considerable improvement on the proposal refused permission earlier this year.**

The plot is small but the wide frontage will permit a space of 2 metres on one side and 1.5 metres on the other to be maintained between the two neighbouring properties when seen from the front. These gaps and the angle between the proposal and number 50 Elms Avenue should prevent visual terracing on the highway frontage. Although the view seen from houses to the rear may give the impression of a terracing effect this will only be seen from the private gardens of those houses immediately backing onto the site. I do not consider that there will be an unacceptable effect on the streetscene.

I believe the house to be in scale with the neighbouring properties and, although it will be of a different period from the majority of these 1930s dwellings, it should not look particularly out of keeping. Although the design has to be slightly contrived to fit the wedge-shaped plot, this impacts mainly on the side and rear elevations. I do not consider this to be particularly noticeable when seen from the highway frontage where it is seen by members of the general public.

The house does not project forward of the neighbouring properties by any significant amount. The existing depths vary along this part of Elms Avenue and are by no means consistent but I accept that the front garden would be one of the shortest.

Alterations to the windows on the front elevation have been submitted on amended plans. This has improved their proportions and should

**B1 APPLICATIONS (cont'd)**

**2 Code No: DER/905/1528**

help to keep the proposal more in character with the existing dwellings along the street. The side position of the front door would be different from the majority of dwellings along Elms Avenue but I do not consider that this is so significant a difference as to warrant refusal on design grounds.

The wedge shape of the site does force the rear element of the proposal close to the side boundary with number 50 so there would be some massing impact; however, the proposal does not intrude into the 45 degree zone of the nearest habitable room window of number 50 (a lounge). It would, nevertheless, be seen from a sideways view when standing in the rear bay window of number 50 so there would be a massing impact, despite meeting the 45 degree guideline. It would also result in some loss of early morning sunlight to rooms at the rear of number 50 and in the garden but I do not consider this to be so significant as to warrant refusal.

The rear garden is undoubtedly on the small side with a minimum distance of 5.8 metres and a maximum distance of 8.4 metres to the boundary with neighbouring properties. The Council's guideline for rear garden depth of a new house is about 10 metres, although this is only a guideline, not a required minimum. What is more significant is the window-to-window distances for principal windows to habitable rooms of neighbouring properties. The guideline for these distances is 21 metres and this is achieved in the proposal.

In view of the smallness of the rear garden and the intensive use of the site, I would recommend that the "permitted development" rights of residential properties to erect extensions should be removed by a condition on any planning permission that may be granted.

The conversion of domestic front gardens to hardstandings for car parking has become a common feature in suburban areas and does not require planning permission as it is "permitted development". Some of the gardens of neighbouring houses in the area are already converted for this use. Although this type of change does, little by little, alter the character of an area, it is not as yet a type of change that the Council has sought to resist in the city. I cannot therefore see any justification to withhold planning permission or seek amendment to the plans on the grounds that the character or appearance of the area will be detrimentally affected by the front gardens of the application premises being converted for domestic parking associated with the erection of a dwelling.

Loss of outlook for dwellings to the rear would not be grounds for withholding permission.

## **B1 APPLICATIONS (cont'd)**

### **2 Code No: DER/905/1528**

Although the proposal would result in a rather tight site, and with slightly less outdoor amenity space than ideal it do not consider that there are sufficient grounds to refuse planning permission in this case.

#### **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 indicated at 9 above and it is considered that the siting, design, effect on the streetscene and massing impacts of the development are acceptable and would not unreasonably affect the amenities of neighbouring residential properties.

##### **11.3 Conditions**

1. Standard condition 09A (amended plans received 9 November 2005)
2. Standard condition 27 (materials)
3. Standard condition 19 (means of enclosure)
4. Standard condition 30 (surfaces to be drained)
5. Standard condition 38 (disposal of sewage)
6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any order revoking and re-enacting that order) no extensions shall be added to the dwelling hereby approved, either attached to the dwelling or within the curtilage of the property, unless agreed in writing by the Local Planning Authority on an application made to it for that purpose.
7. The vehicular access shall be constructed using dropped and tapered kerbs.

##### **11.4 Reasons**

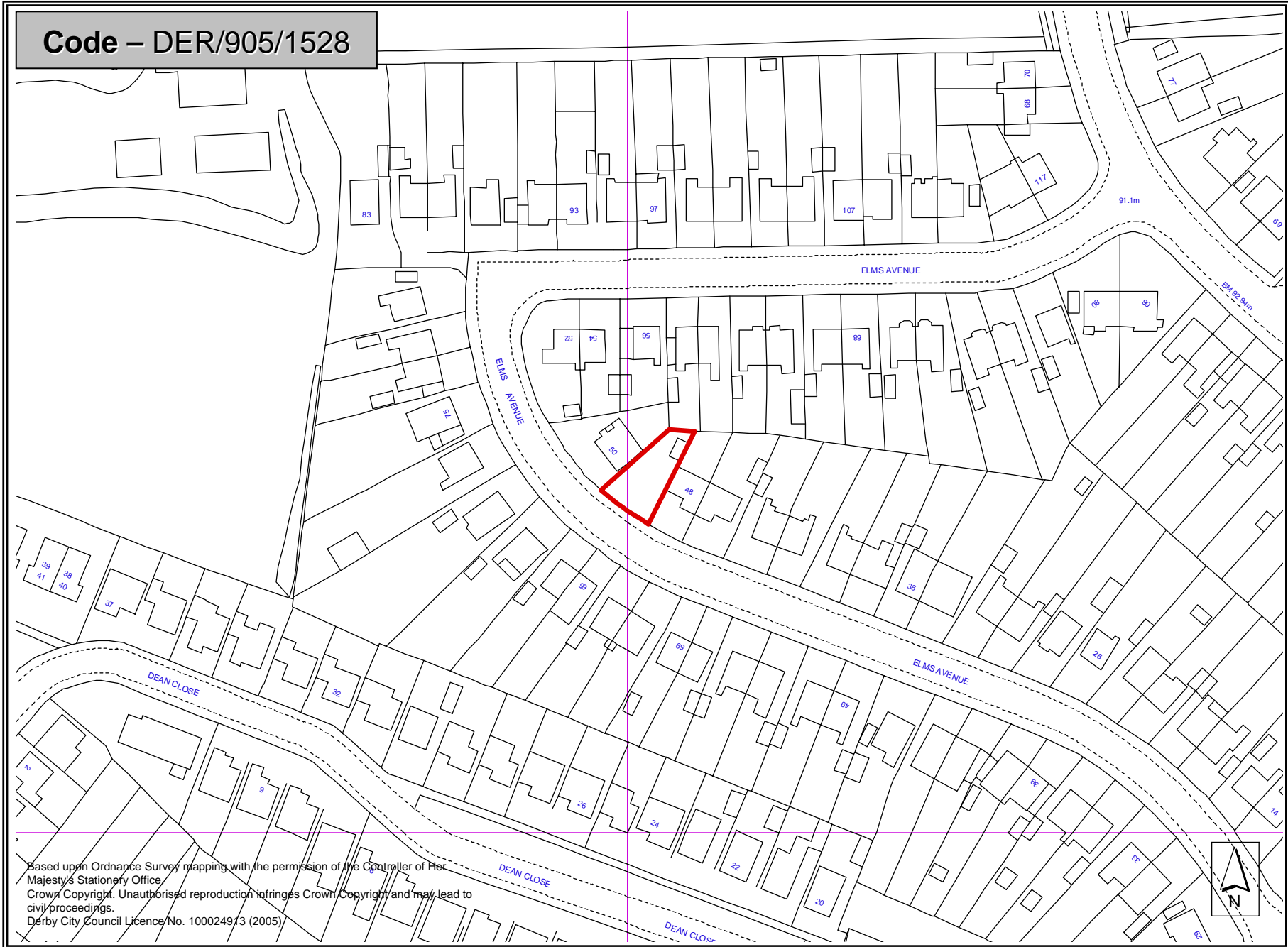
1. Standard reason E04
2. Standard reason E14....policies H22 and E31
3. Standard reason E14....policies H22 and E31
4. Standard reason E14....policy H22
5. Standard reason E21

**B1 APPLICATIONS (cont'd)**

**2 Code No: DER/905/1528**

6. As the site is confined, with limited outdoor amenity space and slightly below-standard space around the building, it is considered that the erection of extensions to the house and within its curtilage should be controlled in the interests of the amenity of surrounding neighbours.
7. To maintain pedestrian priority along the footway....policy T16

**Code – DER/905/1528**



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**B1 APPLICATIONS (cont'd)**

**3 Code No: DER/1005/1778**

**Type: Full**

1. **Address:** 12 Cromwell Road
2. **Proposal:** Extension to dwelling house (enlargement of existing kitchen and dining room)
3. **Description:** The dwelling is a mid-terraced property, located on the western side of Cromwell Road. Although the frontage of the house sits in line with those adjacent, the rear elevation of No. 8, to the north, extends approximately 6m beyond the rear elevation of this property. A blank, two-storey high wall therefore extends beyond the rear of the house, along the property's northern boundary. Along the boundaries shared with the gardens of dwellings to the south and west are walls, 1.5m in height. The area surrounding the application site is predominantly residential in character.

This application seeks permission for the erection of a single storey rear extension to the dwelling. Seven and a half metres in width and 4.2m in depth, it would incorporate a sloping roof and extend up to the boundary shared with 8 Cromwell Road. The extension would accommodate a dining room and kitchen extension and would have windows in the rear elevation only.

This application is to be determined by the Committee because it relates to the property of Councillor Shiraz Khan.

4. **Relevant Planning History:** -
5. **Implications of Proposal:**
  - 5.1 **Economic:** -
  - 5.2 **Design and Community Safety:** I have no design or community safety objections to raise.
  - 5.3 **Highways:** I raise no objections to the proposal on highway grounds.
  - 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			



**B1 APPLICATIONS (cont'd)**

**3 Code No: DER/1005/1778**

7. **Representations:** No representations have been received in response to this application.

8. **Consultations:** -

9. **Summary of policies most relevant:** CDLP policies:

H27 – House extensions

E31 – Design

*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 extension would be located to the rear of the house and would not be visible from the general street scene of Cromwell Road and, in my opinion, would have no impact on the amenity of the local area.

Overall, I consider the extension to be a reasonable addition to a domestic property. It is not excessive in its height or projection and I am satisfied that it would not cause any massing or overshadowing implications for any of the neighbouring properties. Even though it would extend up to the boundary shared with 8 Cromwell Road, the flank sidewall of No. 8 would sit alongside it and project beyond it and would screen any views of the proposal from the neighbour's perspective. The positions of windows in the extension are acceptable and the property has adequate garden space to accommodate an extension of this size. For these reasons, I am satisfied that this extension can be accommodated without harm being caused to the amenity of neighbouring properties or the living environment of the dwelling itself and it would therefore be an acceptable addition.

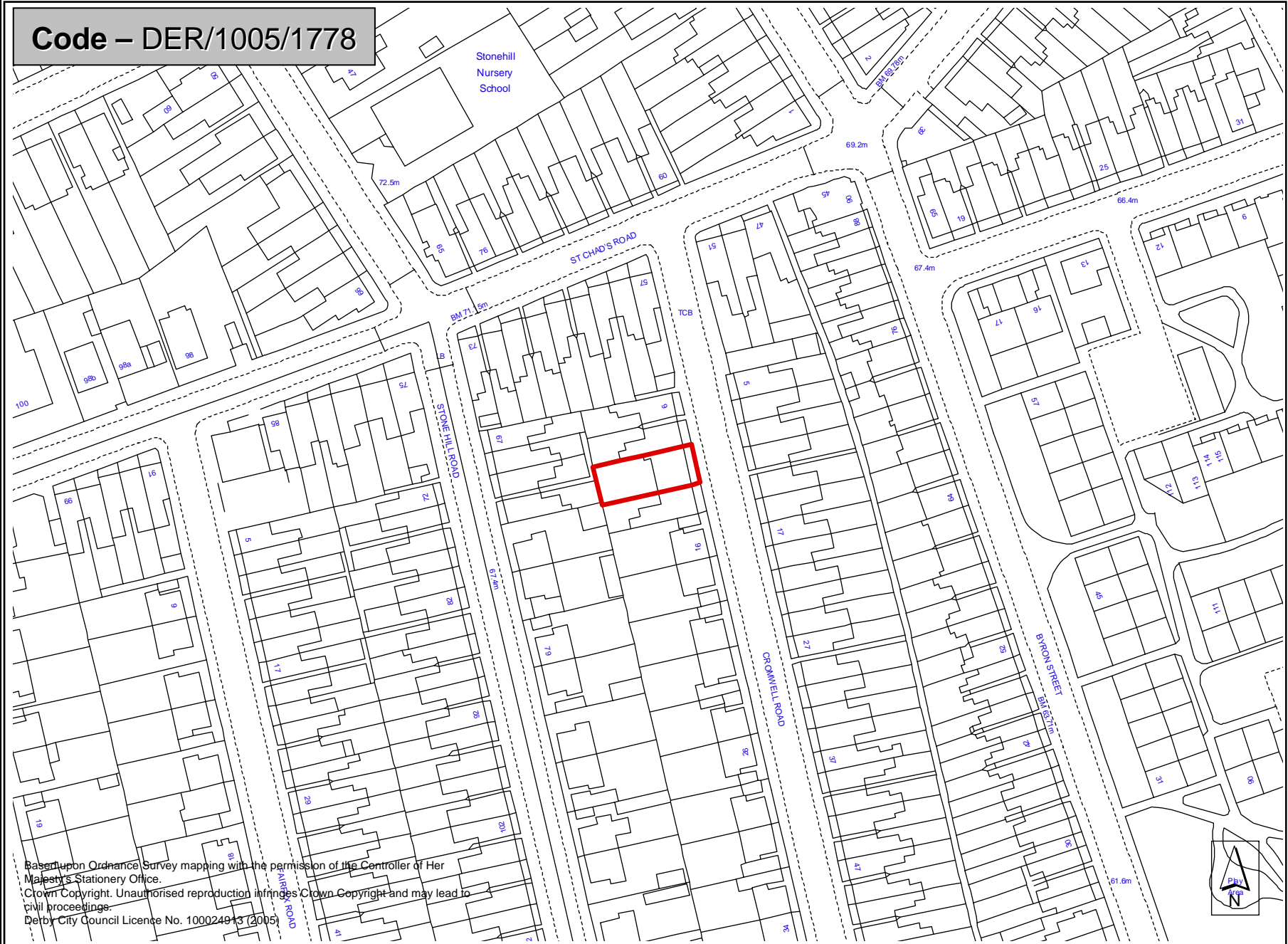
11. **Recommended decision and summary of reasons:**

11.1 **To grant permission.**

11.2 **Summary of reasons:** The proposal has been considered in relation to the provisions of the adopted City of Derby Local Plan and all other material considerations as indicated in 9 above. The development is acceptable in terms of its design and impact upon residential amenities.

**Code – DER/1005/1778**

Stonehill  
Nursery  
School



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## B1 APPLICATIONS (cont'd)

4 Code No: DER/1005/1772

**Type:** Full

1. **Address:** Blue Boy Public House, Wiltshire Road, Chaddesden
2. **Proposal:** Retention of children's play equipment.
3. **Description:** This application seeks planning permission to retain existing play equipment that has been erected in the rear garden of the Blue Boy Public House. The Blue Boy is a locally listed building in an Art Deco style.

The play equipment consists of a boat measuring 5.5m x 2.4m to a height of 3.3m; a climbing frame with slide and crows nest measuring 2.9m x 2.4m to a height of 4.1m to the top of the flag pole and a rope swing which is 4m long and 2.3m high. The equipment is located 5-6 metres from the rear boundary adjacent to a disabled access ramp in the middle of the garden area.

Roe Farm Police station is over the rear boundary and there is a 2.4 metre high hedge screening this boundary. There is a 2m fence on the south eastern boundary with Roe Farm Lane adjacent to the boundary. There is 2m fencing on the north western boundary with the side elevation of the shops and service area immediately adjacent.

4. **Relevant Planning History:**

DER/704/1287 – Change of use of flat to office – granted August 2004.

DER/204/178 – Formation of vehicular access, alterations to car park, toilet extension and new canopy over the garden room – granted March 2004.

5. **Implications of Proposal:**

5.1 **Economic:** -

5.2 **Design and Community Safety:** The play equipment is conventional in design. It is also well screened from the street scene by the perimeter fence. I have no objections on design grounds.

5.3 **Highways:** There are no highway implications. Therefore, there are no objections.

5.4 **Disabled People's Access:** There is a ramp down to the level of the play equipment.

5.5 **Other Environmental:** -

**B1 APPLICATIONS (cont'd)**

**4 Code No:** DER/1005/1772

**6. Publicity:**

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

**7. Representations:** Six letters of objection have been received from properties on Roe Farm Lane and are reproduced. Concerns are summarised below:

- children are unsupervised, with some climbing over the fence to gain access,
- male adults play football in the garden area creating noise by kicking the ball against the fence and shouting,
- music generated from the garden room is causing a nuisance late into the evening
- recent fireworks display in garden continued until 10.50 pm.

**8. Consultations:**

DCorpS (Health) – the pollution section has received a complaint about excessive noise levels from the use of the beer garden last summer. It has not been possible to determine whether the source of the problem relates specifically to the use of play equipment or from general usage, It is therefore suggested that any consent should be temporary only, to allow further investigation during the summer of 2006.

**9. Summary of policies most relevant: -**

**10. Officer Opinion:** The main issue with regard to this application is the impact on the amenity of neighbouring residential properties. This type of play equipment is fairly typical at pubs and children's play areas throughout the city and, as such, it is not out of keeping with the general character of a residential area.

The equipment is nearest to the rear boundary with the Police Station adjacent. Therefore, as this is not a residential property there are no significant amenity concerns in relation to the proximity to this boundary and overlooking by children using the equipment. The equipment is 15 metres from the south eastern boundary where the nearest residential properties are located. The properties are 15-20

**B1 APPLICATIONS (cont'd)**

**4 Code No: DER/1005/1772**

metres from the site boundary, with Roe Farm Lane in between. The equipment, due to its distance from this boundary, is not visible from any street frontage.

The concerns raised by local residents relate to the management of the public house and the behaviour of its customers and not to the play equipment itself. The supervision of children using the equipment and the behaviour of adults in the garden area is a matter for the management of the pub and is not controllable by the planning authority. Environment Health and Licensing Regulations should control the noise nuisance generated by the public house. I do not consider a temporary permission should be imposed as the equipment is permanent in nature and should be assessed as such.

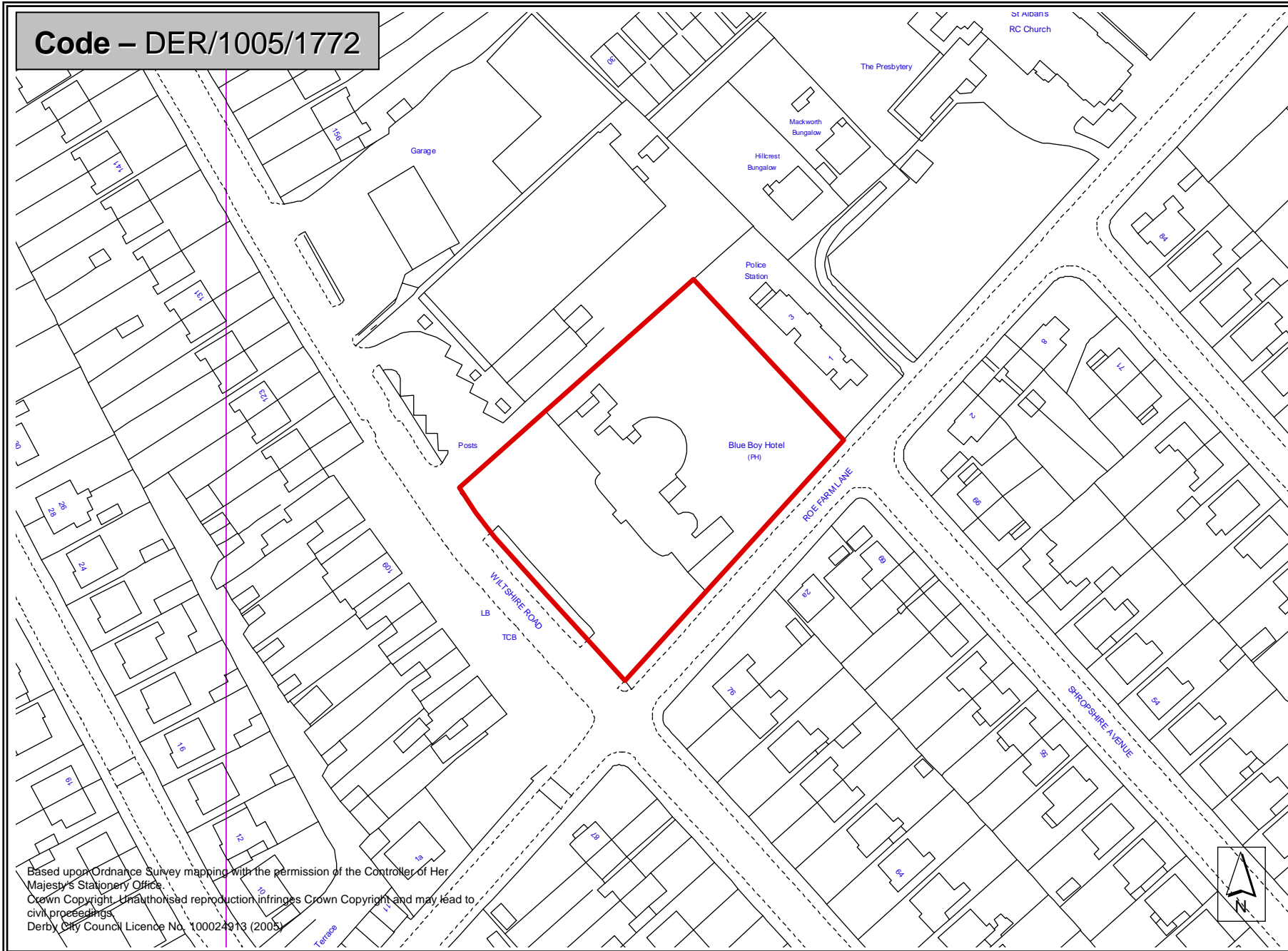
To conclude, I consider that, as the play equipment is not immediately adjacent to residential properties, there is no significant amenity concern. The noise nuisance generated is not a material planning concern and is controllable by other legislation. The equipment is also not visible from any street frontage. Therefore, the retention of the equipment is considered acceptable and I recommend accordingly.

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

**11.1 To grant permission.**

**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 not visible from any street frontage.

**Code – DER/1005/1772**



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## B1 APPLICATIONS (cont'd)

5 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:** -
  - 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)**

**5 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 140 letters of objection, and 12 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)**

**5 Code No: DER/1105/1824**

- 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

*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.*

9. **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 the substance of a Section 106 Agreement linked to any permission granted. That part of the site currently in playing field/open space use

## **B1 APPLICATIONS (cont'd)**

### **5 Code No: DER/1105/1824**

would be classified as a greenfield site. Policy H21 of the adopted 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 affordable housing.

Because the four residential units are on the greenfield part of the site and are an exception to the normal preference for previously developed sites, affordable housing provision would be included in the Section 106 Agreement.

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 17 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.

## B1 APPLICATIONS (cont'd)

### 5 Code No: DER/1105/1824

Similarly, I have concluded that the proposed surface parking area to the north of the site, subject to an appropriate boundary treatment, 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, affordable housing and highways 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, consideration be given, in consultation with the Chair, **to refusing** the application.

## **B1 APPLICATIONS (cont'd)**

### **5 Code No: DER/1105/1824**

**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 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 (external materials)
2. Standard condition 20 (landscaping)
3. Standard condition 22 (landscaping maintenance)
4. Standard condition 30 (hard surfacing)
5. Standard condition 19 (means of enclosure)
6. Standard condition 38 (drainage details)
7. Standard condition 24 (protection of trees and hedges)
  
8. 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.
  
9. Before the development commences, details of the proposed floodlights shall be submitted to approved in writing by the Local Planning Authority.
  
10. Standard condition 13 (domestic use of garages)
11. Standard condition 69 (cycle/motor cycle parking)

### **11.4 Reasons**

1. Standard reason E14
2. Standard reason E18
3. Standard reason E18
4. Standard reason E14
5. Standard reason E14
6. Standard reason E21
7. Standard reason E32
8. To preserve the amenities of existing and future nearby residents.
  
9. No details have yet been submitted, and the proposed floodlights would be in close proximity to dwelling houses.
  
10. Standard reason E07
11. Standard reason E35

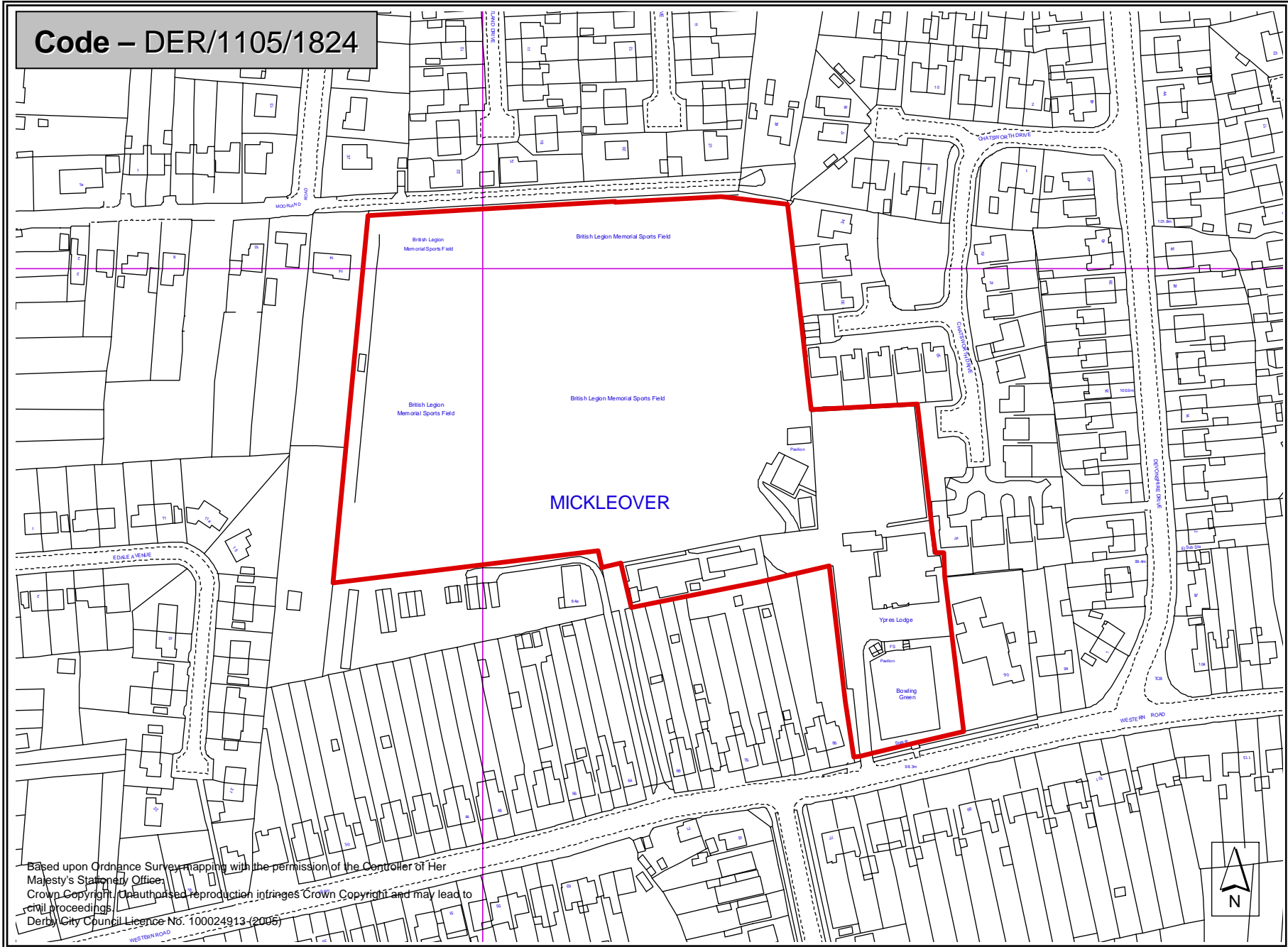
**B1 APPLICATIONS (cont'd)**

**5 Code No: DER/1105/1824**

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

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

**Code – DER/1105/1824**



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## D2 SPECIAL ITEMS

### 1 APPEALS DECISIONS

Appeals against planning refusal:

Code No	Proposal	Location	Decision
DER/1005/135	Felling of eight Pine trees and reduction of Horse Chestnut tree	120 Belper Road	Dismissed
<p>Comments: The Inspector accepts the City Council's view that the Pine trees are attractive and prominent trees, which contribute significantly to the amenities of the Conservation Area. There is no justification for their removal. He also considered that 30% crown reduction of the Horse Chestnut tree would be excessive and thereby dismissed the appeal</p>			

Code No	Proposal	Location	Decision
DER/1004/2036	Erection of conservatory	238A Chellaston Road	Dismissed
<p>Comments: Planning permission was originally refused by the City Council for the erection of a first floor conservatory at the back of this retail shop. Planning permission was granted in the early 1990s for the erection of a very similar conservatory which was eventually removed. Planning permission was sought to replace the conservatory and the application was refused principally on overlooking and residential amenity grounds.</p> <p>The Inspector agreed with the opinion of the City Council that the siting of the proposed conservatory would be unduly detrimental to the privacy and amenities of the neighbouring residential properties. The Inspector also agreed that any screen fence around the conservatory would be unduly intrusive in this private zone location.</p> <p>This is a very welcome decision, particularly where the Council are arguing that a policy stance has tightened against development which, in the past, was regarded as tolerable.</p>			

**RECOMMENDATION:** To note the report.

### D3 **PRIOR NOTIFICATIONS- Telecommunications**

#### 1 **Code No:** DER/1105/1814

1. **Address:** Land at bus terminal at the junction of Stenson Road and Wellesley Avenue
2. **Proposal:** Erection of 10 metre high monopole supporting three 1.6 metre shrouded telecommunication antennae, and ancillary ground level radio equipment housing cabinet and AC pillar.
3. **Description of Location:** The equipment is to be sited within a bus turning terminal which is situated at the junction of Wellesley Avenue and Stenson Road, which forms a staggered crossroads with Sunnyhill Avenue. The site lies in the valley of the Cuttle Brook at the foot of two hills along Stenson Road. The bus turning area is a quite extensive area set back from, and on the western side of, Stenson Road. It has an existing bus shelter which shares the site with a recycling collection point comprising 8 or so recycling bins for glass, shoes, plastic bottles and the like. The area is also laid out to provide a number of car parking spaces. The site is bounded on one side by a brick parapet wall that runs along the top of the eastern bank of the Cuttle Brook, which is exposed at this point. It is proposed to erect the monopole mast and the antennae and ancillary equipment housing within a few centimetres of the wall, close to the bus shelter. The mast would be 13 metres from the carriageway of Stenson Road at its closest point and a little over 1 metre from the bus shelter.

The area is predominantly residential in character although the area around the road junction has a number of small shops and other commercial uses and a large public house nearby. To the rear of the bus turning area is a group of semi-mature trees between 6 and 10 metres in height. The mast would stand about 20 metres away from the trees. The nearest dwellings would be about 27 metres away on Wellesley Avenue, some directly facing the mast. There would be the full width of Wellesley Avenue plus the width of the Cuttle Brook between the monopole and the houses. The bus terminal and the immediate surrounding area are populated by a normal array of street furniture. In addition to the bus shelter and recycling bins there are three waste bins, a British Telecoms equipment box, two 7 metre high lamp posts of different designs, two arrays of traffic lights and control box, a post box and a series of telegraph poles are ranged along Stenson Road, Wellesley Avenue and Sunnyhill Avenue in conventional fashion.

4. **Description of Equipment:** The proposed monopole would be a 10 metres high mast topped by three 1.6 metre high antennae contained within a cylindrical shroud, all grey in colour. The associated ground level equipment would be in the form of a cabinet 1.58 x 0.38 x 1.4 metres high and an AC pillar 0.26 x 0.16 x 0.66 m coloured grey. The



### D3 **APPLICATIONS** (cont'd)

#### 1 **Code No:** DER/1105/1814

monopole mast would be similar in appearance to a street lighting column but straight without the bent over arm of a lighting column. Overall, including the antennae, it would be about 4.6 metres taller than the nearby lamp posts.

#### 5. **Alternatives considered by Applicant:**

1. The Blue Pool Public House. The site provider was unwilling to consider the proposal.
2. Grass area at the junction of Caxton Street and Kendon Avenue. This site offered no environmental advantage over the proposed location. The surrounding area is wholly residential.
3. Industrial area to the south east. Discounted because it was too remote from the target area and too close to an existing Vodaphone site.

#### 6. **Relevant Planning History:** None.

#### 7. **Implications of Proposal:**

7.1 **Economic:** None directly arising from the proposal but government advice is that the provision of an adequate telecommunication network is beneficial to the economic development of the country as a whole.

7.2 **Design:** This type of monopole has been developed to closely resemble the appearance of existing street lighting columns in use on major roads.

7.3 **Community Safety:** A frequently voiced concern is that the equipment cabinets may be climbed on and the equipment vandalised. There is no reason to suppose that this hazard is any greater for telecommunication equipment than it is for any other item of street furniture.

7.4 **Highways:** No objections

7.5 **Health:** The proposal is certified as being in full compliance with the radio frequency public exposure guidelines of the International Commission on Non-Ionising Radiation (ICNIRP). As a result of this and the advice given in Planning Policy Guidance Note 8 on Telecommunications, the planning authority should not consider further the health implications of the proposal.

7.6 **Other Environmental:** Nearby street trees will help to screen and reduce the visual impact of the proposal from certain directions.

**D3 APPLICATIONS (cont'd)**

**1 Code No: DER/1105/1814**

**8. Publicity:**

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

Neighbour notification letters were sent to 71 properties within 90 metres. The majority of these are residential with some commercial and a nursery.

**9. Representations:** At the time of writing the report 5 letters of objection and two petitions had been received, one bearing 146 signatures and one bearing 44 signatures. Copies of these will be made available in the Members' Rooms.

The grounds raised are:

- Health concerns
- Interference with telephones and televisions
- Potential for vandalism
- Visual intrusion into the streetscene
- Effect on children who attend a nearby nursery.

Councillors Skelton, Troup and Marshall have all commented on this proposal; Councillor Marshall also commented in a private capacity as a close resident to the site. They all object to the proposal because of its appearance on a busy main road. Councillor Troup also is concerned over the proximity to the nearby nursery and school. They all suggest that if the location is to be used the mast should be moved closer to the trees at the rear of the site.

**10. Consultations: -**

**11. Summary of policies most relevant:**

CDLP Policy E38 (Telecommunications), states that planning permission will be granted, subject to assessment against the following criteria:

- a. impact upon amenities and the surrounding environment, with consideration given to sensitive areas, screening and landscaping

### D3 APPLICATIONS (cont'd)

#### 1 Code No: DER/1105/1814

- b. there is no possibility of erecting the mast upon existing buildings or sharing mast facilities
- c. the proposal should not unacceptably inhibit development potential.

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

The main policy guidance is that in PPG8 (Telecommunications). Members will be aware of this from previous reports on prior notifications and on telecommunications in general.

**Officer Opinion:** Policy E38 of the adopted CDLP is applicable, even though this application seeks prior notification approval for the proposed development and not planning permission. The policy makes it clear that, unless there are conflicting material considerations relating to criteria a, b or c above, permission should be granted where there is an application for permission, or that the Local Planning Authority should not refuse prior notification cases on location and appearance grounds. This is consistent with Government advice in PPG8, which seeks to encourage development of the telecommunications network.

#### Health Considerations

The health advice in PPG8 is very clear: if an application (or notification) is certified to meet ICNIRP guidelines the Local Planning Authority should not seek to challenge this, as health impact is, primarily, a matter for Central Government. Although impact on health can be a material consideration in determining any planning application, only in exceptional circumstances should the planning process conclude that health concerns are an overriding consideration. In this case, where an ICNIRP certificate has been served, I consider that health concerns have been given the degree of consideration appropriate to this form of development and are certified as being acceptable.

#### Visual amenity and Environment

The location was chosen as it was within a fairly commercial location with the adjoining shops and businesses and gave opportunity to site it fairly clear of dwellings. As submitted, the monopole would be sited close to a busy main road and closely resembles some of the existing lighting columns along that road, being distinguishable from these principally by its extra height. It will also be seen alongside a variety of other items of street furniture and should not, in my view, stand out as being particularly exceptional or out of place, except for its additional height.

### D3 APPLICATIONS (cont'd)

#### 1 Code No: DER/1105/1814

It would be visible on the approaches to it from both north and south along Stenson Road and from Sunnyhill Avenue but should not be so noticeable when approaching from Wellesley Avenue because of the trees growing at the rear of the bus terminal. Despite this, I am satisfied that the proposal would not have any unreasonable impact on the visual amenities or the surrounding area. I do acknowledge, however, that there may be room for improvement if the monopole and equipment cabinets could be moved close up to trees at the back of the bus terminal site where it would be less prominent and its height be better disguised. This has been investigated by the applicants but the presence of high and low voltage underground cables in the alternative location is considered to be too close to permit the satisfactory location of the mast in this position. The alternative location would also have required the removal of a number of overhanging branches of the trees which would have had an impact on the appearance of the trees themselves. As this alternative position has been discounted by the applicants, I do not believe there is another more suitable alternative position to consider in this immediate area. In the absence of such an alternative siting I do not consider that there are sufficient grounds to object to the siting in the position applied for.

The equipment cabinet would be close to a wall which would help screen it from view from one direction.

#### Highway considerations

The proposed monopole would be sited well back from the carriageway so there are no significant highways implications.

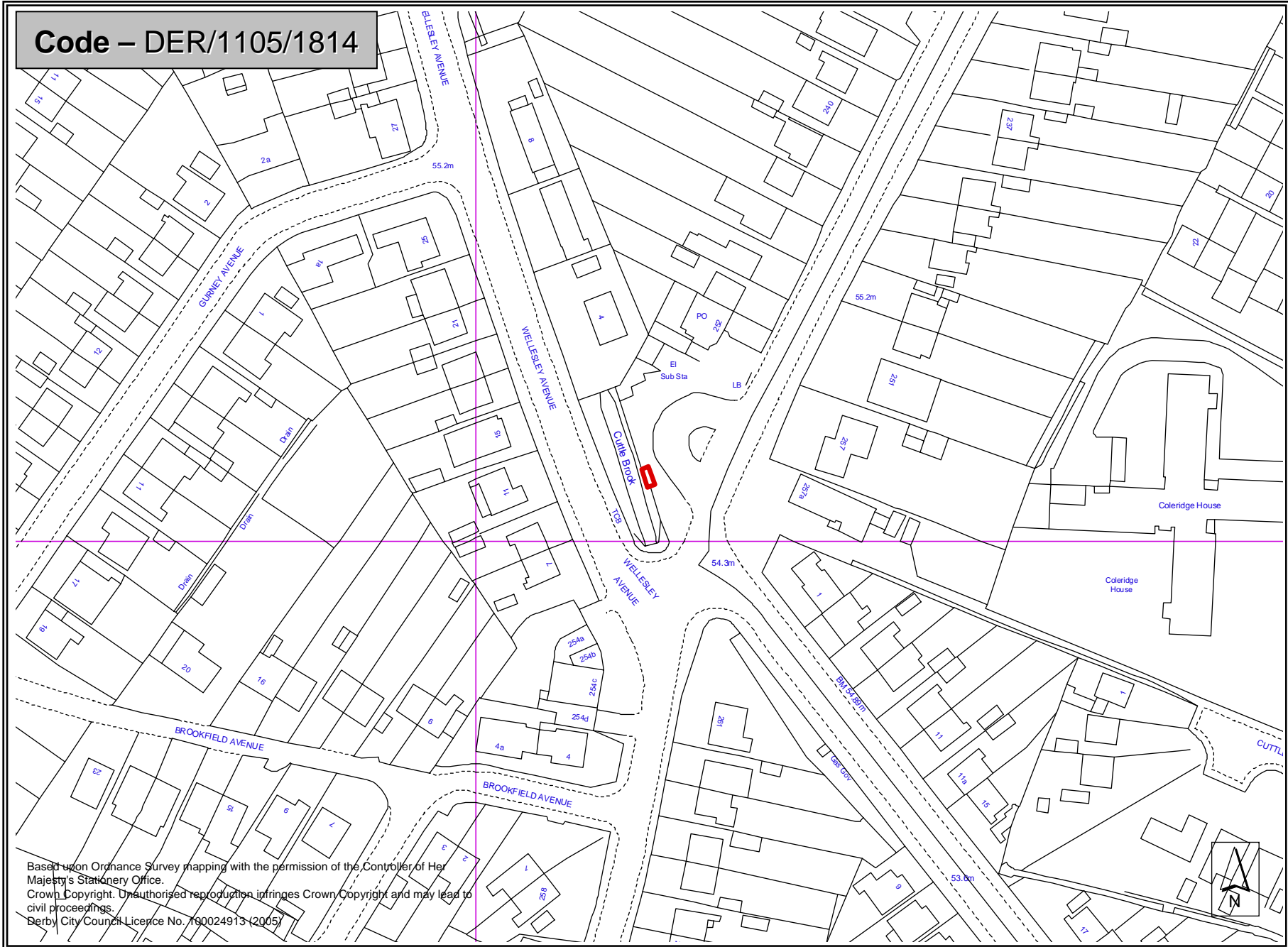
I therefore conclude that the Local Planning Authority should not seek to control the siting and appearance of the equipment

#### **13. Recommended decision:**

**13.1** That the City Council does not wish to control the details of siting but requires that the monopole be colour coated grey.

**13.2 Summary of reasons:** The proposal has been considered against the City of Derby Local Plan policy as summarised at 11 above and against Planning Policy Guidance Note 8. It constitutes a telecommunications development that would improve the telecommunications network in this part of the City without having any significantly detrimental effect upon local amenities.

**Code – DER/1105/1814**



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### D3 **TELECOMMUNICATIONS NOTIFICATION** (cont'd)

#### 2 **Code No:** DER/1005/1792

1. **Address:** Highway verge south of entrance to Kingsway Fire Station, Kingsway.
2. **Proposal:** Erection of 12m high monopole with three antennae (1.6m high) and equipment cabinet.
3. **Description of Location:** Highway verge western side of Kingsway at the front of the Fire Station. Notification has been received to install a 12m monopole, antennae and an equipment cabinet sited on the roadside verge adjacent to the Kingsway Fire Station.
4. **Description of Equipment:** The installation of a 12m street furniture monopole comprising 3 No. antennae housed within a shroud at the top with radio equipment housing cabinet at ground level. The proposed installation is required to provide 3G communications coverage in the area.

The associated ground level equipment would be in the form of an outdoor cabinet measuring 1580mm x 380mm x 1400mm high. The monopole will be 12m high, 1500mm from the road.

5. **Alternatives considered by Applicant:** A schedule of eight alternatives has been provided. Reasons for their rejection cover:
  - site owner unwilling to provide facilities (4)
  - adverse planning assessment (3)
  - technical difficulties (1)

I am satisfied that there are none available within the limits that will give coverage to the cell that have any material advantages over this one.

6. **Relevant Planning History:** DER/1104/2257 – Installation of a 15m monopole and equipment cabinets – permission granted 25 February 2005.
7. **Implications of Proposal:**
  - 7.1 **Economic:** None directly arising. The extension of 3G coverage is intended generally to equip the United Kingdom better in relation to all forms of radio communication technology.
  - 7.2 **Design:** This type of monopole has been developed to replicate, in terms of general impact, the design of lighting columns.
  - 7.3 **Community Safety:** There is frequently concern that the steel cabinets can be climbed on. On a streetworks installation, that is one where a

**D3 TELECOMMUNICATIONS NOTIFICATION (cont'd)**

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secure compound is not created, this cannot be avoided but the hazard is no greater than that from other street furniture.

**7.4 Highways:** No objections on highways grounds.

**7.5 Health:** The proposal is certified as being in full compliance with the requirements of the radio frequency (RF) public exposure guidelines of the International Commission on Non-Ionising Radiation (ICNIRP). As a result of this and the advice in Planning Policy Guidance Note on Telecommunications (PPG8) the planning authority should not consider further the health implications of the proposal.

**7.6 Other Environmental:** Existing trees on the site will help to reduce the visual impact of the proposal.

**8. Publicity:**

Neighbour Notification letter	* 71 properties within 90m	Site Notice	*
Statutory press advert and site notice		Discretionary press advert and site notice	
Other	Ward Member notification		

**9. Representations:** Comments received back from Ward Members: Councillor Carr had no objections; Councillor Allen raised concerns over site sharing and that this should be encouraged wherever possible. At the time of preparation of this report no other representations have been received. The publicity period expires on 6 December. Any that are received prior to the date of the meeting will be reported orally, circulated or placed in the Members' rooms.

**10. Consultations:**

DCorpS (Health) – to be reported at the meeting.

**11. Summary of policies most relevant:**

Policy E38 (Telecommunications) of the adopted CDLP states that planning permission will be granted subject to assessment against the following criteria:

- a. impact upon amenities and the surrounding environment, with consideration given to sensitive areas, screening and landscaping

### D3 TELECOMMUNICATIONS NOTIFICATION (cont'd)

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- b. there is no possibility of erecting the mast upon existing buildings or sharing mast facilities
- c. the proposal should not unacceptably inhibit development potential.

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

The main policy guidance is that in PPG8 (Telecommunications).

12. **Officer Opinion:** Policy E38 of the adopted CDLP is applicable, even though this application seeks prior notification approval for the proposed development and not planning permission. The policy makes it clear that, unless there are conflicting material considerations relating to criteria a, b or c above, permission should be granted where there is an application for permission, or that the Local Planning Authority should not refuse prior notification cases on location and appearance grounds. This is consistent with Government advice in PPG8 which seeks to encourage development of the telecommunications network.

#### Health considerations

Further to the comments under 7.5 above, a recent case (Harrogate) before the Court of Appeal has expanded the understanding of the basis on which health concerns can be a factor in determining planning applications. Like most cases which reach the Court of Appeal some of the arguments are complex and this case was the follow-up to that in the Divisional Court where the judge found a Planning Inspector at fault in his determination of an appeal against refusal of permission for a telecommunications base station. In practice the outcome does make it clear that it is only in exceptional circumstances that Local Planning Authorities can properly pursue health grounds where a certificate of conformity is provided.

This is on the basis that, whilst impact on health can be a material consideration for any planning application, it is only in exceptional circumstances that the planning process should conclude that health concerns are an overriding consideration. The health advice in PPG8 is very clear indeed; if an application (or notification) is certified to meet ICNIRP guidelines, the Local Planning Authority should not seek to challenge this as health impact is, primarily, a matter for central government. I have no doubt that a Local Planning Authority that refused an ICNIRP-certified proposal on health grounds would find itself stranded, unable to produce any credible professional witness, on appeal.



### D3 **TELECOMMUNICATIONS NOTIFICATION** (cont'd)

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##### Visual Amenities and the Environment

I am satisfied that the proposal would not have any unreasonable impact on visual amenities or the surrounding environment. The monopole would be sited on a busy road and would closely resemble existing telegraph poles in the area. The proposed installation will be in context with the existing street furniture which includes road signs and lighting columns as well as several mature trees which will help screen the proposal.

##### Mast sharing and erection upon existing buildings

The applicant has submitted supporting information which states that alternative site options have been explored, as set out in Section 5 above. They also put forward a case that this site is currently used for telecommunications purposes and therefore, minimises the need for further new sites to be established. I consider that a number of monopoles, of the type now available and proposed here, in a locality, are arguably better than site sharing as this inevitably requires heavy engineering structures.

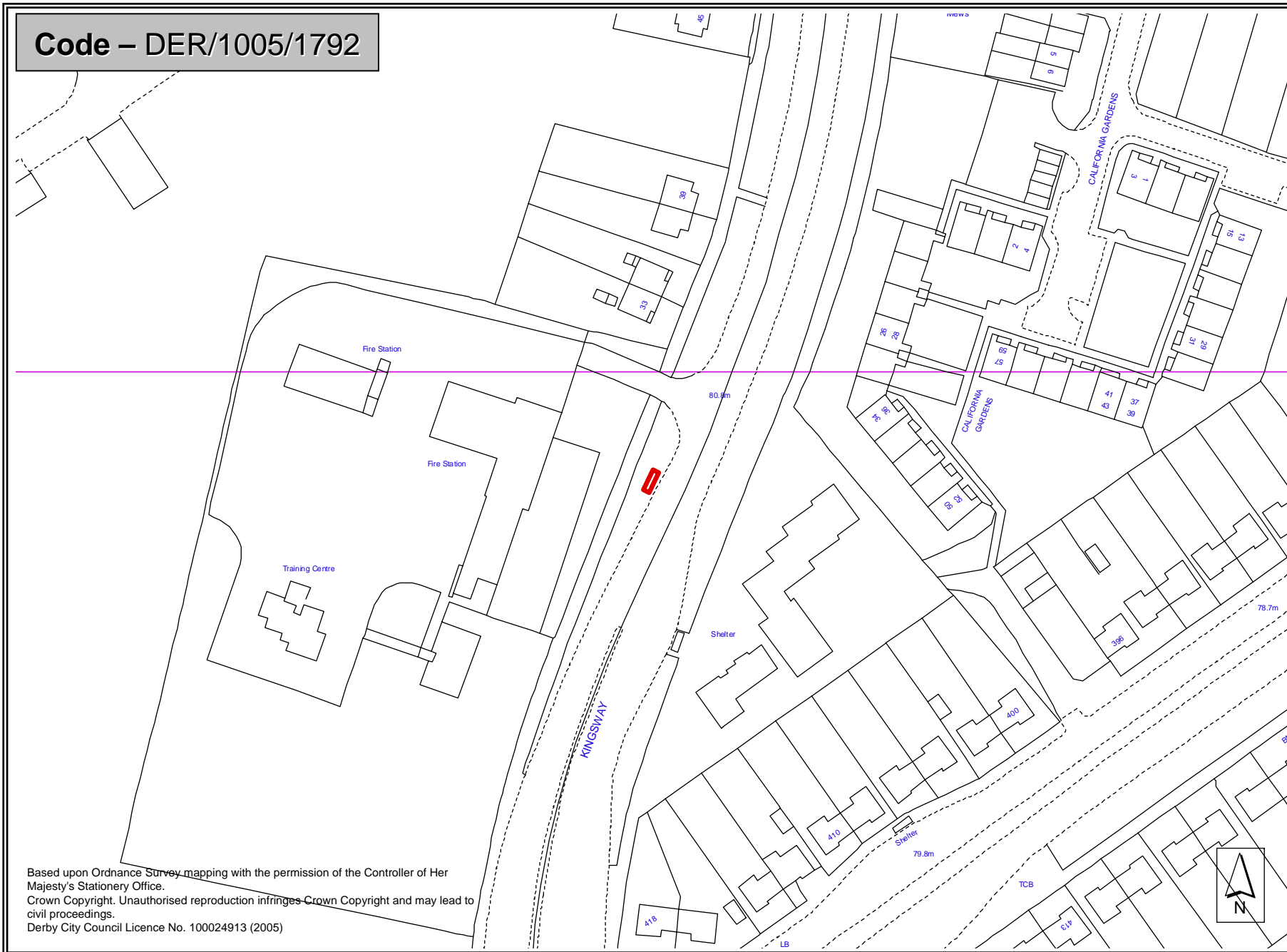
For the reasons given above, I consider that the siting and design of the equipment are consistent with local and national planning policy and do not consider that a comprehensive case could be put forward to offer grounds on which to object to the prior notification. I therefore conclude that the Local Planning Authority should not seek to control the siting and appearance of the equipment.

#### 13. **Recommended decision:**

13.1 That the City Council does not wish to control the details of siting and appearance.

13.2 **Summary of reasons:** The proposal has been considered against the City of Derby Local Plan policy as summarised in 11 above and against Planning Policy Guidance Note 8. It constitutes a telecommunications development that would improve the network in this part of the city without having a detrimental effect upon local amenities.

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