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### Planning Control Committee 24 April 2008

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## B1 APPLICATIONS

1 Code No: DER/01/08/00082

**Type:** Full (Reg 3)

1. **Address:** Land at Park, north-east of Community Centre, St Andrew's View
2. **Proposal:** Erection of Sports Wall, Play Area and formation of footpath
3. **Description:** This full application is submitted by the City Council, and is for the erection of a sports wall, play area and formation of a footpath in the public park north east of the community centre in St Andrew's View. The proposed equipment would be situated in a central position within the POS, and the nearest dwelling houses in St Andrews View are more than 70 m away. Those to the east in Mendip Court and Amesbury Lane are more than 100 m away.

The proposed equipment consists of a sports wall constructed in green powder coated mesh panels fixed to hollow section steel posts on an area of tarmac. The proposed equipment would be 3.9 m in height, and would not be illuminated. The equipment provides a goal area and a basketball ring/backboard.

A new footpath link from the community centre to the site would also be constructed. I am advised that the proposal would replace the old play area at Scarborough Rise which would be removed once the facility is installed.

4. **Relevant Planning History:** None.
5. **Implications of Proposal:**
  - 5.1 **Economic:** None.
  - 5.2 **Design and Community Safety:** No objections. The appearance of the proposal is appropriate for its purpose, located in an area of Council controlled public open space.
  - 5.3 **Highways:** No implications.
  - 5.4 **Disabled People's Access:** Level access is provided from the existing car park to the site.
  - 5.5 **Other Environmental:** Existing trees are to be retained.

**B1 APPLICATIONS (cont'd)**

**1 Code No:** DER/01/08/00082

**6. Publicity:**

Neighbour Notification letter	5	Site Notice	YES
Statutory press advert and site notice		Discretionary press advert and site notice	
Other			

**7. Representations:** I have received six letters, of which five are letters of objection. These are reproduced. The main points raised by the objectors are:

- the proposal will encourage anti-social behaviour
- there is already a lot of trouble on this site
- drainage issues on the site
- The proposal will encourage drug/alcohol problems
- There is a major security problem to nearby houses

A petition of 13 names objecting to the proposal has also been received.

**8. Consultations:**

Environmental Services (Trees) – No objections are raised subject to the following.

- The construction exclusion zone (CEZ) should be expanded to include the amended root protection areas (RPA) of trees 1 and 2 on the Tree Protection Plan. Tree 1 RPA should have a radius of 6.9 m and tree 2 radius of 5.04 m (tree 3's RPA is acceptable).
- A CEZ should be erected to encompass the RPA of the Birch tree situated adjacent to the north east of the Community Centre. The RPA has a radius of 4.8 m.
- These details can be secured as part of the agreed scheme of protection required under condition 4 in part 11.3 of this report.

Environmental Services (Health) – no objections.

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

GD1 - Social Inclusion

## B1 APPLICATIONS (cont'd)

### 1 Code No: DER/01/08/00082

- GD4 - Design and the Urban Environment
- GD5 - Amenity
- E9 - Trees
- E23 - Design
- L1 - Protection of Parks and Public Open Space
- T10 - Access for Disabled People

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

10. **Officer Opinion:** This proposal is to provide leisure facilities in this area of Council controlled open space and in principle there are no planning objections to raise. The provision of recreational facilities of this type are to be welcomed in increasing the scope of activities available on the site. I see no valid planning grounds to withhold permission, on that basis. I have carefully examined the points raised by the objectors, most particularly those relating to anti-social behaviour. Dwelling houses are situated more than 70 metres from the proposal and while such problems on this open space area are known to the City Council, it should not be grounds for the non provision of facilities of this type. On policy grounds I fully support the proposal, as being an overall benefit.

In the Design and Access statement accompanying the application it is noted that three consultation exercises have been conducted.

1. A questionnaire to 565 households within 400 m of the site – the result was that 62% of respondents wanted to see play facilities moved to this site from Scarborough Rise.
2. 86% of respondents to the second consultation were in favour of the proposed location.
3. In conjunction with local schools the third consultation sought to ascertain the type of play equipment children of different ages preferred.

The proposal now reflects those aspirations and this type of community consultation should assist in community ownership of the facility.

### 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 policies of the Adopted City of Derby Local Plan Review and all

**B1 APPLICATIONS (cont'd)**

**1 Code No: DER/01/08/00082**

other material considerations outlined in 9 above, and is an acceptable form of development in this area of City Council owned land, that would have no unreasonable effect on the amenities of third parties.

**11.3 Conditions**

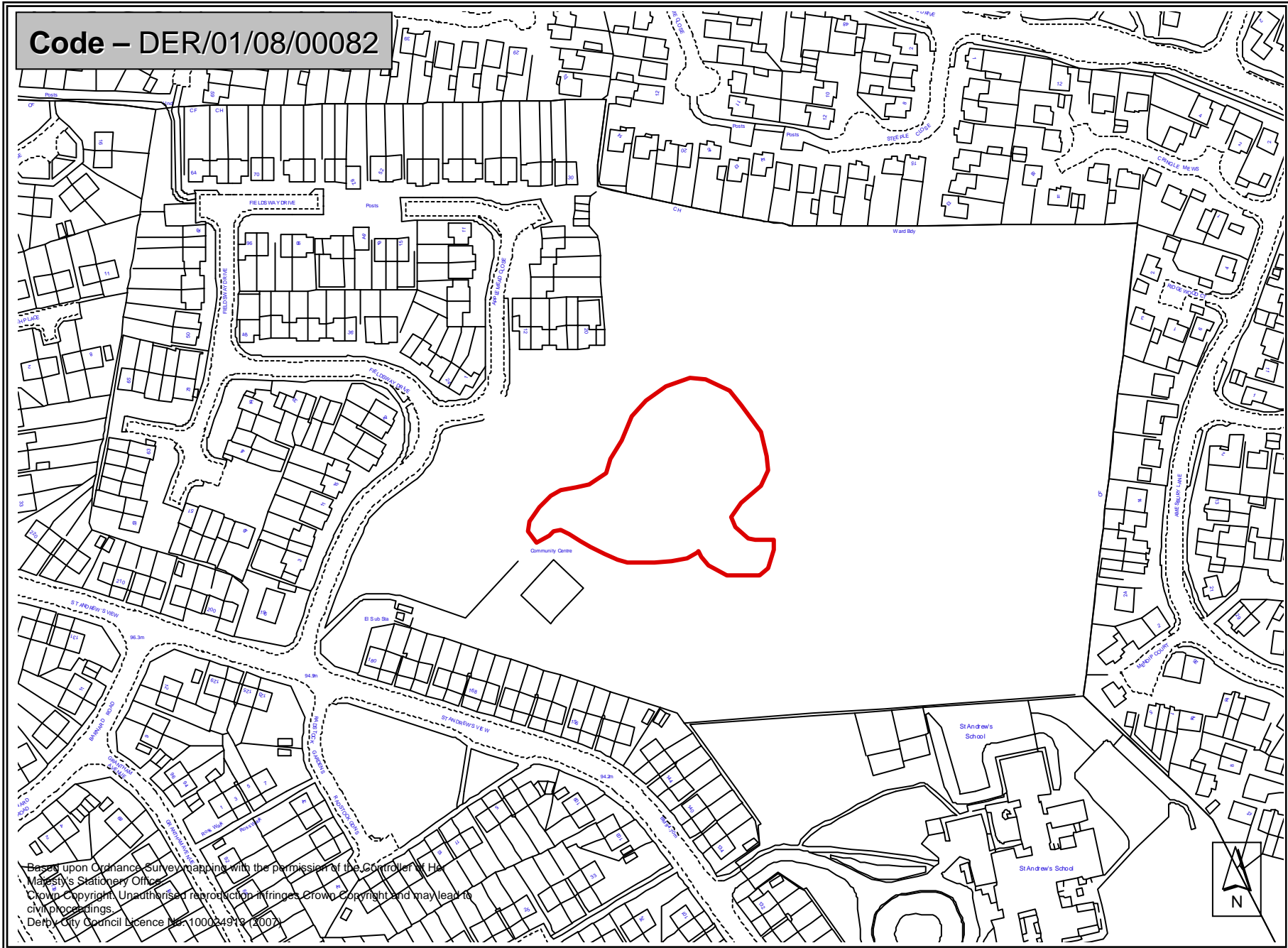
1. Standard condition 27 (external materials)
2. Standard condition 19 (means of enclosure)
3. Standard condition 30 (hard surfaces)
4. Standard condition 24A (tree protection)

**11.4 Reasons**

1. Standard reason E14 policies GD4/E23
2. Standard reason E09 policies GD4/E23
3. Standard reason E09 policies GD4/E23
4. Standard reason E24 policy E9

**11.5 S106 requirements where appropriate: None.**

**Code – DER/01/08/00082**



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## B1 APPLICATIONS (cont'd)

2 Code No: DER/02/08/00290&  
DER/02/08/00291

**Type:** Full and  
Listed Building  
Consent

1. **Address:** Former Police Station and Magistrates Court, Full Street/Derwent Street
2. **Proposal:** Erection of 74 apartments, offices (Use Class B1) and commercial uses (A1, A2, A3 and A4), associated basement car parking, alterations to vehicular access and conversion of Magistrates Court building to form offices.
3. **Description:** At the meeting on 17 January, Members considered a report on a mixed office, residential and part retail development for the former Magistrates Court and Police Station site on Full Street and resolved to support strongly the proposal and refer the planning application to the Secretary of State as required under the Flooding Direction. Members will recall that the Environment Agency reviewed its response just before the meeting and objected to the proposal because of the conversion of the Courts building to residential on the ground floor with only demountable flood barriers.

Discussions have been continuing with the Environment Agency to attempt to develop a solution to overcome its concerns. In the meantime, the applicant wishes to develop an alternative solution which is to convert the Courts building into offices, which is regarded by the Agency as a less sensitive use. The new build part of the development is unchanged.

Previously the scheme resulted in 74 apartments, 10,900 sq m office floorspace and 1933 sq m of retail/ food and drink units in the new build section and 51 apartments in the Courts conversion with 124 car spaces. The current scheme replaces the 51 apartments in the conversion with 10796 sq m of office floorspace.

The listed Magistrates Court building would be converted to office use. The conversion of the Courts building would provide 2318 sq m of lettable office space over the three floors. The general office and feature areas are proposed to be converted with the interior finishes retained and restored and the corridor areas are maintained where possible in the new office layouts but in some instances subsumed within open plan offices. Some of the smaller offices have internal walls removed to create larger offices more suited to modern office requirements. The courtrooms are largely retained with a mezzanine floor inserted in the Sessions Court area. The existing entrances and staircases are retained and utilised and with new lifts providing disabled access to the first floor.



**B1 APPLICATIONS (cont'd)**

**2 Code No:** DER/02/08/00290&  
DER/02/08/00291

The stairs from the courtrooms to the cells are to be removed and the former cells converted into an open space office facing the courtyards. The courtyard areas are to be cleared of buildings and landscaped to provide attractive external spaces. The existing substation is to be removed.

The alterations to the original fabric of the building would be kept to a minimum, comprising replacement of internal space, window openings and limited removal of original interior walls. Later additions, including single storey courtyard buildings would be demolished.

I would remind Members that the new build section, which is not subject in itself to Environment Agency objection, would be a mixed use scheme to include residential use, offices, and commercial uses, with basement car parking. The site of the former police station extension would be redeveloped with a five and six storey development, comprising 74 studio, 1 and 2 bed apartments, ground floor commercial units for A1 shops, A2 financial and professional services, and food and drink uses, with B1 office accommodation at first floor and above. 124 car parking spaces would be accessed via the existing vehicle access point adjacent to the Magistrates Court onto Full Street. The basement parking area would include three disabled spaces and secure cycle parking.

The building form would comprise two blocks, facing onto Full Street and the river frontage, linked at the northern end by a full height glazed section. The office and commercial element of the scheme would be up to 6 storeys high, addressing Cathedral Green, with 2 apartment sections facing towards the Magistrates Court, at 5 storeys. An internal courtyard and landscaped space would be provided for residents between the apartment buildings with secure access onto Full Street. The main entrance to the offices and commercial units would be an elevated paved area served off the public open space, by steps and a ramp. The development would have a simple and contemporary form, with a curved façade on the north side of the building, with large glazed openings and a recessed ground floor and top storey. The principal materials would be render, masonry and terracotta cladding. The apartment sections would be rectilinear in form, with smaller window openings and balconies. Alongside the riverside walkway, an elevated outdoor seating space would be formed for both the ground floor commercial units and apartments facing towards the river. This space would be located behind an enhanced flood defence wall, which is to be decorated with a public art feature, the design details of which are to be agreed.

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

**2 Code No:** DER/02/08/00290&  
DER/02/08/00291

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

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

### **4. Relevant Planning History:**

DER/10/07/01980 & DER/10/07/01981 - Erection of 74 apartments, offices (Use Class B1) and commercial uses (A1, A2, A3 and A4), associated basement car parking, alterations to vehicular access and conversion of Magistrates Court to form 51 apartments and residents gym - Committee minded to grant planning permission and listed building consent at the 17 January meeting, subject to referral to the Secretary of State under the Flooding Direction, and a Section 106 Agreement.

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

**5.1 Economic:** The proposal would form office accommodation and a mix of retail and food and drink uses, which amounts to a significant commercial element within the development. It would generate a considerable level of employment, with particular economic benefits to

## B1 APPLICATIONS (cont'd)

2 Code No: DER/02/08/00290&  
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the local economy. Since it is a speculative proposal, the level of potential employment is not known at this stage. The scheme would extend urban regeneration to the under utilised river frontage and should increase public activity in the immediate area, including Cathedral Green.

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

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

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

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

**5.4 Disabled People's Access:** The previous requirement for 10% Lifetime Homes within the residential scheme resulted in 13 apartments in total. The overall development would be accessible through compliance with Building Regulations.

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

**B1 APPLICATIONS (cont'd)**

**2 Code No:** DER/02/08/00290&  
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accommodate the development. A group of small mixed tree specimens to the southern side of the Magistrates Court would be retained.

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

**6. Publicity:**

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

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

**8. Consultations:**

CAAC - Previously, it objected to the new build but welcomed the proposals for the residential conversion of the Courts building. With respect to the new application for conversion of the courts to offices, raised no objections and suggested a full photographic survey be undertaken to record the interior of the building prior to the commencement of works.

English Heritage - To be reported on the office conversion.

Natural England – previously satisfied that appropriate bat surveys had been carried out on the site, although 4 trees had potential for supporting bat roosts and an ecologist should be present to oversee felling. The site is largely unsuitable for other protected species. Any further comments on the revised proposal will be reported.

DWT - any comments on the new scheme to be reported. Previously, commented that the ecological survey work and Environmental Statement appeared to be generally acceptable.

EA - to be reported on the new proposal. Previously it raised objections to the proposal on the grounds that the use of the Magistrates Court

## B1 APPLICATIONS (cont'd)

2 Code No: DER/02/08/00290&  
DER/02/08/00291

building relies on the use of demountable flood defences, the provision of residential accommodation on the ground floor of the Magistrates Court below the 1:100 year predicted flood level which would be at high risk of flooding.

Police - to be reported. Previously, it was considered that the form of the scheme would improve the area in terms of policing.

DCS (Env.Health) - to be reported.

County Archaeologist - to be reported.

Cityscape - to be reported.

ICOMOS - to be reported.

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

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

## B1 APPLICATIONS (cont'd)

2 Code No: DER/02/08/00290&  
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- E21 - Archaeology
- E23 - Design
- E24 - Community safety
- E27 - Environmental Art
- E29 - Protection of World Heritage Site and surroundings
- L2 & L3 - Public open space standards
- L8 - Leisure and entertainment facilities
- T1 - Transport implications for new development
- T4 - Access, parking and servicing
- T10 - Access for disabled people

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

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

The introduction of 74 apartments into the city centre would still represent a substantial increase in residential accommodation in a highly sustainable location and help to promote a more vibrant centre, particularly in the evening. This aspect of the proposal would, therefore, meet the general objectives of PPS 3 (Housing) and Policies H13 and CC7. A high quality living environment for future residents would be formed, within the scheme.

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

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

**2 Code No:** DER/02/08/00290&  
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The mix of A1 - retail, A2 - financial and professional services, A3 and A4 - food and drink uses remains as previously proposed for the ground floor units of the development. I advised previously that the site is outside the designated city centre shopping area and the under Policy S12, A2, A3 and A4 uses are considered appropriate on the edge of the shopping hierarchy, provided that they are not likely to undermine the vitality and viability of the main retail centre. These uses would, therefore, accord with this policy, provided that the residential amenities of the new apartments are not adversely affected by the side effects of hot food and drink operations. The introduction of retail uses does give rise to some concerns, in that the proposed ground floor units have not been allocated a specific use and as a result all of the units have the potential to be occupied by A1 uses. This would be contrary to Policy S2, since a sequential approach to site selection has not been taken. A small element of convenience retail provision, to support the mix of employment and residential uses in the development would be appropriate in this location, provided that it was confined to the smaller of the proposed units, up to 750 square metres floorspace. Occupation of no more than 2 of these units for A1 use is recommended, to ensure the vitality and viability of the nearby shopping area is not compromised. This could be secured by an appropriately worded condition attached to any permission.

### **Urban Design and Conservation**

The new build section remains as previously considered. There are few implications of the office conversion outside the building and the main consideration is the suitability of the details of conversion of the listed building.

The proposed conversion of the listed building for office use is welcomed, since it would be a sympathetic re-use of the building. The distinctive character and form of the building would be retained and reinstated. The proposal would make an imaginative use of the existing spaces within the building, with only limited alterations to the internal layout. Some original features would be removed, including court room furniture, although it is very unlikely that the building will return to its original use, due to new modern facilities being provided elsewhere. The most important features would be retained, including the original layout, windows, staircases, wood panelling and skylights. Demolition would be limited to later extensions in the courtyard and some original walls, both of little merit. The internal corridor is maintained in a more intact form than with the residential conversion. As before, there is a mezzanine floor in the former Sessions Court.

**B1 APPLICATIONS (cont'd)**

**2 Code No: DER/02/08/00290&  
DER/02/08/00291**

**Flood Risk**

As reported previously, the development site lies alongside the River Derwent and is considered to be at the highest potential flood risk in the event of a 1:100 flood event. It is at a similar floor level to the riverside walkway, which abuts the river bank and is, therefore, acknowledged to be at a high risk of flooding. A new riverside flood defence wall would be erected alongside the riverside walkway to protect the new development and part of the Magistrates Court from excessive flooding. It would be about 2.3 metres high, up 600mm higher than the modelled 1:100 year flood level.

The current scheme is designed to overcome the difficulties with providing habitable accommodation, especially at ground floor level, within the flood risk area as office use is accepted as a less sensitive use. Discussions have been had which have resulted in a mixture of demountable and automatic flood gates. I will report any views of the Environment Agency at the meeting.

**Section 106 Contributions**

The previously agreed heads of terms will be modified to reflect the lower provision of residential units and the slightly higher level of office floorspace.

**Conclusion**

The revised scheme for conversion of the Magistrates Courts building to offices represents a less sensitive scheme both in terms of flood risk and in terms of the conversion of the listed building. Comments are awaited from the heritage bodies and the Environment Agency and I will accordingly advise Members of any views received.

The principle of the revised use is not in my view open to doubt and I can recommend Members to consider the revised proposal favourably.

**11. Recommended decision and summary of reasons:** Subject to no adverse comments from the Environment Agency and to the consideration of any comments from other consultees.

**11.1 Code No. DER/02/08/00290**

**A. To authorise** the Assistant Director – Regeneration to negotiate the terms of a Section 106 Agreement to achieve the objectives



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

**2 Code No:** DER/02/08/00290&  
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set out in 11.5 below and **to authorise** the Director of Corporate Services to enter into such an agreement.

- B. To authorise** the Assistant Director – Regeneration **to grant** planning permission on the conclusion of the above agreement, with conditions and in consultation with the Chair and Vice Chair in the event of any representations being received within the publicity period ending on 29 April.
- C.** If the applicant fails to sign the Section 106 Agreement by the expiry of the 13 week target period (10 June) consideration be given, in consultation with the Chair, to refusing the application.

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

### **11.3 Conditions**

1. Standard condition 27 (external materials)
2. Standard condition 20 (landscaping scheme)
3. Standard condition 22 (landscaping maintenance – Condition 3)
4. Standard condition 30 (hard surfacing)
5. Standard condition 38 (drainage scheme)
6. Standard condition 99 (recycling facilities)
  
7. Before development commences, details of the design, materials and appearance of the proposed flood defence wall for the eastern boundary of the site, facing the riverside walkway, shall be submitted to and approved in writing by the Local Planning Authority and shall be carried out in accordance with such approved details.
  
8. The use of no more than two units as shown on ground floor layout plan no. 1396(PL)20Q, of no more than 750 square metres floorspace, shall be for retail use (A1 Use Class) and only one of those units shall be for the sale of convenience goods.
  
9. The use of any of the ground floor units for A3 or A4 uses, shall not commence until details of a fume extraction/ ventilation system, with silencer and carbon filtration, has been submitted to and approved

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

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in writing by the Local Planning Authority and until such equipment has been brought into use. The use shall not be operated unless the approved system is working satisfactorily. The details shall include the location and design of any external vent or flue.

10. The details submitted under Condition 2 shall include proposed treatment of the outdoor areas and pedestrian routes adjacent to the north boundary of the site, where it meets the public open space, including details of surfacing materials and street furniture to be used, shall be submitted to and approved in writing by the Local Planning Authority and shall be carried out in accordance with such approved details.
11. Before development commences, precise details of flood defence and management measures for the development, including those for the Magistrates Court, shall be submitted and agreed in writing by the Local Planning Authority and shall be carried out in accordance with such approved details.
12. Standard condition 98 (Travel plan)
13. The gradient of the proposed vehicular access shall not exceed 1:10 for the first 10 metres from the highway boundary.
14. Noise mitigation measures.

### **11.4 Reasons**

1. Standard reason E14...policies E23 and GD4
2. Standard reason E09...policy E17
3. Standard reason E09...policy E17
4. Standard reason E21...policy E23
5. Standard reason E21
6. Standard reason E48
7. Standard reason E14...policy E23
8. Unrestricted retail use would be contrary to Policy S2 on the grounds that a need for the proposed level of A1 floorspace has not been satisfactorily demonstrated. There is an accepted need for convenience retail provision to serve the development on a limited floor area and in total, to protect the vitality and viability of the city centre.
9. Standard reason E25...policy GD5

**B1 APPLICATIONS (cont'd)**

**2 Code No:** DER/02/08/00290&  
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10.To ensure a satisfactory integration of the development with the public realm improvements on the adjacent open space in the interests of visual amenity...policies E23 and E17

11.To protect the development from excessive flooding in the interests of residential amenity...policy GD3

12.Standard reason E47...policy T1

13.In the interests of highway safety

14.In the interests of residential amenity...policy H13

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

**11.6** Code No. DER/02/08/00291

**To authorise** the Assistant Director to grant the Listed Building Consent with conditions, subject to resolution of any issues of detail raised by consultees.

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

**11.8 Conditions**

1. Before work commences, further precise details of new windows and doors, to include cross sections, materials and design, at a scale of 1:10 or 1:5 shall be submitted to and approved in writing by the Local Planning Authority.

2. Prior to any development work commencing, a method statement, to include procedure for removing the link, with the former police station and making good the exposed areas, shall be submitted to and approved in writing by the Local Planning Authority and implemented in accordance with such approved details.

3. Before work commences, details of siting of all proposed internal extraction services within the building, shall be submitted to and approved in writing by the Local Planning Authority.

**B1 APPLICATIONS (cont'd)**

**2 Code No: DER/02/08/00290&  
DER/02/08/00291**

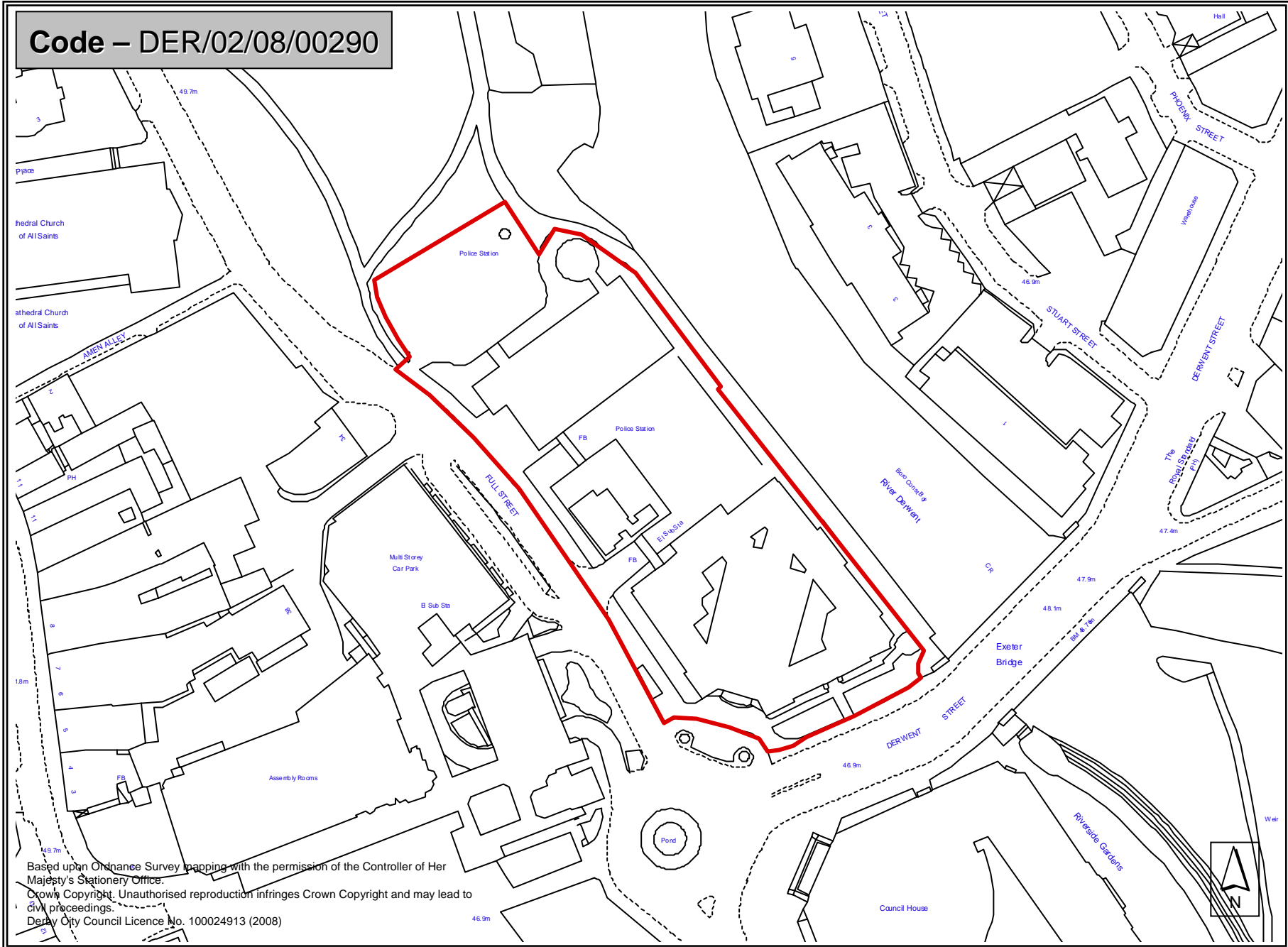
4. Before work commences, details of any facing materials or colour of render to be used for areas of proposed alteration, repair or new internal walls, shall be submitted to and approved in writing by the Local Planning Authority.
5. Before work commences precise details of proposed mezzanine floor to be installed in the former Sessions Court room, to include treatment of ceiling decoration around the new rooms, shall be submitted to and approved in writing by the Local Planning Authority.
6. Before work commences, further precise details of the proposed railings to be sited along the Full Street elevation as indicated on drawing no.1396a/SK 41B, to include design, height and materials to a scale of 1:10 or 1:20 shall be submitted to and approved in writing by the Local Planning Authority.
7. Before work commences on the listed building, photographic survey shall have been undertaken and submitted to the Local Planning Authority.

**11.9 Reasons**

1. Standard reason E40...policy E19
2. Standard reason E40...policy E19
3. Standard reason E40...policy E19
4. Standard reason E40...policy E19
5. Standard reason E40...policy E19
6. Standard reason E40...policy E19
7. In order to record the details of the building following its last use for courts purposes in order to provide and archaeological recording.

**11.10 S106 requirements where appropriate: None.**

**Code – DER/02/08/00290**



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## B1 APPLICATIONS (cont'd)

3 Code No: DER/02/08/00266

Type: Full

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

Outline permission is sought for residential development, comprising seven dwelling houses, five detached and two semi-detached. The point of access to Morley Road is to be determined at outline stage and a pedestrian-priority layout is indicated. Everything else is for later approval as reserved matters. A notional site layout has been provided and this indicates the pair of houses and one detached house facing Morley Road. The other four are from a short cul-de-sac which is intended to remain private and be constructed in block paving.

#### 4. Relevant Planning History:

DER/06/07/01089 - Outline application for erection of 5 dwellings and 4 flats with associated access road, Withdrawn – August 2007.

DER/10/07/01988 - Outline application for five houses, two flats and a bungalow, refused at the meeting held on 18 January 2008 for the following reason: "The residential development, as proposed would result in an over intensification of the site, which, would be out of character with the neighbourhood, to the detriment of the established character of this part of Chaddesden. The proposal would, accordingly be contrary to policies GD4, H13 and E23 of the adopted City of Derby Local Plan Review."

#### 5. Implications of Proposal:

5.1 Economic: None.

5.2 Design and Community Safety: An appropriate form of residential development could be accommodated on the site, with a traditional cul-de-sac layout. It would be in keeping with the general appearance and density of the surrounding residential area. I comment on density in

**B1 APPLICATIONS (cont'd)**

**3 Code No: DER/02/08/00266**

relation to CDLPR targets in "Officer Opinion". There would be no adverse community safety implications from the proposed development.

**5.3 Highways:** There are no objections to the principle of a vehicular access position or geometry, nor to the numbers of dwellings involved. Any refinement of the access road can be dealt with at reserved matters stage.

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

**5.5 Other Environmental:** The site was once a pleasant garden but has deteriorated in recent years, especially since the bungalow became vacant. The garden has a mixed group of native trees located primarily around the perimeter and a group of 5 mature Lime trees along the north boundary with Morley Road, which are protected by a Tree Preservation Order. A group of trees in the southern part of the site have already been removed.

**6. Publicity:**

Neighbour Notification letter	37	Site Notice	
Statutory press advert and site notice		Discretionary press advert and site notice	
Other			

**7. Representations:** Sixteen representations have been received, fourteen of objection, one of support and one comment. Copies will be available to view in the Members' Rooms. The main issues raised are very much as before and cover:

- The traffic generation from the development would increase dangers for users of Morley Road and the surrounding highways, including school children
- There have already been residential developments of garden land in the local area, which have detracted from the surrounding streetscene
- Flood risk worries from the fact that there is an existing culvert through the site; it is feared that the development would worsen drainage problems and flooding risk.

There is concern about loss of trees and other vegetation on the site.

**B1 APPLICATIONS (cont'd)**

**3 Code No: DER/02/08/00266**

I have also received an objection from the Derbyshire Wildlife Trust on the grounds that the bungalow may contain bats and also that the site adjoins the lees Brook wildlife site and that no habitat/ecological survey has been done. The full text of the letter is on the application website. The DWT was not a consultee and I comment at length on these issues in Officer Opinion.

**8. Consultations:**

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

DofES (Arboricultural Officer) - no objections to the principle of the residential development. As a general principle protective fencing should be provided around the Lime trees at the outset of development as indicated on the Tree Protection Plan. Other trees on the site indicated for retention have not been fully surveyed so the impact of the development cannot be fully assessed. A method statement for construction and treatment of existing driveway, where they affect the trees to be retained should be submitted for approval.

Police - not consulted on this occasion as they had no objections to principle of development.

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

- GD3 - Flood protection
- GD4 - Design and the urban environment
- GD5 - Amenity
- H13 - Residential development – general criteria
- E9 - Trees
- E10 - Renewable energy
- E23 - Design
- T4 - Access and parking
- E17 - Landscaping schemes

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

**10. Officer Opinion:** The plot is of some 3730sq m, is relatively level and is suitable for a more intensive form of residential development. At present it is substantially underused. The principle of residential development is appropriate, subject to the scheme being in line with the objectives of PPS 3(Housing) and Policy H13.



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

### **3 Code No: DER/02/08/00266**

The scheme refused at the meeting on 18 January had a density of 21.5/ha. No appeal has yet been lodged but I have to advise Members that it would, in my view, be very difficult to sustain the reason for refusal at appeal. There are two reasons for this; firstly describing the scheme as “over-intensive” when it is well below the CDLPR targets and, secondly the highly subjective nature of what constitutes being “out of character”.

The current proposal is some 18.8/ha and, in the absence of any outstanding environmental feature, is uncomfortably close to being contrary to policy through inefficient use of land. However, the CDLPR density target is being met elsewhere and I consider that a more relaxed view can be taken on such windfall sites.

The draft layout indicates that a high quality residential layout could be provided. The development would be served directly off Morley Road, which is a bus route and an accessible location. In policy terms, the proposed redevelopment of the site for seven houses would be acceptable.

Details of layout, design and external appearance would be reserved for a future application. The proposed residential layout would form a self-contained development served off a short access road. It would have a traditional appearance and take reference from other housing developments in the local area. The draft illustrative layout indicates that development is envisaged that would be in keeping with the scale and character of existing dwellings in the street scene. Overall, the proposed layout and density would tie in with the general character and appearance of the surrounding residential area.

The potential traffic generation from seven dwellings would not have a significant impact on Morley Road, which is relatively straight on this stretch. The Highways Officer has not raised any objections to the additional traffic flows and servicing arrangements. The speed humps and bus stop would need to be relocated at the developer’s expense and this would be secured by a condition of any planning permission.

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

**B1 APPLICATIONS (cont'd)**

**3 Code No: DER/02/08/00266**

future conflict with daylight to the pair of houses indicated for this part of the site but I am satisfied that a satisfactory relationship can be obtained at reserved matters stage.

The Derbyshire Wildlife Trust was not a consultee because, in my view, the criteria for consultation did not exist. Its comments raise an increasingly common aspect of development proposals. Planning Policy statement 9, on biodiversity, recommends habitat and ecological surveys before an application that might affect a sensitive site is determined. Whilst it is of general application, it is clearly aimed at major development; a good local example where such studies were commissioned is Kings Croft at Allestree.

A survey prior to decision is justified where the results of the survey might influence the Local Planning Authority's decision. In cases like the current one it is inconceivable that we would refuse redevelopment because the existing bungalow might have bats in its roof. Indeed such would be quite futile because the bungalow can be demolished anyway as "permitted development" without a survey and without the intervention of any conditions of permission. The person carrying out the work would still need to comply with the Wildlife and Countryside Act but such compliance would not involve the planning system.

Bat surveys can only be carried out at any time of year but for completeness need to include an emergence survey that can only be done between March and September. Unless the applicant has had the foresight to commission one at the relevant time, an application can be put in abeyance for several months. This is not justified with minor schemes, especially where the potential harm arises from something that is permitted development, that is the demolition, rather than from the development proposals that the Local Planning Authority is judging.

Biodiversity is an important aspect of planning control but I am concerned that insistence on prior surveys for minor proposals will introduce delay out of all proportion to the potential benefits. Whilst this current proposal involves demolition it is equally arguable that prior surveys should be undertaken on house extensions involving roof alterations.

Therefore, where the acceptability of development is dependent substantially on the outcome of a habitat survey, I recommend that a survey is required in accordance with PPS9. Where it is a question of ensuring that the Wildlife and Countryside Act provisions are observed I will continue to recommend that conditions are imposed on permissions.

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

### **3 Code No: DER/02/08/00266**

In relation the DWT's other point, about the impact on the brook, the draft layout plan indicates houses some 25m to 30m away. I expect any reserved matters layout to keep closely to that line because of flood risk and because of the need to maintain a margin to a sewer running parallel to the brook. No actual development is near to the brook and I do not see any obvious impact.

I am pleased that the resident in the house immediately adjoining the western boundary welcomes the redevelopment. In relation to objectors' points, I would remind Members that traffic and flood risk issues were raised with the previous application but did not form part of the reason for refusal. I am quite satisfied that there will be no additional flood risk problem and that the traffic impact will be insignificant. As permission is sought for a fixed number of dwellings no condition restricting the number is required.

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

**11.1 To grant** outline permission with conditions.

**11.2 Summary of reasons:** The proposal has been considered in relation to the provisions of the City of Derby Local Plan Review and all other material considerations as indicated in 9 above. The proposal indicates that an appropriate form of residential development will be created through the reserved matters application following the principles set out in it. The indications are that the criteria for the adopted City of Derby Local Plan policy H13 will be met.

#### **11.3 Conditions**

1. Standard condition 01 (outline – except for details of access; landscaping becomes (b)).
2. Standard condition 02 (time limit).
3. Standard condition 21 (landscaping maintenance) (change “1c” to “1b”).
4. Standard condition 38 (drainage).
5. Standard condition 24 (protection of vegetation).
6. The scheme of protection required under Condition 5 shall also include a method statement for construction of the access road and the removal of the existing driveway, where they encroach into the root protection areas of the trees indicated to be retained and

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

### **3 Code No: DER/02/08/00266**

should be implemented in accordance with such approved details.

7. No development shall commence until the traffic restraint measures and bus stop on Morley Road, located adjacent to the proposed access have been repositioned in accordance with details to be submitted and agreed in writing by the Local Planning Authority.
8. Standard condition 104 (energy consumption).
9. Before any development is commenced, including demolition of the existing building:
  - a. a survey of roosting bats and the potential for roosting bats shall be undertaken. This shall be in the form of emergence/roost survey to determine the exact nature of bat presence on site. Depending on the results of the survey
  - b. necessary measures to protect the species through mitigation proposals shall be submitted to and agreed in writing by the Local Planning Authority
  - c. all such agreed measures shall be implemented in their entirety
  - d. a DEFRA licence shall be secured to legitimise destruction of any bat roost.

#### **11.4 Reasons**

1. Standard reason E01.
2. Standard reason E02.
3. Standard reason E10. (add: "in accordance with the objectives of policy E17 of the adopted City of Derby Local Plan Review").
4. Standard reason E21 (add: "in accordance with the objectives of policy GD3 of the adopted City of Derby Local Plan Review").
5. Standard reason E24 (add: "in accordance with the objectives of policy E9 of the adopted City of Derby Local Plan Review").
6. Standard reason E24 (add: "in accordance with the objectives of policy E9 of the adopted City of Derby Local Plan Review").
7. To enable the development to be implemented, without undermining highway safety in the local area (add: "in accordance with the

**B1 APPLICATIONS (cont'd)**

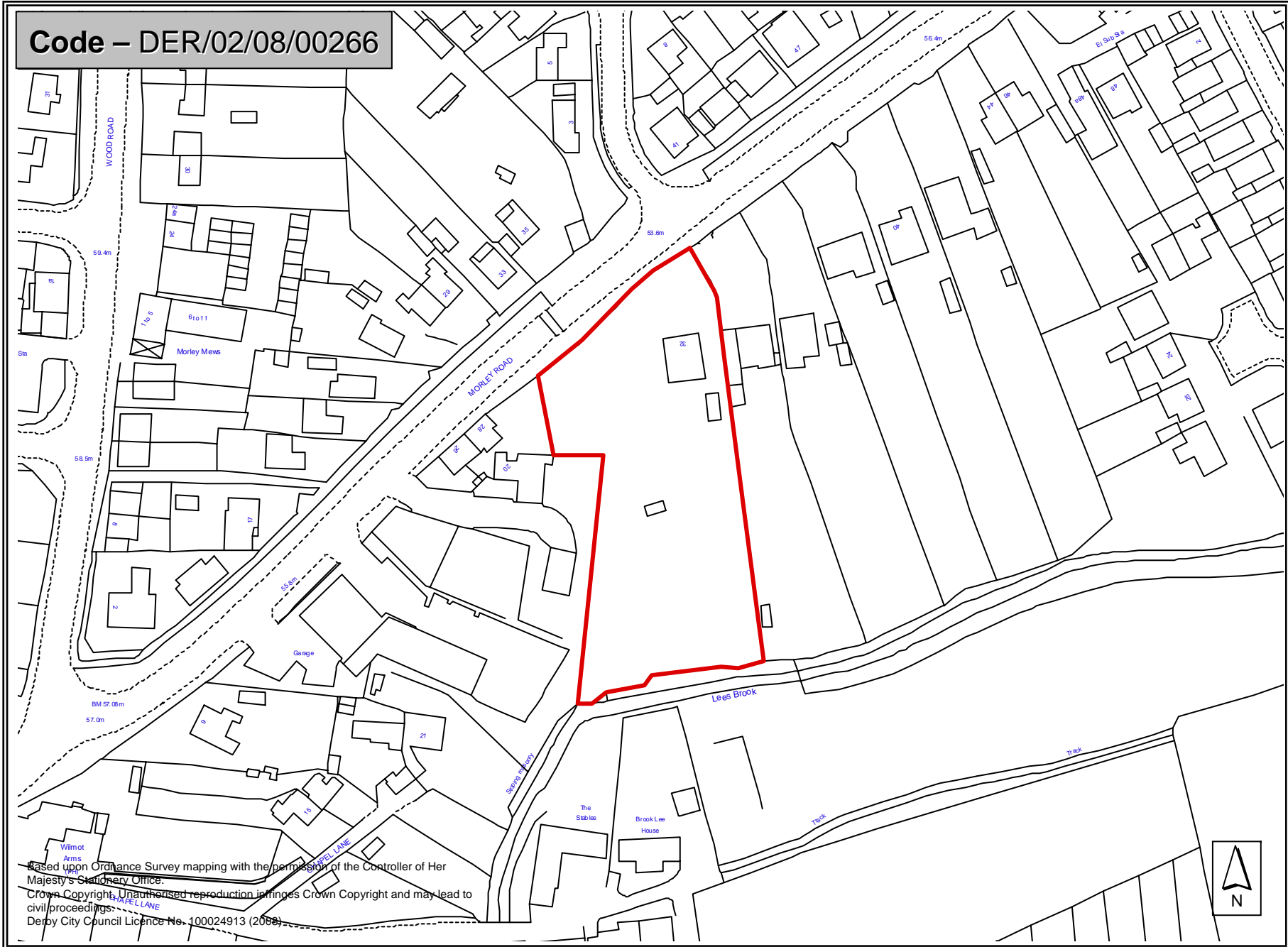
**3 Code No: DER/02/08/00266**

objectives of policy T4 of the adopted City of Derby Local Plan Review”).

8. To ensure that the opportunity is taken to incorporate renewable energy features in the development which will help to reduce energy consumption, reducing pollution and waste and in accordance with policy E10 of the adopted City of Derby Local Plan Review.
9. To ensure that the existence of any bat roosts at the site is fully investigated and that there is minimal disturbance and protection of this protected species in accordance with the principles of Planning Policy Statement 9 - Nature Conservation and policy E9 of the adopted City of Derby Local Plan Review - 2006.

**11.5 S106 requirements where appropriate: None.**

**Code – DER/02/08/00266**



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## B1 APPLICATIONS

4 Code No: DER/10/07/01951

**Type:** Full

1. **Address:** 1-4 Bold Lane (Former Princes Supermarket)
2. **Proposal:** Erection of 25 apartments, retail units (use classes A1/A2), café/restaurant (use classes A3/A5), office (use classes B1/B2) and associated car parking.
3. **Description:** The site is located in the Cathedral Quarter of the city centre. It fronts onto Bold Lane and lies close to the junction shared by Bold Lane, Sadler Gate, Cheapside and The Strand. It currently accommodates a disused retail unit (formerly Princes supermarket) and its associated storage sheds. These buildings stand vacant and are in a state of disrepair.

The site lies within the City Centre Conservation Area. It is an irregular shaped site that abuts the boundaries of no's 2, 6, 8 and 9-11 Bold Lane which is grade II listed. A single storey Victorian outbuilding abuts the northern boundary and is used as a car park attendant's office. This outbuilding lies within the curtilage of 29 St Mary's Gate. The car park which the attendant's office serves is that of Middleton House, a large office building which occupies a prominent position to the east of the site. The existing car park wall offers a boundary to the eastern edge of the application site. This wall is historically and physically connected to both 26 and 29 St Marys Gate both of which are grade II listed buildings. The removal of that wall in order to facilitate this development is subject of separate applications for listed building consent and conservation area consent.

This planning application offers a mixed-use development scheme across the site comprising 1,530 sqm of retail floorspace of which 640 sqm are proposed as a cafe/restaurant (use classes A3/A5), 3,688 sqm of office space (use class B1/A2) are also proposed and 25 apartments. The design solution proposed for the site offers four separate buildings with frontages to Bold Lane that are grouped around a new central pedestrian space.

The four buildings subject of this scheme extends between three and five storeys in height. In the application submission, the buildings are numbered 1-4 and for the purposes of clarity these references will be maintained throughout this report. Buildings 1, 3 and 4 each accommodate retail / café / restaurant use on the ground floor with offices on the upper floors towards the front of the site and apartments on the upper floors towards the rear. A ramp, extending below building 4, provides access to an undercroft car park that provides 57 car parking spaces and 15 cycle hoops. A dedicated lift and stair offers access to the car park from the ground floor of building 1. Ground floor lobbies offer shared access to the apartments and offices and a

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

### **4 Code No: DER/10/07/01951**

central, recycling and refuse point is proposed on the ground floor of building 1.

Building 2 is the smallest offered within the development extending to three storeys in height. It is proposed to accommodate retail units on the ground floor with residential units on the upper two floors. A communal winter garden is proposed to be located on the roof. The low level height of this building seeks to open up views through the site towards the Cathedral, from Cheapside and George Yard. The tower of Middleton House currently blocks these views. However, this scheme is perceived as phase 1 of a wider redevelopment scheme, which would offer additional phases resulting in the removal of Middleton House and the creation of a series of interlinked spaces which permeate uphill and provide pedestrian access through to Iron Gate.

It is outlined in the design and access statement submitted with the application that the scheme intends to create the architectural frame for a vibrant new destination at this end of the city centre. A contemporary approach has been adopted in terms of the buildings form and appearance and this approach is integral to the scheme's aim of providing a landmark development. The size and layout of each building differs but a contemporary approach to the external appearance of the development is common to each of the buildings. With simple elevations that are broken down through the use of set backs within the facades, roof terraces, balconies and communal garden areas are accommodated at the upper levels.

#### **4. Relevant Planning History: Relevant to this application are the following applications for listed building consent and conservation area consent:**

DER/10/07/01952 - demolition of part of boundary wall of Middleton house physically and historically connected to the listed building at 26 and 29 St. Mary's Gate in connection with the erection of 25 apartments, retail units (use classes A1/A2), cafe/restaurant (use classes A3/A5), office (use classes B1/A2) and associated car parking - Listed Building Consent application.

DER/10/07/01953 - demolition of buildings to erect 25 apartments, retail units (use classes A1/A2), cafe/restaurant (use classes A3/A5), office (use classes b1/a2) and associated car parking – Conservation Area Consent application.



## B1 APPLICATIONS (cont'd)

4 Code No: DER/10/07/01951

### 5. Implications of Proposal:

5.1 **Economic:** 3,688 sqm of commercial office space and 1,530 sqm of retail floor space would be formed within the development which would provide employment opportunities.

5.2 **Design and Community Safety:** The cluster of buildings, the new public realm of streets and the small square are considered to offer the development a clear sense of place whilst reinforcing the tight urban grain of the historic street scene of which this development is a part. A contemporary design approach has been adopted but this is carried through the whole architectural language of the scheme and will, in my view, offer a uniqueness to the scheme that can sit comfortably within this historic environment.

The buildings will have a strong presence in views from Bold Lane and strategic views from Blacksmith Yard and St Mary's Gate. Issues relating to the scale and mass of the development and its relationship to neighbouring buildings, its impact on the character and appearance of the surrounding Conservation Area and adjacent listed buildings go to the heart of the issues involved in this application. Those matters will be discussed in detail in the Officer Opinion section of this report.

The proposal would significantly enhance natural surveillance around the site. The mixture of uses will offer the development activity and good levels of natural surveillance through most parts of the day. Access to the apartments would be achieved via the new streets and central public space. A concierge is proposed to be centrally located within the development, which would offer further surveillance and security around entrances to the apartments and the underground car parking area.

5.3 **Highways:** Car parking is 16% below the maximum local plan standards. This level of parking is considered to be excessive considering its close proximity to surrounding car parking facilities and its sustainable location close to the City Centre. A highways contribution will be required for sustainable transport improvements in the area to encourage people to utilise other modes of transport. The submitted travel plan is acceptable including the proposed methods of implementation, monitoring and managing. Sufficient cycle stands are proposed for the development but these are not considered to be secure in the basement area and further security should be provided in the form of secure located store or compound. It is also considered that the spaces allocated for motorcycles do not appear to be very user friendly. An agreement will have to be made between the developer and the Highway Authority to undertake work to the frontage of the

## B1 APPLICATIONS (cont'd)

### 4 Code No: DER/10/07/01951

development including the loading bay in Bold Lane and an Order will need to be made to allow for loading and unloading. It is advised that before use of the development is permitted, drainage shall be provided within the site such that surface water does not drain into the public highway. This matter can be addressed through a condition should planning permission be granted.

- 5.4 Disabled People's Access:** The proposed development appears to have been designed with accessibility in mind. The two alleyways, which lead from Bold Lane, follow the existing slope of the site, uphill towards the pedestrian square. Buildings 1, 3 and 4 offer lift access to the upper floors of the development, which are sized for wheelchair access. Level access is provided to all ground floor retail/café/restaurant uses.

Two of the new apartments are to be constructed to the Lifetime Homes Standards and this will be secured through the section 106 Agreement. The remainder of the units will have a degree of accessibility through compliance with Building Regulation guidance. Three disabled car spaces are proposed in the basement car park in close proximity to the access lift and stairs. I am satisfied that the public buildings which form part of the scheme will be fully accessible to disabled people.

- 5.5 Other Environmental:** It is proposed that the building will incorporate key ecological and sustainability measures including the following:

- The underground car park is proposed to be naturally ventilated and with light entering from the north edge of the site and from George Yard to the south. Planting is also proposed to be incorporated into these areas assisted at George Yard by photovoltaic powered grow lights
- All flat roofs are to be green surfaced with sedum
- Extensive planting will be encouraged on terraces and vertical wall surfaces greened with low maintenance self-climbing vines.
- Bat tubes are to be incorporated high on the south elevation of building 1
- Buildings are designed to be thermally massive and shallow plan with opening windows to provide effective indoor conditions in summer

**B1 APPLICATIONS (cont'd)**

**4 Code No:** DER/10/07/01951

- A mechanical ventilation system with heat recovery is proposed to provide ventilation without undue heat loss
- Solar thermal panels would be mounted on south facing roof slopes and the hot water produced would be used in the apartments
- Rainwater is proposed to be harvested for recycling and a tank for its collection is proposed to be located under the central pedestrian square
- Showers are to be provided in all office suites to encourage cycling and jogging.

**6. Publicity:**

Neighbour Notification letter	21	Site Notice	
Statutory press advert and site notice	Yes	Discretionary press advert and site notice	
Other			

**7. Representations:** No third party letters of representation have been received in response to this application.

**8. Consultations:**

CAAC – welcomed the amendments that had been made to the scheme including the reduction in massing, particularly to building 1. However, it was felt that concerns regarding the heights and massing of three of four of the proposed buildings remain. The Committee considered that three of the four buildings, particularly building 1 were considered to be too dominant in this context, the square parapet roof forms when viewed from pedestrian level was considered to be inappropriate and the shop windows too large an expanse of glazing, not lining up with Sadler Gate and Bold Lane frontages. The Committee recommended refusal of the application.

EH – raise objections to the scheme and do not consider that it would be appropriate for planning permission to be granted for the proposal in its current form. The principle of redeveloping the former Princes Supermarket site for new mixed use development is strongly supported. The disposition of the buildings within the site, the introduction of new pedestrian routes and the creation of interesting new urban spaces are commended. The adoption of a contemporary style of architecture is also considered appropriate and the sustainability credentials of the building design are applauded. However, it is considered that some aspects of the design fall short of

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

### **4 Code No: DER/10/07/01951**

expectations for such an important location at the heart of the historic core of Derby. In particular it is considered that the height and massing of much of the proposed development is excessive in relation to the surrounding historic townscape of the City Centre Conservation Area and to the modest scale of nearby listed and other traditional buildings that contribute to the distinctive character of this part of Derby. It is considered that the scheme would be harmful to the character and appearance of the Conservation Area and to the setting of the historic buildings in the area by virtue of its excessive height and massing. As such it is considered that the scheme will fail to capitalise on the opportunity to reinforce the intimate scale of built form in this, the most historic part of Derby.

County Archaeologist – notes that the site falls within an archaeological alert area as defined in the local plan. An archaeological desk-based assessment has been submitted in support of the application and it does attempt to assess the likely character and survival of archaeological remains in the area and the probable impact of development upon that archaeology. It is considered that there will be a much greater opportunity to investigate, identify and record the archaeology of the site once it has been cleared. It is recommended that a condition be attached to any planning permission granted which requires that no development shall take place on site until the implementation of a programme of archaeological work in accordance with a written scheme of investigation has been secured and approved by the Local Planning Authority. It will be important that sufficient time is built into the demolition and construction schedule to allow this work to be undertaken.

Police – notes that the immediate area is well known for its late night economy trade with recess and alleyway being vulnerable to unwanted intrusion. It is therefore paramount that as few recesses and hidden corners as possible are permitted. It is considered that there are far too many unregulated escape routes, which will hinder operational policing and present easy opportunities for crime. It is recommended that as few entrances and exit points as possible are used, unless additional surveillance is provided. Building 3 would have been ideal for residential as it is the block with most surveillance opportunities and can be said to be the potential keeper of the inner space. Its dominant position within the inner square would have been the ideal location for residents to maximise the surveillance opportunities presented. Unfortunately, this is the only block without residential. Any links routing pedestrians through car parks should be avoided at all costs. The car parking area shows screen fencing and gated access, this fencing and gate must be visually permeable and robust enough to enable enclosure of space outside of hours. The fencing also encloses a

## B1 APPLICATIONS (cont'd)

4 Code No: DER/10/07/01951

narrow path route and again to ensure safety of this route the fencing must be open in design. It is recommended that due to the complexity of the layout, that spaces that can be operationally enclosed out of main hours be gated, even if part time gated and an exclusive residential community is created. A comprehensive CCTV system must be deployed to enable the design and layout to be a safe and welcoming addition to Derby.

Natural England – To be reported.

EA – raise no objection to the proposed development but consider it necessary that conditions be imposed if planning permission is granted. These should ensure that the development is carried out in accordance with the recommendations of the submitted Flood Risk Assessment and that drainage details should be submitted to and approved by the Local Planning Authority prior to works commencing on site. It is also advised that site operators should ensure that there is no possibility of contaminated water entering and polluting surface or underground waters. Recommendations are also put forward that fittings within the building should be chosen that are designed to minimise water usage. Any further comments raised in response to additional flood risk information that has been submitted by the applicant, will be reported.

EnvHealth – Details of the ventilation system to be installed in the café / restaurant shall be submitted and approved prior to development commencing. A preliminary site investigation report shall also be undertaken and any potential contamination identified. If necessary, a remediation and validation statement shall be submitted to and agreed in writing with the City Council. The noise survey submitted with the application gives insufficient detail to assess the full extent of noise levels in the area and further information will need to be submitted and agreed.

Severn Trent Water – To be reported.

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

- GD1 - Social Inclusion
- GD2 - Protection of the environment
- GD3 - Flood Protection
- GD4 - Design and the urban environment
- GD5 - Amenity
- GD8 - Infrastructure
- R1 - Regeneration Priorities
- CC1 - City Centre Strategy
- CC2 - City Centre Shopping Area

## B1 APPLICATIONS (cont'd)

4 Code No: DER/10/07/01951

- CC7 - Residential Uses within the Central Area
- CC9 - Northern Quarter Area Policy
- CC18 - Central Area Car Parking
- H11 - Affordable Housing
- H12 - Lifetime Homes
- H13 - Residential development – general criteria
- EP13 - Business and Industrial Development in Other Areas
- S1 - Shopping Hierarchy
- S2 - Retail Location Criteria
- S12 - Financial and Professional Services and Food and Drink Uses
- E7 - Protection of Habitats
- E10 - Renewable energy
- E13 - Contaminated land
- E17 - Landscaping
- E18 - Conservation Areas
- E19 - Listed Buildings and Buildings of Local Importance
- E21 - Archaeology
- E23 - Design
- E24 - Community safety
- L2 & L3 - Public Open Space standards
- T4 - Access and Parking
- T10 - Access for disabled people

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

10. **Officer Opinion:** The proposed development of this underused brownfield site within the city centre would fulfil Cityscape aspirations for urban regeneration in the Cathedral Quarter. The existing buildings, which stand on the site, are currently vacant and are generally accepted to be in a poor state of repair. They are of limited historic or architectural merit and as such redevelopment of this site within the City Centre conservation area is considered acceptable.

The retail premises proposed are all located within the defined city centre shopping area and are considered acceptable within policy. Policy CC9 also allows for businesses within this location and the proposal would be in line with the requirements of policy EP13. The restaurant / café use falls just outside of the city centre shopping area. As an edge of centre use it would be acceptable in policy terms provided that it does not offer a compromise of residential amenity. Residential uses are also acceptable in line with city centre policy provided that a high quality living environment can be created. In terms of the principle of the development in respect of land usage, the scheme is therefore considered acceptable.

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

**4 Code No: DER/10/07/01951**

### **Design and Conservation**

The development would be sited in a very prominent location within the city centre conservation area and the cathedral quarter. The redevelopment of the existing derelict site has been encouraged, and this application is supported by Cityscape as it meets with their aspirations for boosting the renaissance of Derby's cathedral quarter. Clearly, there is a need to bring back into use and repair this important conservation area site. A high standard of urban design and layout is sought due to the site's historical sensitivity and prominent location.

It is considered that the layout of the development is attractive. A strong frontage to Bold Lane would be provided with a sense of enclosure created along the street frontage, which is characteristic of the surrounding conservation area. Many of the design aspirations of the development are supported by English Heritage and the City Council's Conservation Area Advisory Committee. It would offer interesting spaces and views through the new pedestrian routes to the central square which will assist in offering a development with a strong sense of place. There are some concerns with regards to the design of the shopfronts, although generally it is accepted that active and interesting frontages are offered at ground floor level with attractive, high quality floorspaces offered within the office accommodation and retail units. It is clear from the design and access statement submitted with the application that a holistic approach to the design and function of the whole space has been given detailed and clear consideration. The contemporary approach to the building style proposed is considered acceptable and the concept of juxtaposition of modern buildings alongside historic buildings is a concept that is increasingly being explored and found to be able to work successfully and there are no overriding objections to a contemporary approach to development being adopted on this site.

This is not to say that all design aspects of the scheme are supported and concerns have been expressed with regards to the scale and mass of this development and the impact that it would have on the surrounding Conservation Area and the setting of nearby listed buildings. Both the City Council's Conservation Area Advisory Committee and English Heritage have expressed strong concerns that the scale and mass of the buildings will offer a development that would be harmful to this area and both suggest that planning permission should not be granted for the development in its current form. English Heritage has noted that most of this area is characterised by fine grained townscape, modest building heights and small plots. They go on to suggest that the impact of the proposed development will be to overwhelm the modestly scaled and fine grained historic townscape in

**B1 APPLICATIONS (cont'd)**

**4 Code No: DER/10/07/01951**

the historic core of the city. Particular reference is made to the relationship between the development and 1-2 Sadler Gate and no. 6 Bold Lane where English Heritage states that the relationship between the new and existing buildings would be unsatisfactory. The concerns raised by the Conservation Area Advisory Committee also make particular reference to the expanse of glazing offered on the shop fronts and questions are raised as to their appropriateness given that they would not line up with Sadler Gate and Bold Lane shopfronts.

Concerns over the scale and mass of the development have been considered by the applicant and amendments have been made to the elevations of buildings 1 and 3 which have offered a reduction in the height of some facades and a greater level of set back offered on upper floors to assist in a reduction in the bulk of the development. These amendments have been welcomed by the Conservation Area Advisory Committee and English Heritage but they remain unconvinced that those amendments go far enough and they retain their objections to the granting of planning permission for this development in its current form.

It is not disputed by the applicants that the scheme would have a prominent impact on the surrounding Conservation area but in their view, the development would offer a positive, appropriate and distinctive contribution to its immediate environment. I share the view of the applicants that the difference in scale of the development from its neighbour, is entirely characteristic of the streets in the immediate area and that the development is broken down into individual buildings which themselves set back and break down into smaller appropriately sized elements which aim to respond in a fresh and contemporary way to this sensitive site.

Issues relating to the scale and mass of the development have therefore lead to somewhat conflicting views as to the impact of the development on strategic views into and through the site and its resulting implications for the character of the Conservation Area and setting of nearby listed buildings. Much debate has been undertaken surrounding the contextual appraisal of the site and how the existing qualities of the site, its neighbours and the surrounding Conservation Area shape the design solution that should be pursued on this site. It is agreed that those solutions should include a number of the design features that this scheme has to offer but agreement on the appropriateness of the scale and mass of the proposal in its context, has not been reached.

It needs to be recognised that investment has been made into the quality of design in this scheme as well as its sustainable principles.



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

### **4 Code No: DER/10/07/01951**

Reductions in the level of floorspace offered across the site would assist in reducing its scale and mass but can also affect the economic viability of the scheme as a whole. This development would offer clear commercial benefits to the cathedral quarter of the city centre and offer it a vibrancy that is needed and welcomed along this western edge of the city centre shopping area. The concerns over the scale and mass of the development must therefore be weighed against the need to achieve appropriate and successful redevelopment of a site which at present fails to positively contribute to its Conservation Area setting.

A separate application for conservation area consent has been submitted for the demolition of part of the boundary wall of Middleton House and the removal of the existing buildings which occupy the site. An application for listed building consent also seeks the removal of part of the boundary wall of Middleton House which is physically and historically connected to the listed buildings at 26 and 29 St Mary's Gate. These applications are not particularly contentious and have not generated any third party objections. The Conservation Area Advisory Committee has not raised any objections to either application subject to an appropriate replacement development being secured for the site. It is therefore considered appropriate that should the Committee resolve to grant planning permission for this scheme that those two applications be dealt with under delegated authority and the consents be granted for the demolition in conjunction with the permission for this replacement scheme.

#### **Amenity**

The proposed development is offered a tight relationship with existing neighbouring properties. Windows are offered in all elevations of the buildings resulting in direct overlooking of adjacent property and sites. The majority of buildings which surround the site are in office, retail and restaurant uses and this close relationship between buildings and uses is characteristic of the tight urban grain of the surrounding area. Although neighbouring sites would be overlooked by the development, I am satisfied that a significant loss of any residential amenity would not result in this case and the development will actually serve to increase natural surveillance and activity in the neighbouring streets and yards. I have noted the concerns raised by the Police Architectural Liaison Officer but in my view, it would not be desirable to seek the gating of the new development. I do consider that the mix of uses offered in this scheme should encourage passers by to walk into the heart of the development thereby assisting passive surveillance within the new alleyways and pedestrian square.

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

### **4 Code No: DER/10/07/01951**

The inclusion of residential accommodation within this scheme is supported by the Cityscape masterplan and local plan policy CC7. There are many sustainability and crime prevention benefits from accommodating additional residential development within such a central location. It is accepted that noise and activity from late night users will be experienced by future occupiers and to a degree, this is unavoidable in mixed use areas. This application was supported by a noise survey, the scope and content of which continues to be discussed between the applicants and colleagues in Environmental Health. Clearly, mitigation measures may need to be put in place to ensure that a satisfactory level of amenity is achieved within the residential units and this has yet to be agreed but an appropriately worded condition could be attached to any planning permission to ensure that these issues are resolved prior to any development commencing on site.

The distances between windows between the residential and office accommodation within the development site itself fails to meet space standards that we would normally seek to apply and this development will offer a direct overlooking relationship between windows, internally within the development. Such a relationship may be undesirable, however, the site context dictates a tight urban form of development is appropriate for this site and the new urban grain offered through the cluster of buildings is appropriate for its context. Resolution of the overlooking issue would offer either a form of development that fails to relate sensitively to the urban grain of the surrounding conservation area or a development that would be characterised by flank elevations which offer no interest and surveillance opportunities to the street. Although the window positions in the development will offer a reduction in the level of residential amenity being offered within the apartments, I do consider that such a relationship can be justified in this case. In my view, the mix of uses proposed in this scheme would bring vitality to the area which is needed and ensure that the buildings and spaces around them will be active throughout the day

#### **Access**

Off street car parking has been integrated into the development at basement level. Although the level of parking provision is considered excessive, given the central location of the site, the level of provision remains acceptable within policy and I would not offer objection to the application on those grounds. The development offers good provision of cycle parking and the provision of showers within the office units should assist in promoting their use. No objections are raised to the servicing of the site via a new loading bay on Bold Lane. This would

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

### **4 Code No: DER/10/07/01951**

be subject details being finalised and the necessary agreements being secured to enable the works to take place.

This development would serve to open up new pedestrian routes and the layout of the buildings provides a permeable public realm which is integral to the scheme. Access to the site is principally from Bold Lane but there is also a path from George Yard around the side of building 1. Consideration has been given as to whether this could link through to George Yard in the future thereby offering additional links to Sadler Gate. Although links beyond the eastern boundary would be somewhat terminated by the car park and Middleton House, this scheme is designed as phase 1 of a wider regeneration of the area. This reconnecting of this part of the City's network of streets yards and alleyways is welcomed and considered to positively contribute to the character and quality of the city centre conservation area.

#### **S106 requirements**

This scheme would generate a requirement for contributions towards public open space, public realm and highway improvements including improvements to the transport corridor. The provision of lifetime homes and affordable housing would be required within the development and a 30% proportion of affordable units is being sought although this issue is still being negotiated. There is a requirement for the provision of public art and two locations on site have been identified and are considered acceptable.

To conclude, redevelopment of this site is welcomed. The proposed scheme offered in this application would bring vitality to this part of the city centre that is needed and this proposal broadly meets with the local plan's aims for regeneration in this area. The high quality design and sustainable principles adopted in the scheme are commended. It is considered that the development would offer successful spaces and the modern elevational treatment of the development is considered acceptable in this historic context. Opposing views remain in respect of the scale and mass of the development which leaves open the question as to how successful the scheme would be in enhancing the character and quality of this historic area. However such considerations need to be considered alongside a need to provide a viable and successful reuse of this site. Overall, it is considered that the scheme reasonably meets the aims of the local plan policies that are applicable and accordingly, a positive recommendation is put forward.

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

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

**4 Code No:** DER/10/07/01951

- A. To authorise** the Assistant Director – Regeneration to negotiate the terms of a Section 106 Agreement to achieve the objectives set out in 11.5 below and **to authorise** the Director of Corporate Services to enter into such an agreement.
- B. To authorise** the Assistant Director – Regeneration **to grant** planning permission on the conclusion of the above agreement with conditions.

**11.2 Summary of reasons:** The proposal has been considered in relation to the provisions of the City of Derby Local Plan Review and all other material considerations as indicated in 9 above. The mixed use development is considered acceptable in design, amenity and highway safety terms and is considered to offer an acceptable redevelopment of this prominent and historic site.

### **11.3 Conditions**

1. Standard condition 83 (amended drawings)
2. Standard condition 27 (external materials)
3. Standard condition 20 (Landscaping)
4. Standard condition 22 (Landscaping maintenance)
  
5. Detailed plans showing the design, location and materials to be used in the boundary treatment along the eastern boundary of the development, shall be submitted to and approved in writing by the Local Planning Authority before development commences and shall be carried out in accordance with such detailed plans.
  
6. Standard condition 38 (foul and surface water drainage)
7. Standard condition 100 (site contamination)
  
8. Before development commences, a detailed noise assessment establishing the impact of noise on the apartments and details of proposed measures to mitigate for any identified noise implications shall be submitted to and approved in writing by the Local Planning Authority before development commences unless otherwise agreed in writing by the Local Planning Authority.
  
9. The recommendations outlined in the Flood Risk Assessment produced by BWB Consulting shall be implemented in accordance with a timetable to be submitted to and agreed in writing by the Local Planning Authority before development commences, unless otherwise agreed in writing by the Local Planning Authority.

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

**4 Code No: DER/10/07/01951**

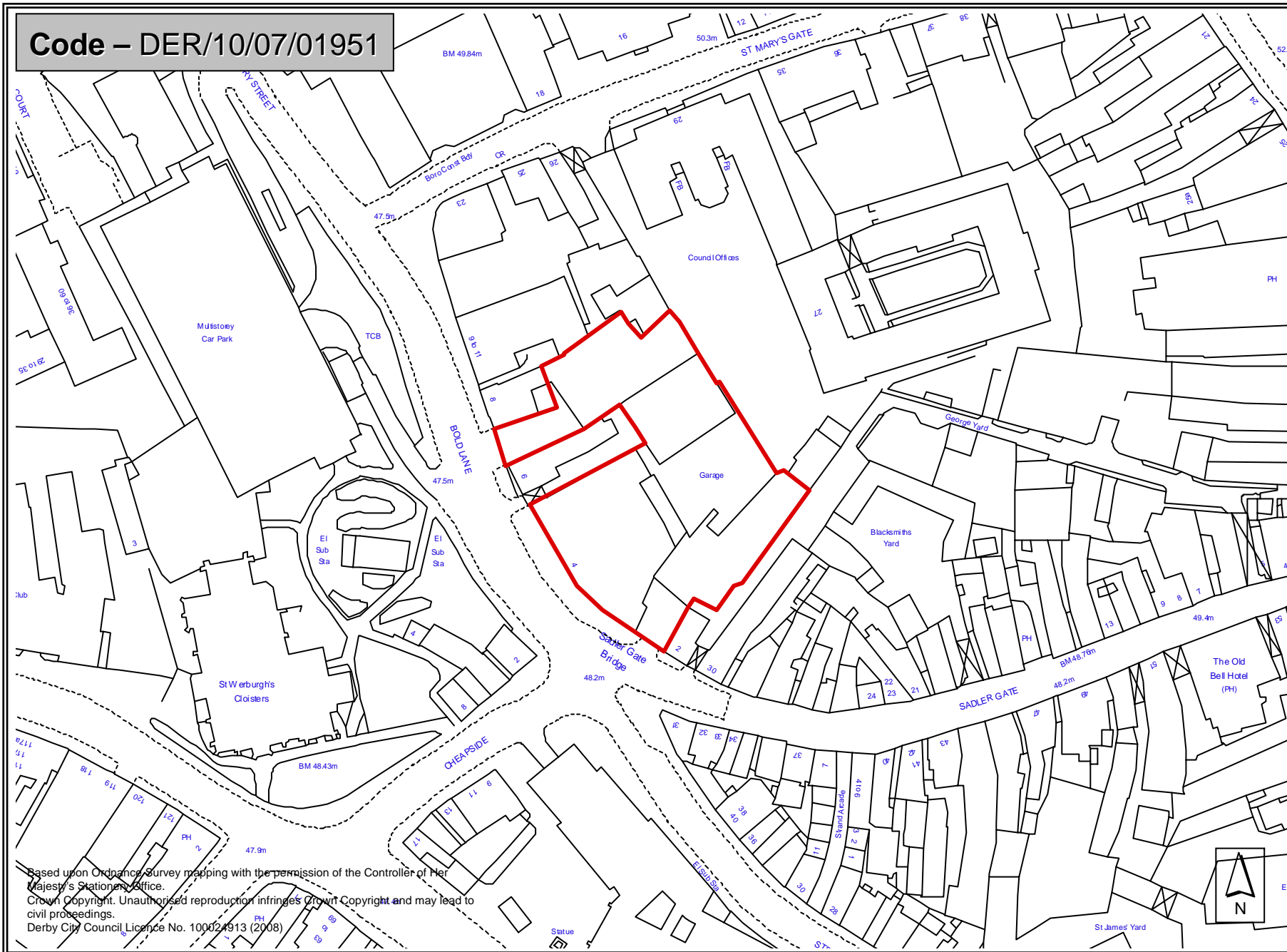
10. No development shall take place within the area indicated until the applicant, or their successor in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority.
11. Before development commences details of a fume extraction / ventilation system, with silencer and carbon filtration, which is to be installed with the café / restaurant, shall be submitted to and approved in writing by the Local Planning Authority. The use shall not commence unless the approved system is working satisfactorily. The details shall include the location and design of any external vent or flue.

### **11.4 Reasons**

1. Standard reason E04
2. Standard reason E14...policies E23 and E18
3. Standard reason E09...policies E23 and E17
4. Standard reason E09...policies E23 and E17
5. Standard reason E14...policies E23 and E18
6. Standard reason E21...policy GD8
7. Standard reason E15... policy E13
8. The noise survey submitted with the application gives insufficient detail and to enable the Local Planning Authority to protect the amenities of future occupiers of the apartments further information will be required in order to ensure that a satisfactory living environment is created within the development, in accordance with policy H13 of the adopted City of Derby Local Plan Review.
9. To ensure satisfactory measures are put in place to compensate for any potential adverse effects of the development on the water environment in accordance with the requirements of policy GD3 of the adopted City of Derby Local Plan Review.
10. To protect any archaeological interest on or under the site...policy E21.
11. Standard reason E25 ... policies S12 and GD5

**11.5 S106 requirements where appropriate:** Affordable housing, lifetime homes, public open space, public art, public realm and highway contributions.

**Code – DER/10/07/01951**



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## B1 APPLICATIONS (cont'd)

5 Code No: DER/02/08/00204

**Type:** Full

1. **Address:** 121 Nottingham Road, Derby
2. **Proposal:** Change of use of ground floor to café. (Use Class A3)
3. **Description:** This shop is within the Nottingham Road Conservation Area on a section of Nottingham Road that operates only as a local distributor. It is next to a pub but otherwise in a terrace that is mainly residential. Whilst the northern side of Nottingham Road is therefore mainly residential, on the southern side is a largely open street scene, apart from the major office block. There is a fair level of traffic in the area but much of it seems to be generated by rat-running around the major road system

This property comprises a shop on the ground floor and a flat above. Permission is sought for a “daytime” café aimed mainly at people employed in the area.

### 4. **Relevant Planning History:**

DER/10/07/01995 – change of use of ground floor to café and hot food shop (mixed A3 / A5 use) and first floor to beauty salon. Refused under delegated powers 21 December 2007 for the following reasons:

1. “The proposed hot food shop is contrary to policy S12 of the adopted City of Derby Local Plan Review in that it is outside a defined shopping centre, no need for additional local facilities has been established, and there would be likely to be unacceptable harm to nearby residential properties, particularly those to the west, by reason of the activity associated with late evening use.
2. The proposed beauty salon is contrary to policy S12 of the adopted City of Derby Local Plan Review in that it is outside a defined shopping centre, no need for additional local facilities has been established, and it would, as an activity where clients wait for some considerable time, add to the pressure on limited on-street parking. Overall the premises would not have adequate servicing and parking facilities, contrary to policy T4 of the adopted City of Derby Local Plan Review.
3. The intensification of retail and quasi-retail activities outside a defined shopping centre would tend to undermine the retail strategy as set out in policies S1 and S2 of the adopted City of Derby Local Plan Review.”

**B1 APPLICATIONS (cont'd)**

**5 Code No:** DER/02/08/00204

**5. Implications of Proposal:**

**5.1 Economic:** One full-time and one part-time person is expected to be employed.

**5.2 Design and Community Safety:** - None

**5.3 Highways:** - No objections.

**5.4 Disabled People's Access:** Wheelchair access cannot be provided as there is a step up, the premises are on the back edge of the footway and this cannot be raised.

**5.5 Other Environmental:** Provision should be made for fume extraction.

**6. Publicity:**

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

**7. Representations:** 8 objections have been received at the time of preparation of this report and are available in the Members Room. These include three local traders, two residents and Councillor Repton. The main points are concerns over parking provision and amenity. One objection from the proprietor of a nearby sandwich shop objects on the grounds of lack of need.

Whilst the publicity period in respect of neighbour letters will have expired by the date of the meeting, that of the site and press notices does not expire until 29 April. My recommendation allows for this.

**8. Consultations:**

CAAC - no objection.  
DofES (Environmental Health) - to be reported.

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

GD5 - Amenity  
S12 - Financial and professional services and food and drink uses.  
T4 - Access, car parking and servicing.



## B1 APPLICATIONS (cont'd)

5 Code No: DER/02/08/00204

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

10. **Officer Opinion:** This is a considerably scaled-down proposal compared with that refused last year. The first floor flat is to remain, the hot food shop element has gone and the possible hours of operation have been clarified.

Members will be aware that the old A3 class, covering all food and drink uses, was split into:

- A3 - Cafés and restaurants.
- A4 - Public Houses and wines bars.
- A5 - Shops for the off-sale of hot food.

This was because it had become recognised that these had different amenity impact characteristics. Even within the new, more specific, classes there can be a wide range of impact depending on the trading style. Within the A3 class there is a great difference between a traditional daytime teashop and a late night establishment catering for the post-public house trade.

As now presented, this proposal is for a daytime only café. The applicant sees his trade as coming mainly from the substantial local employment locations. I see little amenity harm from this type of operation.

In relation to traffic, some objectors make the point that the existing shop has been vacant for some time. However, the proper comparison is with what an average A1 retail unit would generate compared with the proposal. In my view, the daytime-only use would result in the great majority of the trade being walk-in. I cannot see any significant occurrence of people driving to the site and wishing to use the limited on-street parking. Insofar as there is a problem, some of this may be as a result of two of the objectors operating shops that are highly specialised and clearly cater for a wide catchment area.

The proprietor intends to do some deliveries to commercial premises. Ordinarily this could be carried out from a café without its constituting a dual use. However, I am aware that this activity could result in loss of amenity if carried out well outside sociable hours so I have devised conditions that will permit this whilst keeping a tighter control on the hours that customers are admitted to the café. These are slightly different to those proposed by the applicant but will, I understand, be acceptable to him. I also suggest the prohibition of off-sales of hot food

## B1 APPLICATIONS (cont'd)

### 5 Code No: DER/02/08/00204

(other than by delivery) but not cold food as such could be sold from any retail shop.

I think that it is important that the problems that can arise from food and drink premises are not over-emphasised in relation to small daytime cafés. I consider that the proposal is acceptable subject to the conditions recommended to be imposed and that we would have more control than if the premises reverted to an uncontrolled A1 use.

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

11.1 Subject to no further objections being received between the date of the meeting and 29 April, to authorise the Assistant Director – Regeneration **to grant permission** with conditions.

In the event of any such objections, the authority to the Assistant Director shall be subject to consultation with the Chair and Vice-Chair and to their being satisfied that the representations raise no new matters that would justify the matter being brought back to this Committee.

11.2 **Summary of reasons:** The proposal has been considered against the Adopted City of Derby Local Plan policies set out in (9) above and all other material considerations and is in conformity with them subject to the conditions imposed.

#### 11.3 **Conditions**

1. The premises shall be open to customers only between the hours of 0800 to 1800 on Mondays to Saturdays but at not at any time on Sundays.
2. There shall be no off-sales of hot food from the premises except by way of the operator delivering orders to customers' premises.
3. Preparation and delivery of food shall not take place outside the hours of 0700 to 1900 Mondays to Saturdays and not at any time on Sundays.
4. The use shall not commence until details of a fume extraction/ventilation system has been submitted to and approved in writing by the Local Planning Authority and until such equipment has been brought into use. The use shall not be operated unless the approved system is working satisfactorily. The details shall include the location and design of any external vent or flue.

**B1 APPLICATIONS (cont'd)**

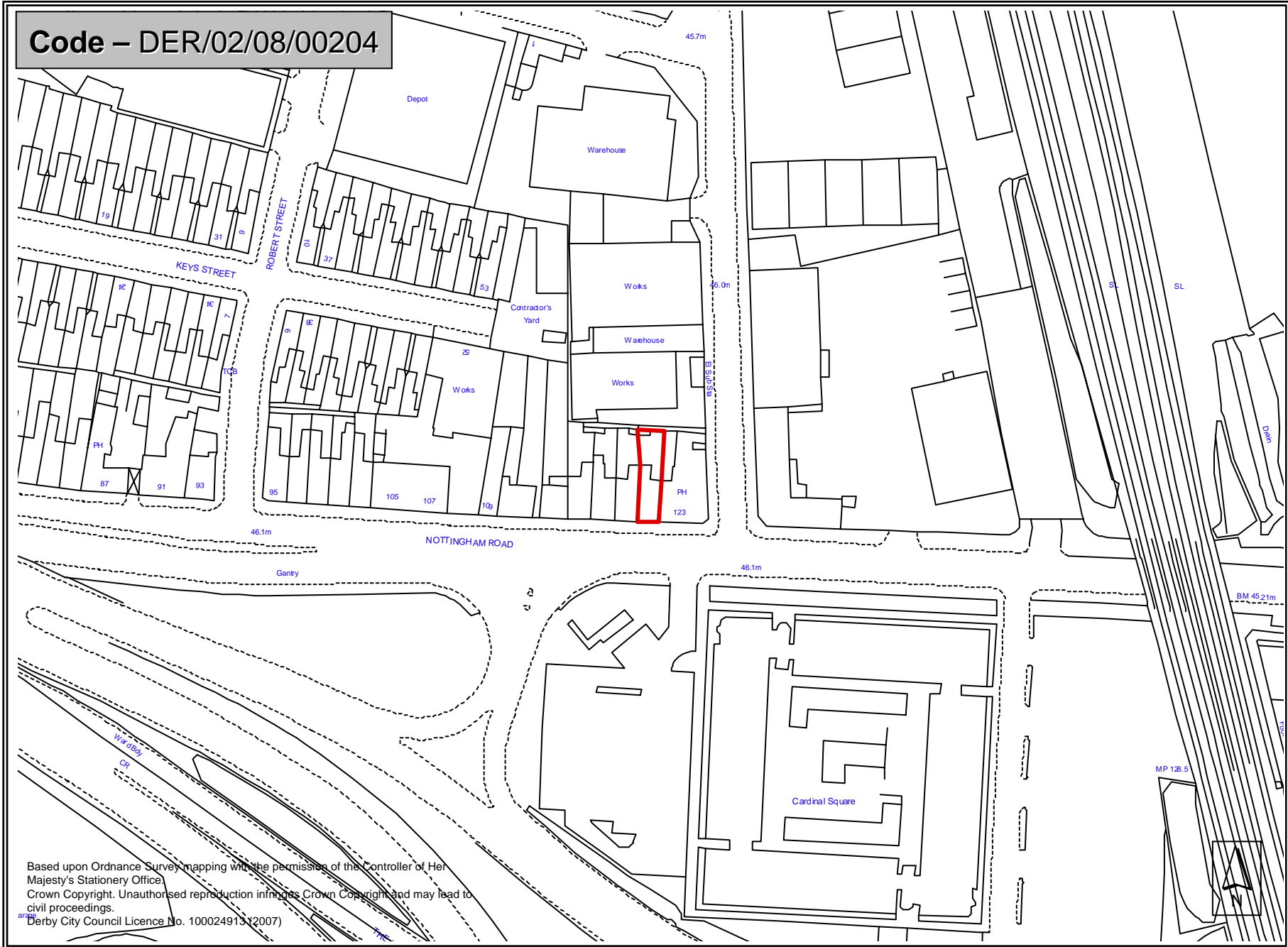
**5 Code No: DER/02/08/00204**

**11.4 Reasons**

1. Standard Reason E25 (add: "in accordance with the objectives of policies GD5 and S12 of the adopted City of Derby Local Plan Review")
2. Standard Reason E25 (add: "in accordance with the objectives of policies GD5 and S12 of the adopted City of Derby Local Plan Review")
3. Standard Reason E25 (add: "in accordance with the objectives of policies GD5 and S12 of the adopted City of Derby Local Plan Review")
4. Standard Reason E25 (add: "in accordance with the objectives of policies GD5 and S12 of the adopted City of Derby Local Plan Review")

**11.5 S106 requirements where appropriate: None.**

**Code – DER/02/08/00204**



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**D2 SPECIAL ITEMS**

**1 APPEALS DECISIONS**

Appeal against refusal of Tree Preservation Order Consent

Code No	Proposal	Location	Decision
DER/03/07/00521	Felling of Scots Pine	3 Longshaw Gardens, off Boulton Lane	Allowed
<p>Comments: The appeal is allowed on the basis that the Secretary of State takes the view that the tree is of limited public value and could cause a nuisance to the householder as it grows. The arboricultural consultant's report on which the decision is based recommends this.</p> <p>The spacing between the house and this tree was discussed in detail with the developer of this small housing scheme who accepted that the two were compatible. It is disappointing that the tree will now be lost as a result of an application by an owner who must have bought the house knowing the relationship. However, I accept that there is little loss to the public interest.</p>			

Code No	Proposal	Location	Decision
Comments:			

**RECOMMENDATION: To note the report.**