

1. Application Details

Address: Site of the former Derbyshire Royal Infirmary, London Road, Derby.

Ward: Arboretum

Proposal:

The construction of up to 500 dwellings (Class C3 and Class C2) and for 1,000 sqm (max) Class A1 (shops); 500 sqm (max) Class A3 (restaurants & cafes); and 1,100 sqm (max) Class B1(a)(offices)/A2 (financial & professional services); and for Class D1/D2 (non-residential institutions/assembly and leisure), Class A4 (drinking establishments) together with access, public open space, landscaping and associated engineering works and the demolition of a former hospital building

Further Details:

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan/01/17/00030>

Brief description

The former Derbyshire Royal Infirmary which is located between London Road, Bradshaw Way and Osmaston Road was closed in 2010 when the hospital trust relocated to the Royal Derby Hospital in Mickleover. The London Road Community hospital was retained just to the south east of the site, which includes the Urgent Care Centre on Osmaston Road. The vacant hospital buildings have recently been wholly demolished and the site levelled, with the exception of two pairs of “pepper pot” towers, which were part of the late 19th Century hospital buildings and are on the Council’s Local List, as buildings of local historic importance to the city. Wilderslowe House, a Grade II listed building on Osmaston Road and 3 Victorian villas at 123 – 129a Osmaston Road have also been retained. These buildings are both within the Hartington Street Conservation Area.

The former hospital site is approximately 7.5 hectares in area and is generally rectangular area of land which slopes at a considerable gradient from Osmaston Road down to London Road. Most of the London Road frontage is also elevated above the road behind a retaining stone boundary wall and railings, which are Grade II listed and date from the 19th Century. Other retained statutory listed structures include the Queen Victoria Statue between the two pairs of towers on the site and Florence Nightingale Statue and surround, which sits in the boundary wall on London Road. Both statues are Grade II listed.

Many of the trees on the site are covered by a Tree Preservation Order. There are various groups of mature trees, which are mainly located around the perimeter of the site, along the London Road and Bradshaw Way frontages and around Wilderslowe House. There is also a group of retained trees to the south east corner, close to the Urgent Care Centre.

The site lies immediately to the south of the city centre and the primary retail area, opposite the Intu shopping centre. The Inner Ring Road (Bradshaw Way) runs along the northern boundary. The major arterial routes of London Road and Osmaston

Road border the east and west of the site. To the west of Osmaston Road are primarily residential areas, characterised by Victorian terraces in the Hartington Street Conservation Area. The historic Arboretum park lies to the south and is a Grade II listed parkland. The area around London Road is more mixed use with residential, community and food and drink premises. The Grade II listed Liversage Almshouses and other locally listed buildings also lie along London Road. The Castle Ward area is to the north, which comprises the new residential neighbourhood and other industrial and commercial uses.

The outline application which is for the development of up to 500 dwellings, comprising a mix of houses, apartments and extra-care accommodation and a mix of commercial, leisure, retail and food and drink uses. Means of access is to be determined at this stage with all other matters reserved for a future detailed scheme. The residential element also includes the potential conversion and reuse of Wilderslowe House and the Osmaston Road dwellings, although the applicant is seeking flexibility to bring non-residential uses into Wilderslowe House, subject to market demand. The proposal incorporates a maximum floorspace provision for some of the various non-residential uses which are sought on the development. This is as follows:

- A1 (retail) – 1000 sq.m
- A3 (restaurant/café) – 500 sq.m
- B1a) (offices)/ A2 (professional services) – 1100 sq.m

Other proposed uses are A4 (drinking establishments), D1 (non-residential institutions) and D2 (leisure). These uses are all intended to be complementary to the residential community to be developed on the site and to be delivered primarily within Wilderslowe House and the retained “pepper pot” tower, as well as ground floor uses to residential buildings.

There are three vehicular accesses proposed to the development site, which are for determination under this application and these are:

- A priority junction to be formed onto Osmaston Road adjacent to the existing dwellings at 123- 129a Osmaston Road to serve the western part of the development.
- A priority junction at the existing access to the former hospital onto London Road towards the eastern part of the site
- Existing accesses onto Wilderslowe House with an access and egress only arrangement.

Various pedestrian and cycle linkages are also proposed across the site to provide additional connections between Osmaston Road, London Road and the city centre. One of these routes is to be provided through a green corridor to provide a link between Castle Ward and the Arboretum, via Litchurch Street (a private road within the community hospital). These connections are all indicative at this stage and the precise route of these links would be dealt with under a reserved matters scheme.

The proposals are supported by a framework masterplan document, giving a vision and parameters for the development. The intention is to develop a residential neighbourhood on the site, which is connected to the surrounding areas including the city centre via a network of open spaces and pedestrian / cycle routes. Retained heritage assets on the site, including Wilderslowe House and 123 – 129a Osmaston Road are to be brought back into use, retaining flexibility in regard to the potential uses of the buildings. The Osmaston Road frontage is intended for residential development sensitive to the setting of the heritage assets. The locally listed “pepper pot” building in the centre of the site facing London Road is proposed for retention as a focal point of the development and brought into use as a community asset, for small scale commercial and community uses. The other “pepper pot” located towards to south east edge of the site proposed to be demolished. A linear park and pedestrian/ cycle route would be formed along the London Road frontage as landscaped public realm, incorporating the existing mature trees and the Queen Victoria Statue (which may be repositioned in the open space).

The building heights across much of the development are proposed to be up to 2.5 to 3 storeys, with the highest on key corners and on principal road frontages. Buildings of up to 5 and 6 storeys are proposed on the Bradshaw Way and London Road corner fronting the city centre, recognising that this is a gateway location.

Landscaping is a reserved matter, although the applicant has submitted a tree strategy which proposes the retention of most of the protected trees on the site, with selective removal of some trees to improve links and views through the linear park. The tree groups around the perimeter of the site are intended to be retained and would be included within the proposed areas of open space and public realm within the development.

The application is accompanied by various technical and design documents with support the proposal. The Design and Access Statement is the masterplan document which gives the vision and parameters for the scheme. The submission also includes a Heritage Statement & Impact Assessment, Arboricultural Strategy, Flood Risk Assessment, Air Quality and Noise Assessments, Ecological Appraisal including bat emergence survey, Planning Statement, Preliminary Contamination Assessment, Transport Assessment and Travel Plan.

2. Relevant Planning History:

| | | | |
|------------------------|----------------------------------|--------------|----------------|
| Application No: | 5/15/00950 | Type: | Prior Approval |
| Decision: | Granted | Date: | 09/06/2015 |
| Description: | Demolition of hospital buildings | | |

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|------------------------|---|--------------|------------------|
| Application No: | 07/15/00902 | Type: | Reserved Matters |
| Decision: | Granted conditionally | Date: | 27/11/2015 |
| Description: | Re-development of former Derbyshire Royal Infirmary site to form mixed use development comprising retail (use class A1), cafe/restaurant (use class A3), public house (use class A4), offices (use class B1), residential (use class C3) and formation of associated car parking. Approval of reserved matters of layout, appearance, and landscaping on Zone 5 of previously approved planning permission (erection of 35 dwellings) (DER/11/10/01429) | | |

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|------------------------|---|--------------|------------------------|
| Application No: | 12/13/01439 | Type: | Non-material amendment |
| Decision: | Granted conditionally | Date: | 28/01/2014 |
| Description: | Re-development of former Derbyshire Royal Infirmary site to form mixed use development comprising retail (use class A1), cafe/restaurant (use class A3), public house (use class A4), offices (use class B1), residential (use class C3) and formation of associated car parking - Non material amendment amendment to previously approved planning application No. DER/11/10/01439 to amend conditions 11, 15, 25 and 29 | | |

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|------------------------|---|--------------|---------------------------------|
| Application No: | 05/13/00581 | Type: | Variation/Waive of condition(s) |
| Decision: | Withdrawn Application | Date: | 27/08/2013 |
| Description: | Re-development of former Derbyshire Royal Infirmary site to form mixed use development comprising retail (use class A1), cafe/restaurant (use class A3), public house (use class A4), offices (use class B1), residential (use class C3) and formation of associated car parking - Variation of condition 1 of previously approved planning permission Code No. DER/11/10/1429 to substitute masterplan | | |

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|------------------------|--|--------------|-----------------------------|
| Application No: | 11/10/01429 | Type: | Outline Planning Permission |
| Status: | Appeal against non-determination - Granted conditionally following public inquiry | Date: | 30/09/2011 |
| Description: | Re-development of former Derbyshire Royal Infirmary site to form mixed use development comprising retail (use class A1), cafe/restaurant (use class A3), public house (use class A4), offices (use class B1), residential (use class C3) and formation of associated car parking | | |

3. Publicity:

Neighbour Notification Letter – 90 letters

Site Notice

Statutory Press Advert

This publicity is in accordance with statutory requirements and the requirements of the Council's adopted Statement of Community Involvement.

Prior to submission of the application, the applicant undertook a one day public and stakeholder consultation event at a hotel on London Road. Leaflets were distributed to local residents and businesses prior to the event in vicinity of the site.

4. Representations:

Eight letters of support have been received to date and the main issues raised are as follows:

- Support the redevelopment of the brownfield site
- Proposal would maintain and improve setting of the listed buildings and Conservation Area
- Site has high levels of crime and anti-social behaviour
- Support creation of the new footpath through hospital site
- Both sets of "pepper pot" towers should be retained in the development.
- Good balance between retaining heritage assets and contemporary design
- Loss of "pepper pot" tower is outweighed by regeneration benefits which result from the development.

5. Consultations:

Conservation Area Advisory Committee:

Noted proposal and details of the application (includes demolition of 2nd pepper pot tower) and that the application was for access only with all other matters to be dealt with under Reserved matters. Object strongly to demolition of one of the locally listed pair of pepper pot towers. Resolved to object and recommend refusal due to loss of local list heritage asset that is an important element of the site in its former use and lack of information regarding the access points and the impact on the listed wall.

In their view the pepper pot towers could easily be converted to dwelling or could be an ideal location for a heritage centre. Queried location of commemorative stones currently in store for re-use. Although access re-uses existing opening in listed wall the road could be realigned to avoid demolition of building. No justification or detail on demolition of other parts of wall. Suggested any removed sections of stone wall could be used for repairs and making good elsewhere along wall. Welcome proposed

retention and repair/re-use of heritage assets including Wilderslowe House and the buildings on Osmaston Road.

Highways Development Control:

Introduction: - the above site has the benefit of planning consent for a major redevelopment scheme including a large Morrison's superstore which was given on appeal by the Secretary of State on the 25th July 2012.

Pre application advice regarding the current proposal was provided in July 2016. This was followed by a meeting with the applicant's transport consultants on the 6th March 2017. The following item remains unresolved and needs to be carefully considered:

"Note 1 – at this location there are traffic signal controlled crossings across both London Road and Bradshaw Way providing safe access in to the City. The footway where pedestrians wait to cross the Bradshaw Way crossing is very tight and the opportunity should be explored to enlarge this waiting space by opening up this corner of the site as suggested by the vision document.

General – it should be noted that the application area along the Osmaston Road frontage is not contiguous with the highway boundary and consequently there is a strip of land in the control of Derby City Council between the development and the highway boundary.

1) National Planning Policy Framework (NPPF)

Set out below is the criteria against which the highway impact of the proposed development should be tested. It is important that this is the criteria used as it is the NPPF criteria that would be used should the application be determined by the Secretary of State.

Paragraph 32 of the NPPF says:

"All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe."

Considering the above criteria I make the following comments:

Transport Assessment- It has been estimated that the above proposal is likely to generate approximately 200 less trips in the am peak and 600 less trips in the pm

peak than the consented scheme mentioned above. On this basis it is not considered any off-site highway works are required.

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;

The NPPF presumes in favour of sustainable development and consequently is seeking to influence developers to put in place measures to provide opportunity and encouragement for future residents/users of the development to choose to travel by non-car modes, wherever this is realistic and feasible i.e. measures to encourage walking, cycling and travel on public transport.

The above site is considered to be one of the most sustainable locations in the City, being so close to the City centre, bus station and railway station.

Walking/ Cycling – the site is well located in respect of walking/cycling trips with a number of connections to the existing highway network and to existing controlled crossings.

The Green Link - Policy AC 6 g(3) says:

“In all parts of the Eastern Fringes the Council will expect a ‘green link’ through the area providing a pedestrian and cycle link from Arboretum Park to Bass’ Recreation Ground”

The above policy does not specify exact location of the ‘Green Link’, however Drg No DE247-01 Rev A entitled Parameter Plan Movement Network shows the proposed ‘Green Link’ as a green pecked line using Litchurch Street to access Osmaston Road. Litchurch Lane is a private road which does not form part of the application area for the development. Consequently the ‘Green Link’ cannot be secured by planning condition as it does not form part of the planning application. It is suggested that because Litchurch Street is not the public highway the long term future of the proposed route could be doubtful, because Litchfield Street could be redeveloped. I suggest that what is currently proposed on the application does not fulfil the above local plan policy. It is suggested advice be sought from planning policy.

Public Transport – both London Road and Osmaston Road are well served public transport routes.

- safe and suitable access to the site can be achieved for all people; and

It is proposed to access the site via two unconnected priority junctions, consequently rat running through the site between London Road and Osmaston Road will not possible.

As mentioned above the DRI site is well located in respect of the City and it is likely that there will be an increased level of pedestrians crossing Bradshaw Way via the controlled crossings. The crossing across Bradshaw Way at the London Road roundabout has limited waiting space due to the pedestrian barrier and the boundary wall to the site. It is suggested that if the wall adjacent the crossing could be set back a wider footway could be formed to accommodate the increase in pedestrian activity (see condition below).

- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”

Recommendation – No highway objection subject to the following conditions and notes.

Suggested Conditions and Notes

- 1) Prior to any development commencing within the application area details of the following shall be submitted to and approved in writing by the LPA:
 - a. the internal road layouts, which shall be designed in accordance with the principles set out in ‘Manual for Streets’. The constructional details shall conform to the 6Cs Highway Design Guide, including drainage;
 - b. servicing and parking provision;
 - c. the ‘Green link’;
 - d. widening of the footway adjacent the controlled pedestrian crossing across Bradshaw Way at the London road roundabout;
 - e. wheel washing facility constructed in accordance with details to be submitted to and approved in writing by the LPA shall be fully operational to prevent mud and debris being carried onto the public highway;
 - f. the Construction Management Plan including details of a construction access and routing for construction traffic has been submitted to and approved in writing by the LPA;
 - g. connections for pedestrian and cycle routes linking the internal routes to the highway network.

Reason: In the interests of highway safety.

- 2) Prior to any dwelling becoming occupied;
 - a. The proposed accesses on Osmaston Road and London Road shall be provided in accordance with details be submitted to and approved in writing by the LPA as shown for indicative purposes on with Drg No 1596-03 & 04 bearing the name Phil Jones Associates
 - b. a travel plan in accordance with details be submitted to and approved in writing by the LPA, shall be operational.
 - c. The proposed ‘Green Link’ shall be provided and open for use, unless otherwise agreed .

Reason – To encourage sustainable development.

- 3) There shall be no vehicular connection between the London access and the access off Osmaston Road.

Notes to Applicant

- 1) The above conditions require works to be undertaken in the public highway, which is land subject to the provisions of the Highways Act 1980 (as amended) and over which you have no control. In order for these works to proceed, you are required discuss the proposed works with the highway authority to arrange for the appropriate agreement under the Highways Act.
- 2) For details of the 6C's design guide and general construction advice please contact Robert Waite Tel 01332 642264.
- 3) Derby City Council operates the Advanced Payments Code as set out in sections 219 to 225 Highways Act 1980 (as amended). You should be aware that it is an offence to build dwellings unless or until the street works costs have been deposited with the Highway Authority.

Highways – Land Drainage:

This proposed development will bring a decrease in impermeable area and as such overall the development may see a decrease in surface water flood risk. In addition, the proposal is for a restricted outfall to the 1 in 30 year greenfield runoff rate for all events, with associated surface water attenuation storage.

However, the non-statutory technical standards for SuDS stipulates that brownfield development should, where feasibly possible, reduce post-development runoff to the pre-development greenfield rate for the 1 in 1 year. The FRA does not demonstrate that the 1 in 1 year greenfield surface water runoff rate is not feasible for this site and as such this requires further clarification. If this is not feasible, the maximum practical surface water runoff rate betterment should be achieved.

During pre-application discussion, this team stated that the site, according to sustainable drainage best practice, should form an integral part of the urban design in the form of swales, bio-retention areas, detention ponds etc. These would treat surface water as well as provide amenity and biodiversity benefits.

The proposals are instead for geo-cellular storage on the site which provides no wider benefits of blue-green infrastructure and has no surface water filtration qualities. It may be argued that the site does not provide the space for open water features, however the FRA states that (2.10.4) the proposed development meets and exceeds the specified housing for this site in the Local Plan. My concern is that additional housing and other land use has been achieved at the expense of blue-green infrastructure without any detailed consideration of the loss of potential benefits.

My view is that we can achieve a better surface water drainage design than this for the site which is more in keeping with best practice and the Local Plan in terms of blue green infrastructure. Elements such as permeable paving, filter drains and bio-retention can provide additional benefits without a significant additional land take.

Could the applicant provide a further review of the drainage proposals so that we can be confident that everything has been done to maximise the benefits of a sustainable drainage system in relation to the comments above.

Further comments following further drainage information (February 2017):

Following the response from Wardell Armstrong, dated 20th February 2017, I have noted that the site has some significant constraints in terms of space for SuDS, given that this is a city centre development on an existing brownfield site. I also note that the applicant will be aiming for a close to greenfield discharge rate as practically possible as part of a wider detailed drainage design submitted at a later date.

As a result, I am of the opinion that we can approve the development on land drainage and flood risk grounds with conditions attached as follows:

- 1) No development shall take place until a surface water drainage strategy has been submitted and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority. The strategy shall include:-
 - A sustainable drainage solution,
 - Proposals to comply with the recommendations of the Non-statutory technical standards for sustainable drainage systems (March 2015) and The SuDS Manual (CIRIA C753),
 - Provision to ensure surface water run-off from the developed site is as close as reasonably practicable to the equivalent greenfield surface water runoff rate for the site, and
 - The development makes a contribution to blue-green infrastructure and City Centre biodiversity as part of the drainage scheme where opportunities exist.

Historic England:

On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant. It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals.

Built Environment (Conservation Officer):

Original comments - February 2017:

The overall mixed use redevelopment of this site is welcomed however I do have some concerns about this application as regards its impact on the surviving heritage assets within the site as well as the detail relating to these that have been submitted.

Pre-application advice was sort but, looking at this application, not all advice given to the applicant has been taken on board – especially that of retaining and incorporating the second pepper pot tower into the scheme.

The application site was granted outline consent on appeal in 2012 for a mixed-use scheme and that scheme included the retention of both pairs of pepper pot towers. The principle for redevelopment and retention was therefore accepted. This is a new scheme for a different mixed use scheme which wishes to go further than the allowed scheme and demolish one of these structures.

This is an outline application with all matters reserved except those regarding access. I will be commenting on the impact, or the possible impact, of the proposed accesses in due course. I also think it appropriate to put down markers at this point regarding the principle and for anything within the scheme overall, from a heritage perspective, so these can be taken into account within the future reserved matters applications.

An outline application is an accepted process for a large site but I suggest it is a difficult one when dealing with heritage assets, such as listed buildings, conservation areas etc, as there is a need for more detail in some areas when there are heritage assets involved especially where listed building consent will also be needed. This is highlighted later in detail within this response.

This site affects a number of designated and undesignated heritage assets. These include;

- the grade II listed Wilderslowe House and its curtilage (including the walls, lodge etc),
- the grade II listed wall and railings along London Road,
- the grade II listed Statue of Queen Victoria,
- Hartington Street Conservation Area (which includes Wilderslowe House and 123 to 129a Osmaston Road) and
- One of two of the locally listed pairs of pepper pot towers from the Royal Infirmary (as seen in the Heritage Statement and map 1901.
- Other heritage assets including walls that are not locally or statutorily listed.

Wilderslowe House is grade II listed so is therefore of national importance. The proposal at Wilderslowe house is to 'refurbish and convert to a sympathetic new use'. Any repair and sensitive adaptive reuse is welcome in principle, however of course, depending on the proposed works we will need to assess them through the submission of a future listed building consent once the works are known. I would add that I agree with the Heritage Statement that it is critical for its long term survival that a new use is found.

I note that the applicants wish to reinstate an appropriate curtilage area and boundary treatment for this listed building, which is also welcome in principle.

However, I suggest more information is submitted as regards the proposed curtilage area around the listed building, boundary treatment, the landscaping and that there is further detail submitted so that the exact extent of this can be discussed and agreed. It is hoped that if an appropriate curtilage and details can be agreed it would reveal the significance of the listed building and enhance the conservation area. However, whether it will do this is currently unknown.

I suggest highlighting to the applicant that permission including listed building consent will be needed for any alteration works to the listed building and any new boundary treatments/curtilage structures.

I note the reuse of the Wilderslowe House vehicular access points, which seem according to the application information remain unchanged, however the proposal also shows a pedestrian access point and this will impact on the continuous boundary wall, which is part of the listing. I would therefore suggest further information is required at pre-determination stage, along with the necessary listed building consent application, for the alteration and formation of the new access point through this listed wall. There are unanswered questions such as - What is the new access going to look like? How wide is the pedestrian access? What is proposal for finishing the returns of the wall, the copings and what proposals are there for any material removed?

At the moment there seems to be no set plans or timescale for Wilderslowe House, the lodge, the 'pepper pot' towers or the repair and reuse of the buildings within the conservation area. I would strongly suggest that should you be minded at a later stage, following any amendments to the scheme, to grant permission that any permission has a condition making sure that these buildings are repaired at the earliest opportunity rather than left and are required to be in use before the occupation of any residential units upon the site.

The listed wall along London Road, which is a retaining wall for some length, runs along a substantial length of London Road. The proposals plan (e.g. figure 28) and concept pepperpot square seems to show substantial parts of the wall being removed and even the author of the heritage statement (p44) seems to be unsure and mentions 'the opening up of a section or sections in front of the retained northern pepper pot'. The heritage impact plan notes in the key 'retain wall with partial removal to front of retained pepper pot'. The access concept plan shows 5 pedestrian and one vehicular access through the listed wall. I would strongly suggest clarification is sought on the proposals extent and number of wall accesses being created and extent of removal including a clear marked up photo, a scale plan and an elevation detailing this. It would also be important to have further details to confirm how the wall, once part of it removed, is proposed to be finished (as regards facing, returns, piers, copings, mortar mix and finish) and what is proposed in detail as regards any walling material that is removed at pre-determination stage. I would suggest that other parts of the wall are assessed and repaired where needed. As we have already confirmed to the applicants listed building consent is required and details should be submitted for these works so that the assessment as to the acceptability of the works can be assessed.

I note that the repair to the wall and repainting of the railings are proposed, which is welcome. I would advise that the details of any proposals and schedule of work are submitted along with a method statement so that an assessment as to whether listed building consent is needed for these works.

I have no objection to the principle of moving the listed statue of Queen Victoria within the existing site to a better more prominent location as long as this is done carefully. The statue has been moved before from The Spot to its current location. However the applicant should note that further discussion on the exact location

should be sought and listed building consent submitted detailing a better location and a method statement on how it would be moved.

Part of the Hartington Conservation Area is within the site and this includes Wilderslowe House and curtilage structures and 123 to 129a Osmaston Road. The application mentions the aspiration for continued residential use, which is acceptable from a conservation viewpoint.

This outline proposal includes mention of the demolition of rear extensions to the rear of the buildings 123 to 129 Osmaston Road. These buildings are within the conservation area and the extensions can be viewed from within the Hartington Conservation Area and from the listed Wilderslowe House. I suggest that a more detailed heritage assessment is undertaken on the dates of the existing extensions so that their contribution to the conservation area can be fully assessed and the extent of demolition is clarified, at pre-determination stage. I note the benefits to the conservation area of reinstating garden space but to assess this proposal I suggest we need a plan and elevation showing exactly which parts of the rear extensions are proposed to be removed and what works are proposed to 'make good' and repair the rear of the building once the rear extension is removed.

There is a pedestrian access point proposed to the rear of the fine stone fronted 119 Osmaston Road, which is within the Conservation area. There looks to be an access proposed on the access map to go through some traditional metal railings to the rear of this building. Although outside the conservation area this is part of the setting of the conservation area. I presume that they will be creating an opening within the railings and leaving the traditional railing in place. I suggest that should you be minded to grant permission for this application, once the necessary amendments have been made, that this clarification is sought by condition.

At the moment there seems to be no set plans or timescale for the repair and reuse of the buildings within the conservation area, 123 – 129a Osmaston Road, which are proposed to be retained and reused. I would suggest that should you be minded at a later stage, following any amendments to the scheme, to grant permission that any permission has a condition making sure that these buildings are repaired at the outset rather than being left and, I suggest, are required to be repaired and in use before the occupation of any newly constructed residential units upon the site.

Both pairs of pepper pot towers are locally listed structures and were selected jointly as they are of both of architectural and historic interest, and are the only nineteenth century remaining elements of the hospital that remain on the site. They are both part of a coherent design and therefore relate to each other spatially, historically and are equally important.

They are a coherent pair, part of the character and local distinctiveness of this area as well as being way finding structures - when one moves along London Road. The proposal is to demolish the southern pepper pot tower and to retain, convert the northern pepper pot. There will therefore be direct harm to this heritage asset. I am not currently convinced, despite the arguments put forward, that there is a clear and convincing argument why the second pair of pepper pots should not remain as part of this scheme and a very slight amendment to the scheme would enable this retention.

I would suggest that the scheme is amended to retain, repair and reuse adaptively both pairs of buildings.

Paragraph 135 of the NPPF states that 'the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing up applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.' Therefore the scale of the harm is great to this locally listed building. I disagree with the heritage statement and in my conservation view the demolition of this locally listed building is not acceptable (where it is clear that it can be incorporated into the scheme).

The still live Policy E19 of the Local Plan Review (Saved Policies) states that 'the City Council will also seek to ensure the conservation of locally important buildings and structures, including those on its Local List, by encouraging their retention, maintenance, appropriate use and restoration. The Council will therefore not

normally approve development proposals that would have a detrimental effect on locally important buildings or structures as a result of: a. demolition.....in the case of buildings of local importance, applicants will be expected to demonstrate that all reasonable alternatives to demolition have been considered and found to be unrealistic'. In my view I am not convinced that this has taken place.

Policy CP20 of The Derby City Local Plan – Part 1 (January 2017) states that 'The Council recognises the historic environment as one of Derby's greatest resources and will protect it through the preservation, enhancement, restoration and repair of heritage assets'. It also says that development proposals that would have a detrimental impact on the significance of a heritage asset will be resisted.

In my view paragraph (a) is relevant as the City Council would require a statement of significance and an impact assessment to ensure not just the importance of the asset is understood but also the extent of any impact. In my view the impact of the proposals are currently not fully understood and these include the proposed new accesses within listed walls and impact on the conservation area as a result of the removal of the rear extensions of the 123-129a Osmaston Road.

Many of parts of this policy are also relevant including paragraphs (c) which requires proposals for new development that have the potential to impact upon the significance of heritage assets (including through development affecting the setting) to be of the highest design quality to preserve and enhance their special character and significance through appropriate siting, alignment, use of materials, mass and scale.

There are a number of other access points proposed along other unlisted elements of wall and railing including that along Bradshaw Way. These stone walls are heritage assets. I would like to ask for some clarification on the size of openings on a scale plan, elevation and in section - as at these points the wall is a retaining stone wall and this would enable assessment of the visual impact of the proposals in these locations. I would strongly suggest clarification is sought on the extent of wall removal

including a clear marked up photo, a scale plan and an elevation detailing this. It would also be important to have further details to confirm how the wall, once part of it removed, is proposed to be finished (as regards facing, returns, piers, copings, mortar mix and finish etc) and what is proposed in detail as regards any walling material that is removed at pre-determination stage.

There is also the formation of an access to the south east of the site. The boundary treatment at this point is not clear. I would suggest that the details of this proposal is submitted so that it can be understood how the boundary adjacent to the access point links to other boundary treatments and those of the listed wall along London Road. I suggest that there is a re-established stone wall in this location where it is lost and it is constructed of new or re-used stone - to re define and rebuild the wall to the south east corner of the site.

Recommendation

I welcome the redevelopment of the site; however, unfortunately this scheme does have a negative impact on heritage assets and directly harms a locally listed building. It also potentially looks to have a harmful impact on the significance of listed buildings – but further information on the new access points through listed stone boundary walls adjacent to Wilderslowe House and upon London Road are not fully explained or detailed.

I therefore currently have concerns on conservation grounds and I suggest that more information is submitted and the scheme is amended (in line with the suggestions made in the main body of my consultation) to address these concerns.

Once the full extent of the works and harm to the heritage assets are known the decision maker will then, as highlighted in the NPPF, have to make a balanced judgement on the loss of the locally listed building and as regards other designated heritage assets weigh up the harm to heritage assets against the public benefits of the scheme.

Further comments to agent's response – April 2017:

Comments on individual heritage assets

- My main comment of concern on this application is the loss of one of the locally listed two pepper pot towers of the former hospital building. Like other consultees - I am not convinced that both pairs couldn't be retained as part of this application. I have raised this important point repeatedly at pre-application stage and through the life of this application. No changes to this application have been made as regard to this.
- There was a public inquiry on this site which although was for a different scheme and a mixture of uses, which was not fully implemented, the Planning Inspector approved the removal of one locally listed building and the part removal of others. However he endorsed the retention of both of these pepper pot towers. There has been no material change, despite the change of use mix, in circumstances that I can see would alter this conclusion. In terms of policy this has been reinforced with the saved 2006 Local Plan policies and the Derby core strategy being published.

Within National and City Council Planning Policy there is a presumption in favour of retaining heritage assets.

- NPPF 126 states that heritage assets are an irreplaceable resource, and para 131 states that Local Planning Authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. This applies to both designated and non-designated (local) heritage assets. Saved policies in the Local Plan Review (2006) state the City Council will seek to ensure the conservation of locally important buildings, including those on the local list, by encouraging retention, maintenance, appropriate use and restoration. The council will therefore not normally approve development proposals that would have a detrimental effect on locally listed buildings as a result of demolition.

The City of Derby Core strategy highlights locally listed buildings as heritage assets and part of the city's local identity and sense of place. Policy CP20 states that the Council recognises the historic environment as one of Derby's greatest resources and will protect it through the preservation, enhancement, restoration and repair of heritage assets. It states that development proposal that would detrimentally impact upon the significance of an asset will be resisted. Within 5.20.2 it states that the council is committed to ensuring that the city's heritage is appropriately preserved and wherever possible enhanced. Proposals that would undermine this objective will not be permitted by the Council.

- No evidence has been provided for consideration of any alternative scheme including the retention of the 2nd pepper pot tower or convincing evidence that demonstrates that retention and re-use is not possible. The removal of part of the listed wall (mainly along London Road) has been discussed at pre-application stage very generally and the information submitted is illustrative rather than giving specific dimensions and details of removal. I would prefer to have more information at this stage so that there can be certainty for the applicant and it would pin the amount of loss down in listed building terms. Through this outline process there is no certainty for the applicant that listed building consent will be able to be given for the extent they may or may not be seeking to remove. Furthermore, the extent and location of removal of listed wall appears to be partially tied up with the proposed demolition of the 2nd pepper pot tower and redevelopment in this area, to which there is a clear conservation objection.

The NPPF para 128 states that in determining applications local planning authorities should require an applicant to not only describe the significance of the of any heritage assets affected but also the level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. In this case the level of information submitted does not enable us to understand the potential impact on the heritage asset.

Policy CP20 of the Core Strategy part 1 states that 'the Council will: ...require proposals for new development that have the potential to impact upon the significance of heritage assets (including through development affecting the setting)

to be of the highest design quality and to preserve and enhance their special character and significance through appropriate siting, alignment, use of materials, mass and scale and take account of best practice guidance'. This infers a certain amount of detail to ensure that it is of the highest quality. The detail has not been yet submitted so this cannot therefore be currently assessed. This would have to be assessed through the RMA/Condition route should you be minded to grant permission.

- Policy CP20 states that the Council will 'require that where proposals have the potential to impact upon heritage assets, a statement of significance and an impact assessment are submitted to ensure that the importance of the asset and the extent of the impact is fully understood'. In my view and in this case there isn't the necessary amount of information to assess impact of the proposals.
- In terms of the removal of extensions to the Osmaston Road properties they can be viewed from within the Hartington Street Conservation Area and from the Listed Wilderslowe house. There is insufficient information to assess the impact of the removal of the extensions to these buildings and what the finished result will be. It would have been useful to fully understand the impact at pre-determination stage but suggest if this is not possible, that this is controlled by the RMA.
- I have nothing to comment upon regarding the treatment of retained locally listed pepper pot tower. This is an approach the success of which will be down to the detailed design and suggest this is done via the RMA/conditions.

Does the outline application contain sufficient information on heritage impacts?

It is unusual in Derby to deal with heritage assets in association with an outline planning application with all matters other than access reserved. Policy CP20 states that the Council will 'require that where proposals have the potential to impact upon heritage assets, a statement of significance and an impact assessment are submitted to ensure that the importance of the asset and the extent of the impact is fully understood'. In my view and in this case there isn't the necessary amount of information to assess impact of these proposals.

As I have already pointed out Core strategy CP20 (above underlined) highlights that the development needs to be of the highest design quality and to preserve and enhance their special character and significance through appropriate siting, alignment, use of materials, mass and scale and take account of best practice guidance. An outline application with this limited detail, in my view, does not allow us to assess this.

In addition to Local Policy CP20, and NPPF para 128, Historic England's Good practice Advice in Planning 2 'Managing significance in decision taking in the Historic Environment' (March 2015) also reiterates that the information in support of applications for planning permission... should be no more than is necessary to reach an informed decision. In this case there hasn't been the level of information submitted to enable an informed decision.

If no further information is going to be submitted at this stage, and if you are minded to grant permission, I suggest that all the details and detailed design are resolved at RMA stage/condition. However it should not be inferred that the extent of removal of the listed wall and other works are agreed.

How will future outcomes be secured?

I note the applicants suggested conditions.

In relation to suggested conditions A, B, C, D, E and F – I suggest that a detailed phasing plan, timescale for implementing the phasing plan, heritage asset phasing plan, timescales for the submission of listed building applications and our LPA agreement for these - are built into the Reserved Matters, conditions and any 106 legal agreement. I would like to comment on condition F as regards suggested '95% of the total number of dwellings on the site permitted by RMA be occupied until the heritage assets have been substantially completed'. The wording 'substantially completed' is a concern. I am very concerned that, should you be minded to grant permission, that the heritage assets will be left until last and be left to decline in condition while the new build is constructed. I strongly suggest that the percentage of dwellings occupied is much lower to give certainty that the heritage assets will be repaired and are put into use in relation to this application. Another suggestion is that there could be a more detailed phasing plan alternating between new build and restoration of heritage assets – this could be agreed, with the heritage assets 'completed' to the satisfaction of the LPA rather than 'substantially completed' and prior to a final phase of new development. This is to ensure that the futures of heritage assets are legally secured early on as part of this development.

Overall recommendation

Although the proposed scheme includes the retention, repair and the putting into use of a number of heritage assets on Osmaston Road - and this is of course welcomed - one cannot get away from the fact that the scheme is harmful to a number of the other heritage assets on the site and does not contain sufficient detail to fully understand the impact on others.

I would urge the applicant to have a serious rethink and omit the removal of the second pepper pot tower which is a locally listed heritage asset and part of the character and local distinctiveness of this part of Derby.

As heritage assets are an important and irreplaceable resource and there is a presumption to retain heritage assets, as seen in the National and Derby CP20 Core strategy Policies, these will be given the necessary weighting within the decision making process.

The direct impact of demolition of the heritage asset will have to be weighed up with a balanced judgement (NPPF Para 135) to the scale of loss and harm to the significance of the heritage asset as a locally listed building.

NPPF paragraph 134 needs to be used in relation to the less than substantial harm to the significance of the designated heritage assets; the conservation area (removal of extensions) and nationally important listed buildings (listed wall, Wilderslowe

House etc). The harm to these assets I suggest need to be weighed up against the public benefits of the proposal in line with para 134.

Victorian Society:

Having considered the submitted documentation we object to the application due to the proposed loss of a building of high local importance and the harm that would cause to an understanding of the site and the quality of the local built environment.

The north and south pepper pot towers are all that now remains of Hall and Young's Derbyshire Royal Infirmary of 1891. The foundation stone was laid by Queen Victoria, who is memorialised by a fine statue nearby. Despite the loss of the vast majority of the once impressive hospital complex, including certain buildings of notable interest, the pavilion buildings remain characteristic and distinguished structures in their own right, contributing positively to the character and quality of the local area, serving as local landmarks on London Road and permitting some appreciation of the original scale, layout and form of the 1890s hospital. The significance of the pavilions is acknowledged by the Council by their inclusion on the City of Derby Local List, which states that "it is the Council's intention that every reasonable effort will be made to conserve those buildings and structures of local importance to benefit the city as a whole".

It is a core planning principle that heritage assets are conserved "in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations". Paragraph 131 of the NPPF, states that Local Planning Authorities should take account of the "desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation". It highlights also the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality. Paragraph 132 stresses that "great weight" should be given to the preservation of heritage assets. Paragraph 58 compels Derby City Council to ensure that developments "respond to local character and history, and reflect the identity of local surroundings and materials". In addition, paragraph 135 of the NPPF states that "the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application". The demolition of one of the domed pavilions is therefore a material consideration in determining this application, one that the Council is obliged to take into account.

National policy presumes in favour of sustainable development, which requires equal regard be paid to economic, social and environmental issues. The protection and sensitive management of the historic environment is a key part of the environmental aspect and, by proposing the loss of this locally listed building, it is one this scheme neglects. This application does not, therefore, constitute sustainable development.

The demolition of the locally listed buildings cannot be argued to be necessary in order to achieve a viable, desirable and deliverable development. In the context of the size and scale of the site and the envisaged development, it is, frankly, perverse (and, with reference to the Council's Local List, simply not 'reasonable') to propose the demolition of one of the pavilion buildings. There is considerable scope for an

alternative approach, which preserves both historic buildings – their significance and the positive contribution they make to the quality of the surrounding built environment – without obstructing the redevelopment of the site.

The unjustified loss of the locally listed building would irreparably and unjustifiably harm the character of the local area, depriving it of a heritage asset of high local importance that it is local and national policy to protect. We recommend that this application is refused consent.

Built Environment (Urban Design):

The proposal is, in general, a well-considered permeable mixed-use development which integrates some of the key existing features into a coherent layout. The above application includes a fairly thorough Design and Access statement which details the analysis of the site and wider context.

On a largely cleared site, there is a great opportunity to knit new development into the existing, which will both give a great sense of permanence often missing for many years in areas of new build. I support both Pepper-pot towers being retained for creative re-use. The D & A gives mixed messages on why the second tower is not retained for re-use, as visual analysis shows both of the two Pepper-pot towers as landmarks. The key views shown on page 29 of the D & A statement then are shown only towards the Pepper-pot tower closest to the Holy Trinity Church, despite the other tower also being prominent. Page 15 shows extracts from the Council's City Centre Regeneration Framework, which also offers both towers as landmarks. The statement later explains that retention of the second tower impacts on the best outcomes for the housing mix & number and the connections across the site: however, a slightly greater density of residential could be used elsewhere on the site (i.e. more 3 storey and possibly even 4 storey, in keeping with maximising S-E orientated views across the site) and connectivity can be maintained through retention of the (proposed for demolition) tower as a "gateway" to the green route.

The visuals showing a glazed extension to the rear of the retained tower, together with 3 storey housing facing onto a public space to the rear, is welcomed.

The site exhibits interesting topography with level changes of 13 metres from higher ground at N-W to S-E. The sections outlining level changes such as on page 51 of the D & A are welcome but sections a-a to d-d and f-f showing stepped terraces in the centre of the sections (to the rear of gardens). It is important to understand what sort of space this will become and that it won't be dominated by retaining walls. Will the level changes here impact upon amenity of houses facing each other, drainage and will they enhance the views towards the S-E which the site analysis references, for best legibility and orientation? Will the level changes mean any trees proposed for retention can really be retained with their root-zones entirely unaffected?

The general block structure offers permeability in a clear grid of streets, and the opportunity for clearly defined semi-private realm within the blocks. The strong axis N-E to S-W is welcomed and the green link. Consideration should be given to how the central area of the street with pedestrian/cycle links only will function in terms of ensuring a clear language of what is private and public space (BfL). The houses

adjacent to the non-trafficked section will require active edges, habitable rooms with windows and doors facing onto the pathway for it to feel safe.

There is active edge proposed around the perimeter of the site and enhanced pedestrian, cycling and vehicular routes. The buildings facing a line of "parkland" parallel to London Road is welcomed, but again before and after levels testing will be fundamental to whether the existing mature trees can be realistically retained, which in turn will be fundamental to the "mature" character of this linear walking route, and will be needed to buffer the new housing (several stories higher) from the Almshouses/church area on the opposite side of London Road.

The suggestion of a language of materials should explain how they relate to the distinctiveness of the site and the use of a suite of house types which "turn the corner Well", as recommended in Building for Life 12, should not offer render as a default, but other tones/material changes.

The building heights information is acceptable: the larger massing at the Bradshaw Drive/London Road corner and also alongside Bradshaw Drive is appropriate as it gives the scale of the ring road and offers some visual links to the street via upper floor windows.

This steps down two residential stories (to 4 stories) towards the area fronting London Road which respects the Holy Trinity church and Liversage Almshouses, whilst retaining some symmetry each side of the pepper pot tower. It may be possible that the residential heights can be 3.5 with some 4 storeys on corners/nodes/along main streets, rather than 2.5 with some 3 storey. It is recommended that the massing/height judgements be refined through testing options using the city centre 3D model and in conjunction with exploring the real implication of the level changes across the site I welcome the green route parallel to London road, but recommend that further detail is given to how the existing wall will be curtailed at intervals to form entrances. Will this affect realistic retention of trees, with the level changes (as per sections on page 51) The exact canopy edges of all retained trees need to be defined on plan at this early stage to ensure that foundations of any new development are not close to this line.

Page 55 of the D & A cites a variety of parking but focusses on "on plot" and a parking strategy should be considered in reserved matters to ensure it informs the street character hierarchy: some "on street parking" should be included on the major streets, along with street trees, this will help reduce traffic speeds.

Opportunities when testing structure against the 3D model should consider solar opportunities, plus other aspects of our Green Development Guide. As many trees have been lost, biodiversity can be enhanced by SUDS features within the streets and possible green roofs on commercial buildings.

I support the most formal cycling/pedestrian route as a green link through Castleward to Bass Rec, and towards the Arboretum presumably and this could become part of the National Cycle Network. The other streets need to be considered as ideally recommended for all uses and not segregated with cyclists away from cars.

A green/pond area is shown adjacent to the Walk-in centre (Urgent care centre), which will need dwellings with active edges designing for natural surveillance and a green space like this would also benefit from 24/7 vehicular activity along the entire route.

Only to add that given the success of the public art scheme in Castleward and other housing developments in the city, considerable thought and commitment should be given to public art and creative engagement and community in the design and development process. Public art is a process that should be integral to the design of the area and key to the evolution of a successful high quality, sustainable place, design collaboration would be of value to this development.

The D & A appendices include an assessment against BfL criteria. I agree that with the mixed score of green and amber (towards green at reserved matters stage), except for Working with the Site, which I believe to be red until the levels are understood further.

Conclusion

It is strongly recommended that this cannot be approved until:

- a) the massing/height judgements and
- b) the potential character of streets within the areas of proposed greatest level change in the centre of the site are tested and explored (in part using the city centre 3D model) to explore the real implication of, and opportunities for, the level changes across the site. A judgement cannot be made to support this layout in terms of placemaking through BFL without this and as such this cannot be deferred to "reserved matters".

School Place Planning:

Please note that very consideration will need to be given to accommodating primary and secondary pupils from the development as there is very limited surplus capacity available at local primary schools and secondary pupil numbers are increasing.

Natural Environment (Tree Officer):

Tree Preservation Order (TPO) 542 covers trees throughout the former DRI site, with part of the site also being within the Hartington Street Conservation Area where any trees not already covered by a TPO would automatically be protected.

The contents of the submitted Arboricultural Constraints Report, Arboricultural Impact Assessment, Tree Protection and Removal Plan and Tree Protection Plan and Masterplan Overlay are noted.

One of our Arboricultural officers met with the applicant at the site last year to discuss and agree their tree protection and removal strategy, as detailed in the Arboricultural Impact Assessment, section 6.3. Having spoken to the Arboricultural officer they have confirmed that the trees shown to be retained and removed in the submitted application are generally in line with the discussions held last year.

Following on from the comments made by our Arboricultural officer at the meeting last year, if we are minded to approve this application, I would recommend that we condition the submission of an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) as detailed in the Arboricultural Impact Assessment, paragraphs 1.4.3 and 3.2.1.

Landscape & Parks:

I note that in the illustrative layout the Green link for pedestrians and cyclists through the site from London Road to Osmaston Road has been 'watered down' in that the route now varies from the preferred route suggested at the pre-app stage when the route connected directly to Osmaston Road. It seems that the route now comes out on Litchurch Street, an alteration that loses the more direct connection with Osmaston Road and the Arboretum. This doesn't deliver the footpath connection between the Castleward development and River Derwent corridors and the Arboretum suggested in the Draft Derby Masterplan in such a direct and imaginative way. The previous proposal showed a wider and more direct 'Boulevard' with avenue trees defining the route rather than the more informal route in this outline application. This new design rather dilutes the strong green axis through the site which is provided by the 'pepperpot' route but due to the level difference is less user-friendly to pedestrians and cyclists.

I welcome the creation of the wide linear parkland along London Road and the retention of the majority of the existing trees along this boundary and Bradshaw Way. This will certainly enhance and improve the special character of the London Road boundary with the provision of off-road cycling and pedestrian access through the park land. Consideration at the detailed design stage needs to be given to the choice of planting and materials to ensure that these are robust and cost-effective to maintain.

The development of the central 'pepperpot' as the focal point and high quality public space will tie the central formal axis to the linear parkland and the city centre. The connection E-W with the Castleward area and the Arboretum along the Green Link is less well defined and rather down-graded now with the removal of the second 'pepper pot'. I note that the cycle/pedestrian link crosses the vehicle route in a couple of places which will need to be carefully managed to avoid conflict.

Environmental Services (Health – Pollution):

Land Contamination

1. The site is identified as potentially contaminated due its historical use as a hospital. The proposed development of the site for residential dwellings is also considered a 'sensitive' land use in terms of human health.
2. I note the submission of a Preliminary Contamination Assessment (Report Ref: MAS-NQE 501-1, M A Smith Environmental Consultancy, 31 October 2016). I can comment on the assessment as follows.

3. Please note that the following comments do not seek to interpret or discuss the suitability, or otherwise, of any of the geotechnical aspects of the site investigation, other than in a land contamination context.
4. All comments relate to human health risks. I would refer you to the Environment Agency for their comments on any conclusions made in the report surrounding risks that may exist to controlled waters, since the Local Authority cannot comment on these aspects.

Conclusions on Contaminated Land Risks

10. The report highlights that the near surface ground has been extensively disturbed during the recent demolition and site clearance works, pointing out that the historical investigations cannot be relied upon to provide a true picture of current site conditions. The Environmental Protection Team's position concurs fully with these comments.
11. The report makes a series of recommendations for additional ground gas and soil contamination investigatory works on a 'section by section basis' in line with the development process.
12. The Environmental Protection agrees with the recommendations in the report. Consequently, we would recommend the following conditions are attached to any consent, should it be granted:
 - With reference to the recommendations outlined in the M A Smith Environmental Consultancy Preliminary Contamination Assessment Report (Report Ref: MAS-NQE 501-1, dated 31 October 2016), intrusive site investigations shall be carried out for each Phase of development to determine the levels of ground gases and soil contaminants on site. A risk assessment for each Phase will then be required to determine the potential risk to end users and other sensitive receptors. A detailed report of the investigation for each Phase will be required for submission to the Council for written approval, before the commencement of each Phase of development.
 - In those cases where the detailed investigation report confirms that significant contamination exists, a Remediation Method Statement for that Phase of development will be required for submission and written approval, before the development of that Phase commences.
 - Finally, all of the respective elements of the agreed remediation proposals for each Phase will need to be suitably validated and a Validation Report shall be submitted to and approved in writing by the Local Planning Authority, prior to each Phase of development being occupied.

Noise

13. The development proposes to introduce sensitive receptors i.e. residential dwellings, into a noisy city centre location. Consequently, future occupants are at risk of being exposed to high levels of noise.
14. I can comment on the report and its findings as follows.

Noise Assessment Report

15. The noise assessment includes sound measurements taken from four monitoring locations on Tuesday 20th and Wednesday 21st September 2016.
16. The plan in the Appendices referred to in the report (reference WM11152-005) does not appear to highlight the monitoring locations. Following discussions with Wardell Armstrong, I am however now in receipt of the correct plan depicting the monitoring locations.
17. The assessment highlights road traffic noise as the dominant source of noise along the north western, south western and north eastern boundaries of the site.
18. The report suggests that commercial/industrial noise from the adjacent London Road Community Hospital to the south eastern boundary is not deemed to be potentially significant and therefore no specific assessment of related sources of noise is included. Section 3.2 includes a discussion on this point.
19. Similarly, other nearby sources of commercial noise were not deemed worthy of specific consideration as they were 'not audible' at the time of the assessment. The relatively confined measurement period (covering only a Tuesday and Wednesday) suggests that some audible noise within the locality may have been missed.
20. Nonetheless, I am not aware of any evidence that might suggest that further assessment of noise from local commercial sources may be necessary.
21. Daytime (7am to 11pm) and night-time (11pm to 7am) L(A)eqs have been calculated using the shortened CRTN method (based on a 3 hour survey), however in all cases the measured levels have been used.
22. The daytime and night-time values are summarised and described in Table 2 (page 14, section 4.1.6).
23. Night-time L(A)max values are also summarised, within Table 3 (page 15, section 4.2.2). The values presented here do not seem to accord with the maximum values presented in the data in Appendix A at the back of the report.
24. Following discussion with the author of the report on this point, I understand that some of the L(A)max values were removed from the data because they were deemed to be unrepresentative of 'typical' local conditions. In particular noise from 'loud car horns' and 'significantly loud cars' were removed. I received a further email explaining this position dated 3rd May 2017 from Nicholas Auckland (Wardell Armstrong).
25. Based on the justification given by Mr Auckland (which includes a suggestion that car horns shouldn't be audible after 11pm because this is illegal), I do not agree with the removal of this data. I would consider 'car horns' and 'loud cars' to be consistent with noises one would expect to hear in a city centre location such as this and therefore entirely representative of typical conditions.

26. Furthermore, given that the monitoring only covers a Tuesday to Wednesday, I would suggest that these types of occurrences would increase in regularity during the night-time periods at weekends, in association with the busy city centre 'night-time economy'.
27. Any insulation scheme in proposed new dwellings will need to take all L(A)max values into account.

External Living Areas

28. The report concludes that external living areas (e.g. gardens) located at any of the three monitoring locations at the site boundary could exceed recognised standards for outdoor living spaces (maximum of +8dB in accordance with BS8233) and therefore require mitigation.
29. The report suggests that the criteria for outdoor living spaces are unlikely to be exceeded at properties located further into the development and therefore only those at the site boundary would require mitigation.

Internal Living Areas

30. In terms of internal noise levels, Table 5 describes the attenuation required to ensure a suitable living standard internally during the daytime. I would accept these criteria.
31. With respect to internal levels at night, these are reported in Table 6. As discussed in points 23 to 27 above, I do not accept these criteria due to the removal of some of the L(A)max data.
32. It is important to note however, that, in accordance with WHO Criteria for L(A)max values at night, the monitoring still suggests that the criteria might not be exceeded (at least on a Tuesday/Wednesday) based on the proposed attenuation levels, given that the number of occurrences of significant L(A)max values are infrequent and probably below the "10-15 times per night" threshold. Whether this would still be the case at weekends is difficult to judge confidently using the data in the report as this did not cover weekends.

Increases in Road Traffic Noise

33. Section 4.5 discusses potential increases in noise levels due to additional traffic on the local road network as a result of the development itself.
34. The discussion scopes out impacts from additional road traffic in accordance with DMRB screening criteria, on the basis that no predicted increases in traffic on any adjoining roads would exceed the 25% threshold. I am happy with this justification and accept the comment in section 4.5.8 that road traffic noise increases do not need to be considered further.

Commercial Noise

35. The report highlights potential concerns over commercial noise associated with the mixed-use areas proposed as part of the development. It does however stress that a detailed assessment of such noise is not currently possible at this 'outline' stage.

36. Whilst the report does provide some outline mitigation suggestions (section 5.6) it recommends further assessment of noise from commercial sources as information becomes available at the more detailed design stage. This sounds like a sensible approach.

Mitigation Measures

37. The report provides a range of mitigation options in section 5 to ensure that future dwellings are protected against the prevailing noise levels at the site.
38. Given the absence of details at this outline stage, it would be sensible to design a detailed scheme once information such as layout has been decided, however it is important that the detailed design of the site takes into account the options presented in section 5 of the report.

Conclusions and Recommendations on Noise

39. The report is thorough and generally provides a robust assessment of potential noise that could affect future residents of the development, based on the relatively limited information currently available at this outline stage.
40. The report demonstrates that the location is affected by relatively high levels of noise, primarily associated with the adjacent Bradshaw Way, London Road and Osmaston Roads.
41. The report concludes that suitable living conditions can be achieved in future dwellings following the incorporation of mitigation measures. The Environmental Protection Team accepts this broad principle and has no objections to the application on noise amenity grounds, provided that suitable mitigation is included.
42. The mitigation outlined in section 5 of the report is a useful guide, however further detailed proposals will be needed as the final site design becomes clearer.
43. To ensure adequate amenity for future occupants, the Environmental Protection Team would strongly recommend the following conditions are attached to the planning consent should it be granted:
- Before the commencement of each Phase of the development, a detailed noise mitigation scheme shall be submitted for written approval by the Local Planning Authority (LPA). The scheme should consider the data provided in the Noise Assessment Report (Wardell Armstrong, Ref: WM11152, Dated: December 2016) with particular consideration of L(A)max levels in accordance with the Environmental Protection Team's consultation response of 5th May 2017 . All agreed mitigation measures shall be incorporated into the development before that phase of the development can be occupied.
 - An assessment of noise impacts arising from any of the commercial uses proposed as part of the development shall be submitted to the Local Planning Authority (LPA) before that phase of the development commences. The assessment shall follow the methodology of

BS4142:2014 or other methodology to be agreed in advance with the LPA and shall provide detailed mitigation proposals where the assessment indicates that this is necessary. All mitigation measures shall be agreed in writing with the LPA and shall be incorporated into the development in full before the development is occupied.

Air Quality

44. The development would introduce sensitive receptors i.e. residential dwellings, into an area of known poor air quality and which has been designated an Air Quality Management Area (AQMA). Future occupants are therefore at risk of being exposed to high levels of nitrogen dioxide (NO₂) and possibly fine particulate matter (PM_{2.5}).
45. I can comment on the report and its findings as follows.
46. The report includes an assessment of both construction-related dust and also effects on/from the development itself once complete.
47. The construction dust assessment follows IAQM guidance which is an appropriate tool.
48. Detailed air quality modelling has been completed using the ADMS-Roads air dispersion model, based upon traffic data from a 2010 Transport Assessment for the development, using a base year of 2015 and a proposed opening/future year of 2021.
49. Meteorological data was sourced from the Nottingham Meteorological Recording Station for 2015. I assume that reference to wind data from 'Stansted Airport' in section 3.7.3 is a typo.
50. The model has been verified using local diffusion tube data for 2015.

Construction Dust Assessment

51. The assessment is robust and uses appropriate guidance. It concludes a predicted 'high risk' of dust soiling from earthworks and construction works, with a medium risk from 'trackout'.
52. The human health risks from construction dust are considered to be low.
53. The report suggests that a "best practice dust mitigation plan will be written and implemented for the site" (section 9.1.5, page 44). Some measures are mentioned in the report, however a more detailed plan is proposed. The Environmental Protection Team supports this proposal.

Operational Impacts Assessment

54. Section 6 of the report provides results for the operational air quality impacts in 2021 using 2021 background data and emission factors. Following 'sensitivity analysis' Section 7 then describes the same opening year scenario, but using 2015 background data and emission factors within the 2021 predictions.
55. Given current uncertainties about future predictions of air quality levels, the Environmental Protection Team sees the latter of these two methodologies to be the most robust and appropriate approach, albeit we would accept that some

improvements may occur in practice, especially in light of the Clean Air Zone (CAZ) and other proposed air quality improvement measures in Derby.

56. The results in Table 22 are therefore considered to be the best basis for making future air quality impact judgements upon.
57. The greatest predicted impact from development-generated traffic in terms of nitrogen dioxide (NO₂) increases is a rise of 2.45% at receptor location ESR6 (at the junction of London Road and Liversage Road). This location is already predicted to experience exceedances of the National Air Quality Objective and EU Limit Value for annual average NO₂.
58. Using the impact descriptors under the IAQM/EPUK Guidance (described in Table 13 of the report), 6 out of the 11 chosen existing receptor locations would be classified as experiencing a 'Moderate Adverse' impact from the development due to increases in traffic on the local road network, namely ESR1, ESR4, ESR5, ESR6, ESR7 and ESR 9.
59. 'Slight Adverse' impacts are also predicted for receptors ESR3, ESR8 and ESR11, with only 'negligible' impacts described for the remaining 2 modelled receptors.
60. Increases in PM₁₀ and PM_{2.5} are considered 'negligible' at all existing receptor locations.
61. In terms of the three modelled receptors representing future residential receptors introduced by the development itself (PR1, PR2 and PR3), receptor PR1 is predicted to experience levels of NO₂ in excess of the National Objectives/EU Limits. No other exceedances are predicted at any other future receptors or air pollutants.

Discussion and Conclusions on Air Quality Impacts

62. Based on the modelling, the development is predicted to have significant impacts upon local air quality (based around annual average NO₂ levels). This is due to notable increases in traffic on the already busy local road network.
63. According to these same estimates, future occupants of residential units located around receptor PR1 could be exposed to levels of NO₂ in excess of recommended levels.
64. As the report highlights in its own discussion (section 10.2.3), it is important to note that these predictions are based upon 'conservative' modelling which assumes that no improvements in vehicle emissions will occur in future years compared with the 2015 base year. In practice, there is likely to be some degree of improvement.
65. The vehicle emissions are nevertheless based upon a 'soon to be updated' set of emission factors, which notably are expected to produce modelled predictions higher than the current factors, especially for diesel cars and LGVs.
66. As the report acknowledges, there is currently a significant degree of uncertainty around the ability to produce accurate predictions of air pollution

levels in future years. In such a climate, it appears sensible to use conservative estimates. To support this approach, the concept of applying the 'Precautionary Principle' is already embedded in national planning policy.

67. Considering the development in such terms suggests that the proposals are contrary to both national and local planning policy due to potential significant impacts upon local air quality with an added concern arising from the introduction of new sensitive receptors (i.e. the occupants of residential dwellings) into an area of known poor air quality.
68. This is further exacerbated by the current Government national policy to mandate Derby to implement a Clean Air Zone within close proximity (and probably covering) this location.
69. The Environmental Protection Team does however note that 'significant impacts' are perceived when considering the proposals compared with 'no development' going ahead at this site. The air quality assessment does not provide a comparison of the proposed development against the historical use of the site as the former Derbyshire Royal Infirmary.
70. It is important to note therefore, that the historical use of the site as the former DRI Hospital created a significant amount of local traffic which would have resulted in higher levels of NO₂ than perhaps would otherwise be present in conjunction with the vacant site currently. Comparing the current proposals with the historical hospital situation therefore, would inevitably result in a perceived lower impact arising from the development itself.
71. Looking at it in this way, it may be hard to justify a refusal of the application based solely on air quality grounds.
72. Nonetheless, based on the information provided in the assessment and considering air pollution levels in isolation compared against the current vacant use of the site, the Environmental Protection Team still has significant concerns about allowing such a development in this location.
73. Section 9 of the report acknowledges concerns around air quality impacts and offers some recommendations for mitigation. Whilst we support these recommendations in principle, they are insufficiently detailed to be considered as an air quality mitigation strategy for the site.
74. As indicated, the Environmental Protection Team has significant concerns over the proposals on air quality grounds, however should the development still be granted planning consent, we would recommend that a condition is attached to the consent requiring the following:
 - The submission of an Air Quality Mitigation Plan to be agreed by the LPA before the development commences. The Plan shall provide details of mitigation measures designed to minimise, as far as practically possible, increases in local emissions from traffic associated with the development and should be designed to increase the uptake of low emission vehicles. The Plan will also need to detail a mitigation scheme designed to protect

the occupants of all proposed dwellings likely to be exposed to significant levels of air pollution. All mitigation measures agreed in the Plan shall be implemented in full before the development is occupied.

75. The Environmental Protection Team would also recommend a condition ensuring a buffer zone of at least 10 metres from the façade of any residential dwelling to the kerb of either London Road, Osmaston Road or Bradshaw Way.

Construction

76. Given the scale of the development and its proximity to sensitive receptors e.g. residential dwellings, the Environmental Protection Team would recommend that the applicant prepares and submits a Construction Management Plan for the control of noise and dust throughout the demolition/construction phase of the Development.
77. The statement will need to provide detailed proposals for the control of dust and other air emissions from all demolition and construction activities, having regard to relevant guidance, for example guidance produced by the Greater London Authority (GLA, 2006) and the Institute of Air Quality Management (IAQM, 2012).
78. Noise management procedures should have regard to the guidelines described in BS5228, or other agreed guidance/standards.
79. We would strongly recommend the inclusion of a condition requiring the above, for submission and approval before construction activities commence. The Plan should be complied with fully throughout all phases of the development.
80. I would also recommend that the advice mentioned in points 77 and 78 above is included as an advisory note.

Resources and Housing (Strategy):

No comments received.

Derbyshire County Council Archaeologist:

The previous proposals for the site included archaeological desk-based assessment, and I reached the conclusion that the site retains little potential for significant below-ground archaeological remains. The site is well outside the areas of medieval and Roman activity in Derby, and much of the area is severely impacted by the 19th and 20th century hospital development. Although there was perhaps potential for isolated footings associated with the early 19th century General Infirmary (the forerunner of the Royal Infirmary) I felt that these would offer no additional information beyond what is known from the extensive documentary resource. Following demolition and clearance of the majority of the Derbyshire Royal Infirmary buildings this assessment of archaeological potential remains the same.

The Derbyshire Royal Infirmary buildings, of 19th and 20th century date, were subject to a programme of historic building recording before their demolition, to English Heritage Levels 1, 2 or 3 depending on their assessed level of importance. This work

was completed in 2014 to a satisfactory standard and included Level 3 survey of the retained 'peppercot towers associated with Buildings 49 and 66. The reports have been deposited with Derbyshire Historic Environment Record and the primary site archive with the Derbyshire Record Office.

The current proposal will have impacts to Listed Buildings within and close to the site, within the Hartington Street Conservation Area, and on the locally listed 'peppercot' end towers of the former hospital ward blocks, of which one is proposed for retention and the other for demolition. With regard to these designated heritage assets the Local Planning Authority should be guided by their Conservation Officer and by Historic England. Should the loss of the second 'peppercot' be considered justified under the policies at NPPF chapter 12, then there is no need for further building recording under NPPF para 141, as a comprehensive record has already been assembled.

Environment Agency:

We have reviewed the application which falls into Flood Zone 1, and we have no further comments to make.

Derbyshire Wildlife Trust:

A preliminary ecological appraisal (PEA) comprising an Extended Phase 1 Habitat Survey was conducted by Wardell Armstrong on 10th February 2016. The desk study included a review of pre-demolition survey reports which identified the presence of a maternity bat roost on one of the buildings that has since been demolished. The loss of the roost would have required the demolition work to be carried out under a Natural England Licence to avoid committing an offence. The report refers to the issue of a licence in 2015. However, we are in receipt of confirmation from Natural England that no licence was ever applied for or issued in respect of the site. It is assumed that the bat boxes installed on mature trees at the periphery of the site was part of mitigation although it is unclear as to the basis of the mitigation given that no licence appears to have been applied for or issued.

The PEA identified eight buildings and six trees (with bat boxes) as having potential to support roosting bats. Limitations in respect of access and health and safety concerns to enable internal inspections of the buildings, with the exception of Wilderslowe House, are acknowledged in the report.

Further surveys in the form of dusk emergence and dawn re-entry surveys were rightly recommended and a comprehensive range of dusk emergence and dawn re-entry surveys were subsequently undertaken during May, June, July, August and September 2016. We would advise that all the survey work and report writing has been carried out to a high professional standard in accordance with current best practice guidelines and the British Standard BS42020 Biodiversity. The results of the surveys provide sufficient information to enable the Local Planning Authority to reach an informed planning decision having taken the presence of bats fully into account in line with the requirements of the Habitats Regulations. No further survey work is considered necessary.

During the surveys, a small number of Common Pipistrelle bats were recorded emerging from The Lodge building and 123, 125, 127 and 129a Osmaston Road (Buildings 3, 4, 5 and 6 respectively) although the exact points of egress remain unconfirmed. We therefore concur with the conclusion that, based on the survey results, the Lodge and 123, 125, 127 and 129a Osmaston Road are bat roosts and that a Natural England European Protected Species Mitigation Licence will be required to allow modification of the roosts.

On the basis of the submitted information, although the exact points of bat egress were not identified, it is likely that the proposed development will affect bats through disturbance of a European Protected Species and the destruction of a resting place. The destruction of a resting place is an absolute offence and, as such, will require a Natural England licence, as rightly stated in the report.

Section 6.1.6 of the Bat Survey Report proposes the implementation of a mitigation strategy which broadly includes the installation of a number of bat boxes on nearby mature trees to provide alternative roosting locations for the duration of the works, the supervision of any roof stripping/removal by a named and suitably licensed bat ecologist and the provision of permanent roost opportunities through the incorporation of bat tiles within the refurbished buildings,

We would advise that sufficient survey work has been submitted to enable the local planning authority to make an informed decision in line with the requirements of the Habitats Regulations and that the proposed mitigation set out in section 6.1.6 of the report is broadly in accordance with the requirements of the Bat Mitigation Guidelines and should maintain the population identified in the survey report.

We recommend that a condition to secure the following should be attached to any consent:

“Prior to any works which may affect bats and their habitat, a detailed bat mitigation and monitoring strategy, including the need to obtain a Natural England licence, should be submitted to and approved in writing by the local planning authority. All works should then proceed in accordance with the approved strategy and the conditions of the issued Natural England licence, a copy of which should be submitted to the local planning authority once obtained.”

Given that the proposal will involve disturbance of a European Protected Species and destruction of a roost we advise that in considering the planning merits of the application it will be necessary for the Authority to demonstrate how the three tests set out at Regulation 53 of the Conservation of Habitats and Species Regulations 2010 have been considered, and state the evidence for conclusions drawn on each test as to whether the test can be met. The three tests set out within Regulation 53 are as follows:

- (i) The action will be undertaken for the purpose of preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment (Regulation 53(2)(e))
- (ii) That there is no satisfactory alternative (Regulation 53(9)(a) and

- (iii) That the action will not be detrimental to the maintenance of the population of the species concerned at favourable conservation status in their natural range (Regulation 53(9))(b)

The first two tests are regarded as “non-ecology” tests with test (iii) relating to ecology.

On the basis of the proposed mitigation it is likely that the favourable conservation status of the local bat population will be maintained and, as such, test (iii) will be met.

The retention of trees with bat boxes attached is strongly recommended. However, should the proposal require their removal, the bat boxes should be checked by a licensed bat ecologist prior to the works and if bats are present the boxes should be moved to a nearby alternative tree.

The buildings and trees on the site were also considered to have potential to support nesting birds. We would therefore recommend that a condition to secure the following is attached to any consent:

No removal of trees or shrubs or works to or demolition of buildings or structures that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds’ nests immediately before the work is commenced and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.”

We fully support the recommendation in section 5 of the Preliminary Ecological Appraisal for the incorporation of a mix of bat and bird boxes into the proposed development as biodiversity enhancement. The submission of a detailed scheme of biodiversity enhancement as part of the reserved matters submission should be secured by a condition attached to any outline consent. The enhancement scheme should include the incorporation of a range of bat and bird boxes within the design of the new buildings to benefit declining urban bird species including swift, starling and house sparrow.

In our comments on the previous application which was followed by the demolition of the majority of the hospital buildings under prior approval it was recommended that compensatory bat roost features should include at least 15 built-in gable end bat roost features and 5 ridge tile features

Condition 20 of the Appeal Decision for 11/10/01429 went on to require that “the demolition of buildings and any development shall be carried out in accordance with the bat survey (June 2011) and compensatory roosting features shall be implemented prior to the occupation of any building in accordance with details of the number, design and siting which shall be submitted to and agreed in writing by the local planning authority before development commences in each zone.”

The mitigation required for the prior approval of demolition of the hospital buildings required the erection of 10 Double Chamber Bat Boxes and 5 Schwegler 1FF Bat Boxes throughout the site.

The above level of bat roost mitigation is still required in addition to the enhancement provision and the mitigation for impacts identified by the Wardell Armstrong surveys in 2016. A detailed plan therefore need to submitted as part of the reserved matters submission showing the specifications and locations of the total bat roost mitigation across the site for completeness as a condition of any outline consent.

From the results of the surveys we are satisfied that bats and nesting birds are the main ecological receptors associated with the proposed development site together with the line of mature trees on the London Road and Bradshaw Way boundaries and there are no other substantive semi-natural habitats present that need further consideration.

We are broadly supportive of the submitted indicative linear park landscaping drawings including the proposed new tree planting, areas of wildflower grassland and retained trees, although the latter should include all trees with bat boxes installed as mitigation for loss of bat roosts as a result of the previous site clearance works. If this is not possible, the bat boxes will need to be relocated on the nearest retained trees. In addition we would recommend that the surface water drainage design should provide benefits for biodiversity in the form of swales/detention pond.

Police Liaison Officer:

Whilst it's understood that all detail is still indicative, the move away from the previous masterplan layout, which was subject to negative comments from both myself and my predecessor, toward a more linear block structure is very welcome.

There now looks to be the potential for better overlooked movement routes, more open and better supervised highways and a more secure enclosure of private space.

Having said this, the masterplan layout accompanying this application does present some features which without sensitive detailing may lead to amenity problems.

There is a fair amount of residential courtyard parking on the south and eastern part of the site, much of which looks to be accessed under-croft. There is significant evidence across both our own City/County and neighbouring ones that courtyard parking which is set to the rear of housing blocks, and subsequently not well overlooked by associated homes, is unpopular and leads to unregulated front of plot parking. This has a knock-on effect at best to leave parking courts empty, at worst misused for anti-social behaviour and fly tipping, with the unregulated on street parking causing problems for larger delivery or emergency vehicles. Consequently if such courtyards are to be retained in reserved matters submissions, they would need to be secured for resident use only to promote wider use in reassuring residents that they are safe. This secure enclosure should extend to any pedestrian access points terminating within the courtyards. In my experience, the strategic placement of a small block of overlooking properties on one courtyard boundary does not provide an adequate reassurance of safety for the remaining houses surrounding a court.

A widely adopted feature within the masterplan is that of long terraced housing blocks, with garden access routes situated to the side and rear of an extended number of properties. Leaving such routes open to non-resident access presents an

additional risk of non-resident misuse, misuse meaning nuisance and criminal entry from within the enclosed access corridors. Assuming that these terraced blocks are desired as a feature of the development, and that there is not scope to break some into smaller housing blocks, then all of the shared access points will need to be secured for resident access only, from a prominent point which is in wider view of the street. This should take the form of visually permeable and extremely robust (ideally ironwork) gating, key lockable from both the exterior and interior sides, together with adequate fencing to secure the remainder of the corridors.

6. Relevant Policies:

The Derby City Local Plan Part 1 - Core Strategy was adopted by the Council on Wednesday 25 January 2017. The Local Plan Part 1 now forms the statutory development plan for the City, alongside the remaining 'saved' policies of the City of Derby Local Plan Review (2006). It provides both the development strategy for the City up to 2028 and the policies which will be used in determining planning applications.

Derby City Local Plan Part 1 - Core Strategy (2017)

| | |
|--------|--|
| CP1(a) | Presumption in favour of Sustainable Development |
| CP2 | Responding to Climate Change |
| CP3 | Placemaking Principles |
| CP4 | Character and Context |
| CP6 | Housing Delivery |
| CP7 | Affordable and Specialist Housing |
| CP9 | Delivering a Sustainable Economy |
| CP11 | Office Development |
| CP13 | Retail and Leisure outside of defined centres |
| CP14 | Tourism, Culture and Leisure |
| CP15 | Food, Drink and the Evening Economy |
| CP16 | Green Infrastructure |
| CP17 | Public Green Space |
| CP20 | Historic Environment |
| CP21 | Community Facilities |
| CP23 | Delivering a Sustainable Transport Network |
| AC1 | City Centre Strategy |
| AC2 | Delivering a City Centre Renaissance |
| AC4 | City Centre Transport and Accessibility |
| AC5 | City Centre Environment |
| AC6 | Castle Ward and former DRI |
| MH1 | Making it Happen |

Saved CDLPR Policies

| | |
|------|--|
| GD5 | Amenity |
| CC17 | City Centre Servicing |
| H13 | Residential Development – General criteria |

| | |
|-----|---|
| H14 | Re-use of underused buildings |
| E12 | Pollution |
| E13 | Contaminated land |
| E17 | Landscaping Schemes |
| E18 | Conservation Areas |
| E19 | Listed Buildings and Buildings of Local Importance |
| E20 | Uses within buildings of Architectural or Historical Importance |
| E24 | Community Safety |
| E25 | Building Security Measures |
| L4 | New or Extended Public Open Space |

The above is a list of the main policies that are relevant. The policies of the Derby City Local Plan Part 1 – Core Strategy can be viewed via the following web link:

http://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/policiesandguidance/planning/Core%20Strategy_ADOPTED_DEC%202016_V3_WEB.pdf

Members should also refer to their copy of the CDLPR for the full version or access the web-link:

<http://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/policiesandguidance/planning/CDLPR%202017.pdf>

An interactive Policies Map illustrating how the policies in the Local Plan Part 1 and the City of Derby Local Plan Review affect different parts of the City is also available at – <http://maps.derby.gov.uk/localplan>

Over-arching central government guidance in the NPPF is a material consideration and supersedes earlier guidance outlined in various planning policy guidance notes and planning policy statements.

7. Officer Opinion:

Key Issues:

In this case the following issues are considered to be the main material considerations which are dealt with in detail in this section.

- Policy Context
- Heritage Assets and Design
- Transport impacts and Access
- Open Space and Trees
- Other Environmental Impacts
- Planning Balance: harm v benefits
- Section 106

Policy Context

This application is for the redevelopment of the former Derbyshire Royal Infirmary site for a residential- led scheme, with a complementary mix of commercial, retail and community uses. The intention is to form an urban neighbourhood with the introduction of new connections to the surrounding townscape including the residential areas in Castleward and around the Arboretum.

The proposal seeks outline permission for the construction of up to 500 dwellings, but the application identifies these as a mix of C2 and C3 uses. C2 uses are defined as 'residential institutions' and although they can be residential uses, they are not technically 'dwellings' in the strictest sense. They can include extra-care apartments as well as care accommodation. In addition to the new residential uses, the proposal seeks permission for a range of complementary uses, including up to 1000sqm for new A1 retail, up to 500sqm for restaurants and cafes (A3 uses) and up to 1100sqm to be used for new B1a) office space/ financial and professional uses (A2). The proposal also includes a non- specified amount of non-residential institutions (D1 use), assembly & leisure (D2 use) and drinking establishments (A4 use). The proposal also seeks permission for new means of access and the provision of public open space, landscaping and associated engineering works and the demolition of one of the remaining former hospital buildings on the site ("pepper pot" towers).

There is an extant outline permission (DER/11/10/01429) on this site for the construction of 400 dwellings, 3085sqm of office space and a 5667sqm (gross) foodstore, having been granted at appeal and kept 'live' by the approval of reserved matters for erection of 35 dwellings on part of the site, fronting onto Osmaston Road, (DER/07/15/00902).

Prior approval was also given in 2015 for the demolition of the all former hospital buildings on the site, except for the two pairs of "pepper pot" towers (DER/05/15/00950). These works have recently been completed.

Derby City Local Plan – Part 1: Site Specific Policies

The site of the proposal is specifically identified by Policy AC6 in the Local Plan Part 1 as part of a strategic residential led mixed use regeneration site allocation covering both the former DRI site and the Castleward area of the city. Together, the two sites form the 'Eastern Fringes' character area as defined by Policy AC2. The site is also located within the Central Business District (CBD) as defined by CP11 and AC2. Policy AC2 is clear that implementation of mixed-use regeneration proposals on the former DRI site is a priority for the Council.

Policy AC6 provides further detail on the regeneration of the former DRI site and wider Eastern Fringes area and states that "the Eastern Fringes of the City Centre will be transformed into a vibrant residential and commercial neighbourhood where people will enjoy a high quality of life within a distinctive, accessible and sustainable urban environment. New residential neighbourhoods will be created in Castleward and the former DRI site, which will be complemented and supported by a mix of commercial, leisure and community uses that will also serve to support the wider economy of the City Centre". In particular AC6, requires that the DRI site will deliver a minimum of 400 high quality mixed tenure homes, protection and enhancement of

heritage assets in and adjacent to the site and make a positive contribution to the townscape of London Road. The policy also identifies that in all parts of the Eastern Fringes area, the Council expects:

1. a high standard of design which reflects the requirements of Policy CP3 and CP4
2. a mix of housing typologies and supporting facilities to ensure that the new neighbourhood attracts a diverse population and caters for the changing needs of residents
3. a 'green link' through the area providing a pedestrian and cycle link from Arboretum Park to Bass's Recreation Ground
4. measures to improve accessibility to, and from, the City Centre, bus station and railway station by walking and cycling. The Council will work with partners to ensure that regeneration of the Eastern Fringes is delivered in a comprehensive manner and will use compulsory purchase powers if necessary to ensure delivery.

The provisions set out in Policy AC6 are largely derived from the City Centre Eastern Fringes Area Action Plan (CCEFAAP), which is a development plan document progressed by the Council between 2005 and 2009. Whilst not formally adopted by the Council, work on the CCEFAAP reached the 'preferred options' stage and was subsequently used to inform the selection of a preferred developer for the Castleward area, which is now successfully under construction. The CCEFAAP provides useful guidance relating to the development of the former DRI site and includes principles such as the need for a comprehensive design approach, small-scale convenience retail provision, the creation of an attractive green space network, building heights between 3 and 5 storeys, the creation of an attractive and cohesive frontage onto London Road and the need to retain listed buildings and structures, and where possible retention and re-use of locally listed buildings and structures. As noted above, the majority of these principles have now been taken forward by Policy AC6.

The detailed requirements of Policy AC6 sit within the wider context of Policy AC1 which sets out a range of objectives and interventions to secure a city centre renaissance. These include encouraging investment which strengthens and integrates the City Centre's retail, employment, leisure, cultural and residential functions, supporting the delivery of key regeneration sites – including the former DRI, strengthening quality in every aspect of placemaking and enhancing heritage assets. The principle of residential led regeneration of the former DRI site will help to meet a number of these objectives.

Housing Delivery

The site is located within the Council's defined 'Housing Zone' and residential uses here would complement the Council's City Living Initiative. The aim of the Housing Zone designation and the City Living Initiative is to help boost residential development and related activity in the city centre and meet the Council's regeneration objectives.

The Local Plan- Part 1 sets a housing target of 11,000 new dwellings to be provided within Derby between 2011 and 2028. In order to ensure the delivery of the 11,000 dwelling target, the Local Plan Part 1 allocates 6,975 new dwellings on strategic sites. This includes a contribution of a minimum of 400 new homes from the former DRI site, as identified in Policy AC6, contributing to a wider intention to deliver a minimum of 2,200 new homes in the City Centre as a whole, as defined by AC1.

The delivery of new homes on this site is therefore an important component of the Council's plan to meet the housing target, but also contributes to the Council being able to demonstrate a 5 year housing supply.

Policy AC6 sets 400 as a minimum number of dwellings to be delivered on the DRI site, therefore the principle of providing up to 500 new homes is welcomed, subject to a more detailed assessment of the housing mix and layout through the reserved matters. It should be noted that the proposal is for both C3 and C2 type residential uses. C2 uses are not residential 'dwellings' and therefore it will be important to ensure that at the detailed reserved matters stage, the minimum number of dwellings required by the policy are secured.

The Council's 5 year housing supply position was discussed in great length as part of the examination of the Local Plan Part 1. In finding the plan 'sound' the Inspector was satisfied that the 11,000 target is achievable and that a 5 year supply is demonstrable. In such cases and where a proposal accords with the development plan, the NPPF requires development proposals to be approved without delay. Whilst the principle of residential-led regeneration is consistent with the development plan, it is important to assess whether the more detailed elements of the proposal are also consistent with the development plan.

Policy CP7 commits the Council to meeting the needs for affordable and specialist housing through a range of mechanisms, including requiring the provision of a maximum of 30% affordable homes on residential developments of 15 or more.

Regarding the level of affordable housing provision and other infrastructure requirements needed to mitigate the impact of the development.

Policy CP7 also supports the provision of housing which is capable of meeting the needs of aging population and people with disabilities. The delivery of Extra Care housing is specifically supported where there is an identified need and it is supported by appropriate on-site infrastructure, having a robust long term management plan and creating a critical mass of units. If delivered as part of the scheme, Extra Care dwellings could meet these objectives.

Saved Policy H13 of the City of Derby Local Plan Review sets out the design and amenity requirements for new residential development. The policy criteria within the policy are more appropriate for consideration at the detailed stage although the masterplan documents gives parameters for the development, in relation to scale and layout of uses which should be considered against the intentions of the policy.

Commercial and Community Uses

Whilst the proposal is primarily for residential development, the application also includes provision for a range of complementary commercial and community uses. This is generally consistent with the vision for the area as set out in Policy AC6.

The site is located within the Central Business District (CBD), as defined in Policy CP11 and AC2. The CBD is the sequentially preferable location for all 'main town centre uses' (as defined by the NPPF) apart from retail. Therefore the DRI site is an appropriate location for food and drink uses (A3 and A4), offices (B1a), financial and professional (A2) and assembly and leisure (D2).

Policy CP21 sets out criteria for assessing the merits of proposals for new community facilities (D1). Such uses should be located where there is a choice of travel options (ideally within existing centres) and exploit opportunities for co-location. Facilities should also be designed to be in-keeping with the general scale, character and levels of activity in the area and be delivered in a timely manner to meet the needs of the new development. Whilst not located within a defined centre, the proposed location of the community uses, at the heart of the development and focussed on the retained "pepper-pot" towers, would seem like an appropriate and logical location to meet the needs of the community within the development and the wider regeneration area. Subject to more detailed issues of layout, design and scale being considered through future reserved matters applications, the principle of the proposed community uses in terms of siting and reuse of locally listed building is considered acceptable and compliant with Policy CP21.

In terms of the proposed A1 retail floor space, it should be noted that the previous outline application, which includes provision for a large food store (5667sqm), remains extant. The applicant therefore has a strong 'fall-back' position, as the current proposal includes a significant reduction in the amount of A1 floor space.

The site of the proposal is not within the 'Core Area' of the city centre, which is the sequentially preferable location for new retail development. However, the northern part of the site can be considered to be 'edge-of-centre', as was accepted in consideration of the 2010 outline application. The new proposal seeks to locate up to 1,000 sqm (gross) of A1 floor space within the heart of the new neighbourhood, centred on the retained pepper-pot building and/or adjacent new build ground floor units. It is debatable whether the new location for the retail development could be considered to be edge-of-centre as it is around 300 metres from the Core Area boundary.

Policy CP13 and the NPPF require proposals for new retail uses which are not located within a defined centre to demonstrate compliance with the sequential and impact tests. In this specific case, the proposed retail floor space is to serve the convenience needs of the proposed new community and is of a scale and in such a location that would enable this role to be fulfilled. Therefore I am satisfied that the provisions of the sequential test are satisfied and that the level of floor space would be unlikely to create significant adverse impacts upon defined centres in the retail hierarchy – particularly when taking account of the approved fall-back position.

Heritage Assets and Design

Policy and Legislative background

In determination of this outline application, which impacts on various designated (namely; Wilderslowe House; Queen Victoria Statue; the railings/walls along the London Road boundary; the Hartington Street Conservation Area, with the vacant Victorian villas at 123-129a Osmaston Road, Florence Nightingale Statue) and non-designated heritage assets (namely; the two locally listed “pepper pot” towers), decision makers must engage Sections 66(1) and 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 which require the authority to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses and pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

Various cases before the courts have upheld the importance that decision makers should attach to this requirement under the Act, even when harm is found to be less than substantial. “less than substantial” (as defined in the NPPF).

Harm to the significance of designated heritage assets is a matter to which considerable importance and weight should be given in any planning balance. Causing ‘less than substantial harm’ is not to be equated with a ‘less than substantial’ objection to the grant of planning permission.

The proposal must also be considered under the new adopted Local Plan – Part 1 (DCLP) policies and those saved Local Plan Review (CDLPR) policies which are still relevant. The Local Plan - Part 1 policy CP20 seeks the protection and enhancement of the city’s historic environment, including listed buildings and Conservation Areas. CP20 states that “Development proposals that would detrimentally impact upon the significance of a heritage asset will be resisted.” CP20(c) requires development proposals which impact on heritage assets to be of the highest design quality to preserve and enhance their special character and significance through appropriate siting, alignment, use of materials, mass and scale.

CP20 also supports the sensitive re-use of under-utilised assets (including locally listed buildings), consistent with their conservation, whilst also recognising that managed change may sometimes be necessary if heritage assets are to be maintained in the long term.

Saved policies E18 and E19 for the preservation and enhancement of Conservation Areas and historic buildings which are statutory listed and on the Council’s Local List, continue to complement the new policy CP20.

Under E19 and E20, proposals including the re-use of listed or locally listed buildings, which have a detrimental impact on the special architectural and historic interest of listed buildings or their setting, should be resisted.

In term of general design principles, Local Plan – Part 1 policies CP2, CP3 and CP4 are relevant and saved policy GD5 of the adopted CDLPR are also applicable. These are policies which seek a sustainable and high quality form of development, which respects the character and context of its location. There is a general requirement to

ensure an appropriate design, form, scale and massing of development which relates positively to its surroundings. CP2 in particular seeks to ensure that development is sustainable in terms of its location, design and construction. Saved policy GD5 is intended to protect the overall amenity of occupiers of nearby properties from unacceptable harm.

In addition to the impacts on the historic environment, the master plan proposals must also be considered against the wider design principles in Part 1 Policies CP2, CP3 and CP4 and saved policies H13 and GD5 of the adopted CDLPR, which are also applicable. These are policies which seek a sustainable and high quality form of development, which respects the character and context of its location. There is a general requirement to ensure an appropriate design, form, scale and massing of development which relates positively to its surroundings. CP2 in particular seeks to ensure that development is sustainable in terms of its location, design and construction. CP3 specifically sets out place making principles, which require developments to be well integrated into their setting and respond positively to heritage assets. Policy CP4 then sets out the key considerations that will be taken into account when assessing the response of a proposal to local character and context.

Further to the consideration of the treatment of heritage assets, the proposal should also be capable of meeting the wider requirements of Policy AC5, which specifically relates to the City Centre environment. AC5 specifically recognises the London Road / Inner ring road as a 'primary gateway', whilst the Osmaston Road / Inner ring road junction is defined as a 'secondary gateway'. These locations are generally considered to be appropriate locations for higher density development and there is a need to reinforce these locations to aid legibility. The indicated parameters for the proposed development demonstrate that it should be capable of responding appropriately to the context of these gateway locations.

The NPPF at Paragraph 131 provides that LPA's should take account of the desirability of sustaining and enhancing the significance of heritage assets, the positive contribution that conservation of heritage assets can make to sustainable communities and the desirability of new development making a positive contribution to local character and distinctiveness

In terms of considering the impact of a proposed development on the significance of a designated heritage asset (such as a Listed Building, Conservation Area, World Heritage Site) paragraph 132 of the NPPF advises that:

- great weight should be given to the asset's conservation;
- the more important the asset the greater weight should be given;
- the significance of an asset can be harmed through alteration, destruction or development within its setting;
- harm or loss requires clear and convincing justification

Guidance in the NPPF provides that proposed developments involving substantial harm to or loss of designated heritage assets in the case of grade II listed building should be exceptional, in the case of grade II* and grade I listed buildings should be wholly exceptional and in the case of other designated heritage assets such should only be permitted if either the loss or harm is necessary to achieve substantial public benefit that outweigh the loss or harm caused by the development or if the specific tests set out in paragraph 133 are met.

Where the harm to the designated asset is considered to be less than substantial, paragraph 134 of the NPPF provides that the “harm should be weighed against the public benefits of the proposal, including securing its optimum viable use”.

In relation to non-designated heritage assets, which include buildings on the Council’s Local List, which includes the “pepper pot” buildings, paragraph 135, requires where there are direct or indirect effects on the significance of the asset, then when weighed in the balance, a balanced judgement will be required having regard for the scale of the harm or loss of the asset and its significance.

Paragraph 137 of the NPPF is relevant as it states authorities should “look out for opportunities for new development and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably”.

Impacts on Heritage Assets

The former DRI site includes and affects the setting of various heritage assets, including the statutory listed Wilderslowe House, Queen Victoria Statue and the railings/ walls along the London Road boundary and part of the Hartington Street Conservation Area, with the vacant Victorian villas at 123-129a Osmaston Road. The site also includes two pairs of “pepper pot” buildings, which are on the Council’s Local List and the retained part of former hospital buildings which have now been demolished. The Grade II listed Florence Nightingale statue is adjacent to the site, set within the listed boundary wall and railings fronting London Road. Its setting would be affected by any development on the former hospital site.

A Heritage Statement & Impact Assessment has been submitted in support of the application, which has assessed the significance of the heritage assets within the site and in the immediate area, including those on the Local List and assesses the impact of the development on those heritage assets.

The masterplan proposals show an intention to retain and enhance all of the designated and non-designated heritage features on and around the site, with the exception of one of the “pepper pot” towers, which is proposed to be demolished. It is proposed to bring Wilderslowe House and 123-129a Osmaston Road, back into a viable re-use, with the latter being converted back to residential use, with removal of later rear extensions. Wilderslowe House is to be brought back into a viable reuse, although a specific use is not identified at this stage, but is proposed to be either a residential or office use.

The three former villas at 123-129a Osmaston Road are currently in a derelict state and have been vacant for some time. The proposed renovation and re-use as dwellings with their curtilages is welcomed in principle. There is a proposal to remove the rear extensions on these buildings, although it is not clear if this refers to all or some of the extensions or if this is necessary to secure residential reuse of the buildings. The Conservation Officer has raised concerns about the potential removal of the extensions without a detailed heritage assessment being carried out of the individual buildings. It is acknowledged that this may be difficult at the present time due to the condition of the buildings. Until a proper survey of the buildings and their extensions can be carried out, then it is pre-mature to determine whether it is appropriate for some or all of the extensions to be removed. It is reasonable in my view to exclude the proposal to demolish the extensions via a planning condition at this stage, to allow more detailed assessment of them at reserved matters.

A Statement of Significance has been submitted for Wilderslowe House, which assesses its historic significance and potential for sensitive uses. The statement also identifies the benefit of reinstating a curtilage and boundary treatment for the building, to enhance its setting. A curtilage area has been indicated around the listed building which includes more land to the rear of the building than is currently within its boundary. The Council's Conservation Officer has welcomed in principle the reuse and formation of an appropriate curtilage. However, she has requested more details of the proposed curtilage, boundary treatment and landscaping to be agreed at this stage. The applicant has not been forthcoming with additional information, stating that the proposed curtilage is referenced in the heritage assessment and considers its original setting and how it has been affected by the hospital development. Their view is that minor adjustments to the curtilage can be dealt with at detailed stage through planning and listed building applications. The Conservation Officer agrees that listed building consent will be needed for any alteration works to the building and for new curtilage and boundary features. I am satisfied that at this outline stage the area of the proposed curtilage, along with the rest of the design and layout of the development is indicative only. The precise layout, boundary treatment and other external works within the curtilage can be appropriately dealt with at reserved matters and through the necessary listed building applications which will inform the appropriate curtilage and respect the setting of Wilderslowe House.

The proposals for Wilderslowe House also show a pedestrian access link to be formed alongside the main entrance to the site onto Osmaston Road. The Conservation Officer has identified that this would impact on part of the curtilage wall, although no details have been provided for this access with the application. The applicant has responded that the link is illustrative only and that a pedestrian access could be achieved in a variety of ways which may not impact on the listed wall. The formation of an access through the wall would require separate listed building consent and it is not clear at this stage whether it is necessary, so it would be reasonable to exclude this element of the scheme at this stage by means of a planning condition.

The Queen Victoria statue is proposed to be relocated within the site a short distance along the London Road frontage, to a more prominent position in front of the retained

“pepper pot” building. The statue would sit within a proposed area of public realm, which is to be formed to the London Road frontage and is part of the proposed linear park. The Conservation Officer has raised no objection to the statue being moved to this more prominent position, subject to the required listed building consents being given.

The stone boundary wall and railings fronting London Road are statutory listed and forms a strong edge to the site. The proposal is to remove a section of the wall and railings to the front of the retained “pepper pot” building to form a new pedestrian entrance into the development from London Road. Removed materials are proposed to be re-used within the development.

A section of more modern retaining wall to the corner of the Bradshaw Way and London Road frontage facing towards Intu shopping centre would also be removed to form a pedestrian linkage with the city centre, to enhance accessibility to city centre facilities and transport hub. The provision of a safe access for pedestrians at the Bradshaw Way pedestrian crossing over the roundabout junction has also been highlighted by the Highways Officer and the opening up of a gap in the wall at this point would address this highway safety issue. The Bradshaw Way section of wall is not covered by the statutory listing and in my view this does not constitute a heritage asset, although it does form part of the setting of the listed wall and railings fronting London Road.

Concerns have been raised by the Council's Conservation Officer, Urban Designer and Conservation Area Advisory committee about the sections of wall and railings to be removed, (although some of these sections are not part of the listed structure) and requested further details of number of accesses, extent of wall removal, proposed finishes and the making good of the retained wall. The applicant has not provided such details, although the applicant has responded that the submission of details for the works to the listed wall is considered premature at this stage, since it is directly related to the formation of the linear park and refurbishment of the retained “pepper pot” building. The applicant identifies only one section of the listed wall to be altered to form the pedestrian access and this is to the front of the retained locally listed building. They point to the benefits of forming a new wide and welcoming approach at this point, which is to create a clear focus for the retained building, provide a legible connection into the linear park and public realm and relate visually to the locally listed church opposite. The masterplan proposals illustrate the intended removal of wall to form a pedestrian access and public realm area, with the relocated Queen Victoria statue as a feature. These proposals are indicative at this stage, although they do give a clear steer as to the location and width of the opening to be made in the wall. The removal of part of the wall and railings to form the access will require separate listed building consent and also be dealt with under a reserved matters approval for the development of the public realm and linear park. The Conservation Officer has not raised concerns about the principle of forming an access into this section of the wall and it is appropriate in my view to provide improved pedestrian routes into the site from London Road. The proposed location of the access through the listed wall is a logical position, which would create a focus for one of the “pepper pot” buildings and Holy Trinity Church. Since the formation of the connection through the wall is

linked to the proposed public realm works to the London Road frontage, it is reasonable in my view to confirm the details of the width of opening, finishes and reuse of the materials as part of the reserved matters scheme, subject to the appropriate listed building consents being given.

Despite the loss of this section of the wall, the proposal does not seek the removal of any other sections of the listed wall along London Road. There is also an intention to reopen an existing pedestrian access in the listed wall which fronts onto London Road between the Florence Nightingale statue and the retained “pepper pot” building. Further pedestrian accesses onto London Road are indicated alongside the existing vehicle access into the site and to the south east corner of the site adjacent to Litchurch Street. Both of these accesses are existing and do not require any works to the listed boundary. The retained wall and railings would be maintained as a strong boundary for the development site and a prominent feature in the street scene.

The part removal of the wall and railings fronting London Road would amount to a loss of historic fabric and constitutes less than substantial harm to the significance of the listed structure. As required under para.134 of the NPPF the loss of listed fabric must be balanced against the public benefits of the development as a whole.

The outline application seeks permission in principle, to retain and refurbish Wilderslowe House and the three villas on Osmaston Road and to bring them back into a viable use. The locations of the proposed removal of wall and railings on London Road are indicated in the Design and Access Statement, although approval is not being sought at this stage for the precise sections to be removed, the width or finishes of the intended openings. The design principles in the Design and Access Statement gives an indication of how the retention, reuse and repair of these heritage features may sit within the context of the wider development, illustrated through the masterplan proposals and the parameters plans which are provided at this stage. Due to the absence of a detailed scheme for the proposed alterations to the designated heritage assets and the need for further applications for planning and listed building consent, it is considered reasonable at this stage to attach conditions to a permission, to control these works under future applications.

Successful development and regeneration of this site is reliant upon the positive integration of the various heritage assets located within and surrounding the application site. The need to respond positively to these important features is reflected in Policy AC6 which specifically requires ‘the effective protection and enhancement of heritage assets within and adjacent to the site’ in addition to a ‘positive contribution to the townscape of London Road’.

The retention of the Grade II listed buildings and features on the site including the proposed renovation and re-use of Wilderslowe House and the three properties at 123- 129a Osmaston road within the Hartington Street Conservation Area are to be welcomed in principle and are generally consistent with the intentions of Policy CP20 which seeks to ensure that heritage assets are positively integrated into regeneration proposals through constructive conservation. This is also consistent with the

intentions of the saved Policies E18, E19 and E20 which seek to preserve and enhance heritage assets as part of the new development.

Impacts on the “Pepper Pot” Buildings

The two “pepper pot” tower buildings on the site are the remaining parts of 19th Century hospital, which are the retained ends of the former pavilion blocks, of which there were originally four, connected by a corridor block. The rest of the hospital buildings have been demolished and the site cleared. The towers, along with the former pavilion blocks are included on the Council’s Local List and are classed as non-designated heritage assets. The proposal is to retain one of the “pepper pot” buildings, which is in a central position on the site and bring it back into use for commercial and/or community uses. The end use is not specified at this stage and the applicant is seeking a flexible approach to the reuse and refurbishment of the building.

The second “pepper pot” building on the site is proposed for demolition. The loss of one of this pair of identical and distinctive buildings would be regrettable and is contrary to the intentions of the 2010 masterplan scheme which was granted outline permission on appeal in 2012. The loss of this non-designated heritage asset is contrary to Policy CP20, which seeks to resist development which has detrimental impacts on the significance of a heritage asset. It is also in conflict with saved Policy E19, which would not normally approved developments which would have a detrimental effect on locally important buildings and structures, by encouraging their retention, appropriate use and restoration.

The applicant’s Heritage Statement & Impact Assessment gives an analysis and reasoning behind the proposed retention of only one of the buildings. This concludes that “pepper pot” buildings have equal significance in heritage terms and have lost their historical context due to the demolition of the adjoining blocks, such that they now appear isolated. Their significance is considered to be solely in their aesthetic and communal value and as a remnant of the former hospital and as such they have relatively low significance. The retention of two buildings is not necessary in the applicant’s view, to preserve communal heritage value and provide physical evidence of the former hospital. The retention of one of the buildings, it is argued will significantly enhance its communal and landmark value, by including it as a focal point in the development and reusing it as a community hub. The applicant also argues that the retention of one of the buildings is appropriate for the urban design vision of the development as a whole, which is to use it as a focal point and visual anchor for the development and the public realm which is to be formed within it. The retained building is in a central location within the London Road frontage site and also has a visual relationship with the locally listed Holy Trinity Church, directly opposite on London Road.

Some consultees and particularly the heritage consultees, including the Council’s Conservation Officer, the Victorian Society and the Conservation Area Advisory Committee have raised objections to the proposed loss of one of the “pepper pot” buildings. Their comments are replicated under Consultations at part 5 of this report, The consultees have identified the harm to the significance of the buildings as an

identical pair and to their historic association with the former hospital. It is also noted that the applicant has not provided a convincing argument as to why there is no potential for retaining and reuse of both “pepper pot” buildings within a regeneration scheme for the site. The extant 2012 outline permission, proposed the retention of the pair of locally listed buildings as part of a masterplan scheme and it is unfortunate that the current proposal is seeking to remove one of those remaining heritage features of the site.

Where a development proposal would directly impact on the significance of a non-designated heritage asset, such as a locally listed building then NPPF para.135 is triggered and requires a balanced judgement to be made in weighing the planning balance, having regard for the scale of any harm or loss and the significance of the asset.

The proposed removal of one of the pair of locally listed buildings is a detrimental impact on what is otherwise a broadly welcome and well thought out regeneration framework for the former hospital site. This however needs to be considered in the context of whether through the supporting appraisal and masterplan process, the development scheme as a whole would provide significant benefits which is sufficient to outweigh the removal of the locally listed building. It is noted that the application is supported by a Heritage Statement and Impact Assessment, which assesses the significance of the heritage assets and appraises the impacts of the proposal and a Design and Access Statement with a design concept for the site. These documents both seek to justify the removal of the second “pepper pot” building on the basis of its limited individual significance and due to the constraints associated with forming a principal access connection from London Road. This is because the existing access point, from London Road which is to be used as the main vehicular route into the site, is directly opposite to the “pepper pot” building and would inhibit the formation of a direct and legible route through the site.

It is arguable whether a fully convincing argument has been put forward to justify the retention and reuse of only one of those “pepper pots”, when the scheme is in outline, with only means of access being considered for approval. The access onto London Road would require diversion around the locally listed building if it were to be retained, so this would affect the proposed alignment and layout of one of the principal connections and green corridors through the site.

The issue of the proposed demolition of one of the “pepper pot” buildings is a regrettable part of the outline application and in conflict with the intentions of policy CP20 and saved policy E19, which seeks to resist proposals which would detrimentally impact on the significance of a heritage asset. Policy AC6 requires the effective protection and enhancement of heritage assets within and adjacent to the former DRI site and the loss of the “pepper pot” building is contrary to this requirement of the policy.

However, it must be taken into consideration that the “pepper pots” are both included on the Council’s Local list and are, therefore, non-designated assets. Although these buildings are established components of this particular part of the townscape and of the former hospital, the public benefits of this development proposal, which need to

be fully considered in the planning balanced judgement when considering the loss of a non-designated asset, are as follows:

1. The proposal would amount to a comprehensive redevelopment of a vacant brownfield site in a highly sustainable location, close to the city centre. It would provide a significant quantum of new homes and this would positively contribute to the city's overall housing need. This should be afforded significant weight in the balance.
2. The application makes a concerted effort to incorporate and re-use designated and non-designated heritage assets into the site layout and to positively incorporate features such as the Queen Victoria statue into its public realm component. In my opinion, embracing these heritage assets into the overall site layout, subject to further detailed analysis and applications to control those works, is a very positive aspect of the proposal which should be attributed significant weight in the planning balance.
3. The proposal layout of the scheme, although indicative at this stage, provides clear parameters and a comprehensive urban design vision for future reserved matters applications. The indicative layout has strong urban design credentials and the access and connectivity components and strong legible routes through the site would, in my opinion, deliver a scheme with a definite 'sense of place'. The loss of the pepper pot tower is required to maintain clear sight and pedestrian access through the site and I appreciate the urban design rationale for this component.
4. The proposed development, although a 'tight' scheme in financial viability terms, delivers an agreed Section 106 package which would, following scrutiny from the District Valuer, provide a proportionate level of infrastructure to deliver the development. This also has regard for the financial costs of the development in terms of the retention and restoration of the retained heritage features, which are factored into the limited viability of the scheme. This agreed package would include the provision 10% affordable housing on-site.

Design Objectives and Parameters

The outline application is supported by a masterplan for the site and development parameters, contained in the Design and Access Statement, which sets out the place making principles, suggested layout and urban design objectives. Outline permission is only being sought for the principles of development as well as the means of access, although the applicant is seeking to fix various development parameters at this stage, which are included in the submitted parameters plans. These principles are intended to be prescriptive in relation to the amount of land proposed for development and for the public realm and to identify the retention of existing buildings and structures. The reserved matters would then need to accord with these parameters, as well as the approved means of access.

In relation to urban design objectives for the DRI site, Policy AC6 requires a positive contribution to the townscape of London Road to be achieved and a high standard of design, in line with the requirements of Policies CP3 and CP4. In terms of land use requirements the policy expects development to deliver a mix of house types and

supporting facilities to form a new neighbourhood, a green pedestrian and cycle link from Arboretum to Basses Recreation Ground and improved accessibility to transport hubs and the city centre.

The masterplan proposals comply with these intentions of Policy AC6 and provide a residential – led development with a small element of complementary commercial, community and retail uses. The scheme would be structured around existing landscape and heritage features and form a network of open spaces and public realm which link through the site with pedestrian and cycle connections.

The Council's Urban Designer is generally supportive of the design ethos and layout, which is proposed and the context analysis which supports the proposal. I note that she does raise some concerns about the potential scale and height of the development and treatment of the finished floor levels across the site. The levels across the site slope considerably between Osmaston Road and London Road frontage and the detailed scheme would need to take account of the sloping nature of the topography and work with the levels to avoid the use of significant retaining features within the development. Since the outline scheme is not seeking approval for scale or layout at this stage, the suggested cross sections and illustrations are purely indicative and these matters will be appropriately dealt with at reserved matters stage. Conditions can be attached to ensure that suitable sections and floor levels for buildings and the open space are considered in all phases of the development. The Urban Designer also highlights the absence of a car parking strategy within the master plan proposals. Whilst, this may be useful in terms of place making and good urban design practice, this application is not seeking approval for the layout or design and no details of street blocks or house types are being dealt with under this scheme. The Design and Access Statement includes general guidance on the car parking principles and this indicates that a mix of on-street and plot parking is being considered for the development. This level of detail is considered adequate at this stage, with scope to develop an appropriate parking scheme for each phase under the reserved matters.

Overall, proposal is considered to be well considered and takes a comprehensive approach to the site, which is welcomed. The development would significantly enhance the permeability and townscape quality in this important area of the city and provide a balanced and legible environment which is integrated into the wider street scene and largely sensitive to the historic features on and around the site. The place making principles and urban design tools required in Policies CP3 and CP4 have been largely adopted in the master planning for this strategic site and this demonstrates that the development should contribute to the distinctiveness and character of this area of city. It must be noted however, that whilst the proposed development does contain many positive elements and is a considered masterplan which is based on an analysis of context and character of the surrounding townscape, the adverse impacts which have been identified to the heritage assets are contrary to the intentions of Policy CP4, which expects proposals to demonstrate that proposals respond to the context of the local area, focus on important views to and from an area and landmark buildings and any significant features of local history.

Transport impacts and Access

Proposed Accesses

The former DRI site is located in a highly sustainable location, adjacent to the city centre and within walking distance of the main bus station and railway station. It sits alongside three major transport routes in the city, which are also bus and cycle routes. The site is therefore accessible to various forms of transport and has good connections with the city centre and other parts of the city. Despite this the site itself is currently very inward looking and has a limited number of existing linkages with the surrounding townscape. This is due to its previous use as a major hospital, which needed to provide a secure environment for its patients. The London Road frontage in particular, currently has a substantial retaining wall along the boundary and only a single access into the site, towards the eastern end, which was previously one of main entrances into the hospital.

The application seeks approval for the means of access to the development, with all other matters reserved. The masterplan proposals seek to provide two principal vehicle accesses into site, with a separate in and out access to Wilderslowe House. A single access onto London Road would utilise the previous hospital entrance and a new access onto Osmaston Road is to be provided alongside the former villas at 123-129a. Both accesses are appropriate in location and layout and are in a similar position to those approved under the previous outline permission (DER/11/10/01429) granted in 2012. There are no proposals for a vehicular link through the development site, except for an emergency access route and this would avoid the potential for rat-running through the site. This is welcome and would ensure that only visitors to the new community would drive into the development. The Highways Officer has not raised any concerns in respect to the proposed vehicular access arrangements for the scheme, having regard for the proposals agreed under the previous approval.

Traffic Impacts – Transport Assessment

The applicant has submitted a Transport Assessment (TA) and framework Travel Plan in support of the application. The TA assesses the impacts of the proposed development on the highway network and takes as its baseline the permitted outline scheme. In terms of the traffic impacts of the proposed residential-led development, the extant outline permission has to be taken into account, which included the provision of approximately 6 000 square metres of retail floor space, including a large food store, as well as 400 dwellings. The traffic generation associated with the approved food store and residential scheme would be significant and have a greater impact on the local road network than the current proposal for 500 dwellings. I note therefore that the Highways Officer is comfortable with the potential traffic impacts which are given in the TA and does not consider that any off-site improvements to the local highway network are necessary to mitigate for the impacts of the development.

The parking provision for the development will be dealt with under a detailed reserved matters scheme, although the TA states that it will be provided in accordance with the standards in the Local Plan – Part 1.

Pedestrian and Cycle Connections

The master plan proposals introduce new pedestrian and cycle connections into and through the development, to improve linkages with the wider area, including the city centre, Castle Ward and the Arboretum. These connections are indicative at this stage, but do illustrate the intention to enhance the permeability of the site and create a legible scheme and integrated urban neighbourhood. Policy AC6 requires the provision of a “green link” for pedestrians and cyclists through the site between the Arboretum and Bass’s Recreation Ground. The application proposes both formal and informal links through the development, which fulfil the policy objective. The formal route is in a central position, running alongside the retained “pepper-pot” tower between London Road and Osmaston Road. The informal link is identified as a green corridor, which would run along the southern edge and flatter part of the site and has the potential to provide an easily accessible link to the Arboretum.

The masterplan shows an egress going onto Litchurch Street, a private road within the community hospital. This raises concerns that the route would not be capable of becoming a publicly maintained footpath and cycle path, since a key section of the route would be in private ownership. The Highways Officer has raised significant objections to this aspect of the proposal and I concur with his view that this is not appropriate, since it should egress directly onto Osmaston Road to the north of the Urgent Care Centre. There is a strip of land alongside Osmaston Road, which is in Council ownership and is currently preventing the preferred egress being delivered, since it is not in the applicant’s control. This issue will be resolved, when the land becomes dedicated as public highway, which is the intention of the Council, although this process will not be completed until after the application is determined. Despite the route to Osmaston Road not being resolved at this stage, the applicant is committing to delivery of a green pedestrian/ cycle route through the development, which meets the requirement of Policy AC6. The details of the route, including its alignment and layout are not for determination at outline stage and will be reserved for the detailed scheme. The green links will be secured as part of a phased development of the site. It is reasonable to attach a condition to prevent an egress onto a private road, to ensure delivery of the route directly onto the public highway.

The Highways Officer also requires an improved pedestrian link into the city centre, via new access through the wall in the Bradshaw Way boundary. This has impacts on the setting of the nearby listed wall and railings and the Conservation Officer has referenced this in her comments. However, I am satisfied that a connection to the city centre is necessary for both permeability and improved highway safety for pedestrians and the details of this element of the scheme can be resolved at reserved matters stage.

Overall, the transport implications and access proposals are considered to be consistent with the objectives of Policy CP23, which seeks to promote sustainable transport and greater travel choices, for occupiers of a development. The transport impacts of the development are considered to be acceptable in this city centre location and provides for improved connections to the nearby areas of the city.

Open Space and Trees

London Road Linear Park

The development proposals include a number of landscape / green infrastructure features including the development of a new linear park along the London Road frontage, incorporating a number of retained mature trees and the creation of two 'green links' between London Road and Osmaston Road, including pocket parks and new tree planting. The principle of including these features is to be welcomed and is consistent with Policy AC6, which specifically requires developments to make a positive contribution to the townscape of London Road and the provision of a green route providing a pedestrian and cycle link.

The central public realm link through the site between London Road and Osmaston Road (pepper-pot corridor) is best located to serve as a green pedestrian and cycle link, although a separate link is also proposed towards the community hospital to the south. This is identified on the masterplan as an "informal green link" and would terminate at Litchurch Street, a private road through the community hospital site. The remainder of the route, which is approx. 200 metres onto Osmaston Road falls outside of the application site. The formation of a primary pedestrian/ cycle route through the development, which does not egress onto the public highway is not desirable since it relies on a private road, which outside the control of the Council's Highway Authority. It could be subject to closure by the hospital (or other landowner), which would remove the benefit of the link to provide a through access to the Arboretum. This cannot therefore form an off-road green link through the development for the purposes of fulfilling the aspiration of Policy AC6.

The general approach to green infrastructure in the site masterplan is also consistent with Policy CP16, CP17 and AC5 as it provides public access to new and existing green space for the occupants of the development and the wider area, due to the additional linkages which are proposed to be provided as part of the scheme and incorporates landscape features as an integral part of the development.

The main consideration in relation to biodiversity is the selective removal of mature trees on the London Road frontage. A number of these trees are covered by TPOs. Trees are an important part of the green infrastructure on the site and the removal of trees can be regrettable. An Arboricultural Assessment and tree constraints plan has been submitted in support of the application which propose the removal of various groups of trees which are on the site. Some of these are for arboricultural reasons, due to poor health and condition and the rest are to meet design and layout objectives set out in the masterplan.

The loss of any protected trees and any associated impacts on biodiversity is regrettable, although in this case, the Council's Arboricultural Officer has discussed the tree removal on site with the applicant and is supportive of the proposals. It is also worth noting that the most significant trees on site are being retained and incorporated into the linear park and open space corridors which are proposed in the masterplan. Any impacts on protected species, including bats can be mitigated and dealt with appropriately by planning conditions and under a Natural England Licence, as referred to below. On this basis, the proposed removal of trees is considered

acceptable in terms of Policies CP16 and C19, which both seek to protect such landscape assets in a manner appropriate to their significance.

Other Environmental Impacts

Noise and Air Quality

The former hospital site is located in area close to the city centre and abutting the Inner Ring Road, which experiences high levels of noise, mainly from traffic and poor air quality. There is an Air Quality Management Area (AQMA) along Bradshaw Way, London Road and Osmaston Road as a result of high levels of NO₂ and particulate emissions from traffic flows. The applicant has provided both a Noise Assessment and Air Quality Assessment to assess the impacts on the proposed redevelopment and in particular the residential element of the scheme.

The noise assessment acknowledges the high levels of traffic noise around the site, although it is concluded that with suitable mitigation measures being introduced into the design and layout of the dwellings and outdoor amenity area, the noise levels would be kept within acceptable limits. The Environmental Health Officer acknowledges these findings and accepts the recommendations to minimise noise impacts in the detailed layout. Since the application is only seeking approval in principle for the various types of development proposed, it is reasonable to secure appropriate noise mitigation via suitable planning conditions.

In respect to air quality, the submitted assessment acknowledges that the development is likely to see significant adverse impacts from the increases in levels traffic on an already busy network, likely to occur in the future. The Environmental Health Officer considers that “the development would introduce sensitive receptors i.e. residential dwellings, into an area of known poor air quality and which has been designated an Air Quality Management Area. Future occupants are therefore at risk of being exposed to high levels of nitrogen dioxide (NO₂) and possibly fine particulate matter (PM_{2.5}). However, he also notes that potential air quality emissions in the future are uncertain, due to improvements in vehicle emissions and may actually improve over time. The Officer has adopted a precautionary principle and assumed significant impacts on sensitive receptors in the development as a result of poor air quality. There is the added dimension of current national government policy to mandate Derby to implement a Clean Air Zone which will affect this location.

Whilst there is the potential for significant impacts on future residents, arising from poor air quality, it must be borne in mind that the site was previously occupied by a large hospital, with significant traffic generation and large number of patients. The comparison with the previous use means that it would not be reasonable to resist residential uses on this site, solely on air quality grounds. The Environmental Health Officer has taken this into account and accepts that it would be unreasonable to resist the principle of residential development on this site, subject to various conditions to limit the impact of traffic emissions on future occupants. This includes submission of a mitigation plan for air quality for each phase of development and a 10 metre buffer for residential development from the carriageway of London Road, Bradshaw Way and Osmaston Road. Such a buffer would be achieved with ease on

the Bradshaw Way and London Road frontages due to the location of the site boundary wall and mature trees which form a natural buffer. However, the applicant has raised concern in relation to Osmaston Road due to the proximity of the existing former dwellings at 123 -129 Osmaston Road and the need to form an active street frontage which complements the Hartington Street Conservation Area opposite the site. Some other form of mitigation to protect living environments from poor air quality may be required in this location.

Overall, I am satisfied that the high noise levels and poor air quality arising from the busy road network in this location can be dealt with appropriately at reserved matters stage and controlled by a set of planning conditions. These environmental issues are a result of this site being adjacent to the city centre and the AQMA and can be satisfactorily mitigated, such that the intentions of saved policies GD5 and E12 can be met.

Contamination

Following the demolition of the hospital buildings the site has largely been cleared and the ground extensively disturbed, due to the significant scale of the works undertaken. A Preliminary Contamination Assessment has been submitted with the application, which recommends that due to ground disturbance, that further gas and soil monitoring on the site is carried out before any development works commence.

The Environmental Health Officer is satisfied with the results of the assessment and recommends planning conditions are attached to secure a site investigation for contamination and possible remedial measures if necessary. This is in my opinion an acceptable approach and accords with the requirements of saved policy E13, relating to site contamination.

Flood Risk

The former DRI site is in an area of low flood risk, Flood Zone 1, although it is a substantial site area, which requires a sustainable drainage solution to deal with surface water. A Flood Risk Assessment and Drainage Strategy have been included with the application, which provides a proposed surface water drainage strategy for the development. This suggests that discharge for surface water within the development would be close to greenfield discharge rate as practically possible as part of a wider detailed drainage design, submitted as part of the reserved matters.

Following the submission of additional drainage information in February 2017, the Land Drainage team are satisfied that the proposal is capable of providing sustainable (SUDs) drainage in the development to meet the their requirements and minimise flood risk to the wider area. Accordingly the proposal meets the flood risk intentions of Part 1 Policy CP2.

Ecology

In regards to protected species, the former hospital site was known to support bat roosts and activity in some of the hospital buildings and trees. A bat survey was undertaken to support the previous outline application in 2010, which found evidence of bat roosts and conditions were attached to require mitigation measures to be put in place to protect bat habitat during and post – demolition. Most of those buildings have now been demolished and only a small number of buildings now remain on the

site. I note the comments made by Derbyshire Wildlife Trust in relation to the demolition about the failure to obtain a licence to safeguard the bat habitat from Natural England. This is regrettable and should not be repeated for this development.

A further bat survey was carried out in February 2016 as part of a Preliminary Ecological Appraisal which has been undertaken and this reveals that some of the historic buildings and trees have the potential to support bat roosts. Further dusk emergence surveys and dawn re-entry surveys were then carried out in 2016 that confirmed bat roosts in 123-129 Osmaston Road and The Lodge. These buildings are proposed to be retained as part of the development and brought back into re-use. A mitigation strategy and Natural England licence would therefore be required to protect the bat habitat from refurbishment works to form part of the development. Derbyshire Wildlife Trust (DWT) have noted that the survey work was carried out to a "highly professional standard" and that no further survey works are required at this stage. The presence of protected species, in this case bats have therefore been identified on the site, and their protection would be adequately safeguarded by a set of mitigation measures to be implemented before and during construction. These can be secured by planning conditions as recommended by DWT and would ensure that the requirements of Part 1 Policy CP19 to protect biodiversity are complied with.

The appraisal also identified the potential for breeding birds to be present in the trees on the site, which would require protection for any works carried out during the breeding season.

Ecological enhancements in the development are also proposed as part of the open space and landscape strategy in the master plan, by means of native planting and provision of bird and bat boxes within the site. These are broadly welcomed by DWT and a scheme of biodiversity enhancement can be secured through the reserved matters, by means of a planning condition.

Planning Balance: harm v benefits

In coming to a decision on whether the acknowledged harm to the heritage assets on the site resulting from the development proposals, as identified by the various consultees including the Council's Conservation Officer, should lead to a refusal of outline permission, regard must be had for the relevant adopted Local Plan – Part 1 policies in particular CP20 and AC6 and saved policy E19, which feeds into the balancing exercise required under both paras.134 and 135 of the NPPF.

The removal of a section of the listed wall and railings fronting onto London Road, to form a principal pedestrian entrance into the site would amount to less than substantial harm to the designated heritage asset, which must be considered with regard to para.134 of the NPPF and balanced against the public benefits of the proposal. The loss of the historic fabric of a small portion of the listed wall and railings constitutes a limited degree of harm in my view, which must be weighed against the benefit of enabling an improvement to the permeability of the development site between London Road and Osmaston Road and providing additional pedestrian access to the new areas of public realm and to the retained "pepper pot" building. This limited amount of demolition to the wall and railings, would not in my view

amount to a detrimental impact on the listed structure, which does not therefore conflict with the provision of policy CP20 and saved policy E19.

Paragraph 135 relates specifically to applications which impact on non-designated heritage assets and this includes buildings on the Council's Local List. It requires that the effect on the significance of the heritage asset, should be taken into account and in weighing applications that affect directly or indirectly impact on that asset, a balanced judgement is required having regard for the scale of the harm or loss to the significance. It is fair to say that the requirements of para. 135 are not as robust as that of para.134, when weighing the impacts of development on non-designated assets in the planning balance.

Taking into account the impact of the proposal on the "pepper pot" building which is to be demolished, it clearly amounts to a direct and significant impact resulting in the loss of the heritage asset. Being mindful of the views of the Council's Conservation Officer, the building is currently part one of a pair, which are landmark features on the site and make direct reference to the 19th Century hospital. However, the building is only of local historic significance, which is why it is on the local list and it does not have any statutory protection through listing and is outside the conservation area. The weight given to its significance in the planning balance must therefore be less than that given to a statutory listed structure or building in the conservation area. In weighing up the loss of the "pepper pot" building, in the planning balance, the wider benefits of the proposed redevelopment of the hospital site, both in terms of the physical regeneration, economic and social benefits of housing delivery and public realm, as well as the conservation of the other heritage assets on and around the site must be taken into consideration.

In terms of the significant planning benefits of the development proposal, the regeneration of a strategic brownfield site in a highly sustainable location is a material consideration which must be given due weight in the planning balance. The proposal would deliver a new residential neighbourhood of up to 500 units, with enhanced connections to the surrounding communities and to the city centre. This amounts to a significant housing delivery for the city, which is policy compliant and would make a material contribution towards the city's housing requirement. The proposal is for a mix of different housing types, including care home facilities to give a sustainable community, with supporting facilities.

The scheme is also proposed to retain and enhance the setting of trees on the site and introduce a new framework of public realm, open space and landscaping through a comprehensive development, incorporating the retained trees and heritage features. The delivery of new high quality public open space within the site, through the provision of the linear park alongside London Road and Bradshaw Way and around the retained "pepper pot" building would open up the site to public access and make a positive contribution to the townscape in this part of the city.

The overall masterplan proposal, whilst it is indicative also provides clear parameters and a comprehensive urban design vision for future reserved matters applications. The indicative layout has strong urban design credentials and the access components and strong legible routes through the site would, in my opinion, deliver a

scheme with a definite 'sense of place'. The loss of the pepper pot tower is required to maintain clear sight and pedestrian access through the site and I appreciate the urban design rationale for this component.

These parameters are considered to be in compliance with requirements of Policy AC6, although it must be noted that the loss of the locally listed building is in conflict with this policy.

Having said that there are also acknowledged to be substantial benefits that the masterplan proposals would deliver to the former hospital site, which are related to the proposed heritage improvements to retained buildings and structures on the site. Subject to further detailed analysis and consideration, the proposed reuse and restoration of these heritage assets is a very positive component which should be attributed significant weight in the planning balance.

In weighing up the balance between the benefits and the adverse impacts of the development proposals, I consider that the regeneration benefits of the scheme, delivery of significant new housing and complementary facilities and provision of a network of public green spaces, public realm and pedestrian/ cycle links through the site and comprehensive urban design vision for the site would outweigh the harm to and loss of the identified heritage assets which are affected by the development.

In terms of the planning balance which is being considered under the requirements of the NPPF paras. 134 and 135 I conclude that the proposed development does give rise to significant benefits which would outweigh the harm to the locally listed "pepper pot" building and to the London Road wall and railings. It is very rare that a scheme will comply in every respect with every policy in the development plan. The Courts have held that a failure to accord with some policy aspects does not automatically mean that it cannot, as a matter of planning judgment, accord with the plan considered as a whole.

In this case, whilst the proposal is acknowledged to be in conflict with the some of the provisions of Policies CP20, CP4 and AC6 and saved policy E19, when taken as a whole the development proposal does in my view accord with the adopted Local Plan – Part 1 and saved City of Derby Local Plan Review; as a result of the significant public benefits associated with the delivery of a large quantum of housing on a highly sustainable site and the inclusion of a number of designated heritage assets into the scheme.

Section 106 Package

Through Policy AC6 of the Derby City Local Plan – Part 1, the development of the former DRI site is required to provide "effective protection and enhancement of heritage assets within and adjacent to the site" and "a positive contribution to the townscape of London Road". The application proposes to undertake refurbishment works and conversion of the retained heritage assets on the site, including one of the locally listed pairs of "pepper pot" buildings. Through the Section 106 agreement, the applicant has also agreed to provide a significant amount of on-site public open space to include a linear park on the London Road frontage and green corridor through the site as well as other public realm works and the reuse of the retained locally listed building for community use. Collectively these works come at a

significant financial cost to the development. Even without the retention of the second pair of “pepper pot” buildings, the applicant has approached the Council with concerns regarding the viability of the other requested Section 106 contributions. It is therefore safe to assume that the viability of the development would be further reduced by the retention and restoration of the second “pepper pot” building.

The District Valuer (DV) was therefore engaged to provide an independent assessment of the development’s viability. The DV has concluded that while the provision of affordable housing is not viable for this development there is scope to provide limited financial contributions. The DV has also recommended that a review/overage mechanism be agreed with the applicant due to the uncertainty of future costs as a result of the outline nature of the application.

Following the issuing of the DV’s report, further negotiation with the developer was undertaken on the contributions which the development can afford. This has resulted in the offer of a full primary education contribution and just over a fifth of the policy compliant secondary education contribution. The Council’s education team acknowledges that whilst a reduced secondary education contribution may put pressure on future school capacity, this contribution is acceptable in the context of site viability.

The education contributions are in addition to on-site provision of public open space and public realm to form part of the development scheme. Officers are satisfied that the level of contributions being provided up front and on-site are in line with recommendation of the DV report and indeed represent a slightly enhanced offer. In lieu of an overage/ review mechanism being included in the Agreement, the applicant has agreed to the provision of 10% affordable housing on site.

In terms of overage, this is a mechanism for the provision of on-site infrastructure or financial contributions equivalent to the level not being provided during the life of the development which would make the scheme policy compliant. This is in the event that viability improves in the future.

Agreed Section 106 contributions:

- Full contribution towards primary education
- Partial contribution towards secondary education
- On-site public open space including play area
- On-site public realm
- Community/sports use in the remaining ‘pepper pot’ tower
- On site affordable housing.

8. Recommended decision and summary of reasons:

- A. To authorise** the Director of Strategy Partnerships, Planning and Streetpride to negotiate the terms of a Section 106 Agreement to achieve the objectives set out below and to authorise the Director of Governance to enter into such an agreement.
- B. To authorise** the Director of Strategy Partnerships, Planning and Streetpride to **grant permission** upon conclusion of the above Section 106 Agreement.

Conditions:

1. Matters to be reserved. – scale, layout, design and landscaping
2. Two year time limit for reserved matters and three years for implementation
3. Plans/ drawings to be approved under the permission.
4. Details of the phasing of the development, including timetable for repair and refurbishment of the retained buildings on site: Wilderslowe House, 123-129a Osmaston Road and the “pepper pot” building to be agreed.
5. As part of any phase or phases of development which requires the removal of part of any section of the wall and railings fronting onto London Road and Bradshaw Way, precise details of the siting and width of opening, finishes, copings and use of material to be removed and proposed footpath levels through the raised ground to be submitted and agreed.
6. Permission does not imply approval for the removal of any of the rear extensions to the buildings at 123-129a Osmaston Road.
7. No demolition of the “pepper pot” building hereby permitted to be carried out until a detailed reserved matters scheme which includes the development of that part of the site has been submitted and agreed.
8. To agree the layout, boundary treatment and landscaping of the proposed curtilage area for Wilderslowe House, as part of the detailed reserved matters for the works to Wilderslowe House
9. Permission does not imply approval for the formation of a pedestrian access by any works to the listed curtilage wall of Wilderslowe House
10. The details to be submitted for re-use and refurbishment of 123 -129a Osmaston Road, to include a heritage assessment of each of the buildings, including their extensions.
11. Minimum number of residential units in C3 use to be implemented across the whole development shall be no less than 400 dwellings, unless an alternative is agreed in writing.
12. Maximum limit on floor space for A1 retail, A3, A4 and B1a uses as per the application.
13. Range of goods limit for A1 retail to limit range of goods to convenience only up to limit the overall floor space to 1,000 sqm (gross) only.

14. As part of a detailed approval for any phase or phases of the development, pedestrian and cycle links through that part of the development and connections with the surrounding area, to be submitted showing siting, alignment and width of the route.
15. The route of the informal green link through the site and access onto the private road is not to be approved under this permission.
16. Details to be submitted for any phase or phases of the development to include analysis of existing and proposed floor levels across the site and details of the treatment of finished floor levels for buildings, public realm and outdoor spaces.
17. Details to be submitted for any phase or phases of the development to include a noise mitigation assessment for that phase or phases
18. Where any phase or phases of the development include a commercial use in the A3, A4 and B1 use class, then a noise assessment to be carried out and agreed for those uses.
19. As part of any phase or phases of the development which fronts onto Osmaston Road, London Road and Bradshaw Way, an air quality mitigation plan to be submitted and agreed, to minimise increases in local emissions from traffic associated with the development and mitigation scheme to protect occupants of all proposed dwellings likely to be exposed to significant levels of air pollution.
20. As part of any phase or phases of the development, no residential units shall be sited within 10 metres of the carriageway of Bradshaw Way and London Road and within 5 metres of Osmaston Road, unless otherwise agreed in writing by the local planning authority.
21. As part of any phase or phases of the development details of a surface water drainage strategy for that phase or phases, to be agreed. Details to include SUDs measures to limit surface water run off.
22. Before any works are carried out to buildings or trees which may affect bat habitat, a bat mitigation and monitoring strategy, including need for Natural England licence to be submitted and agreed
23. Compensatory bat roosting measures to be implemented as part of any phase or phases of the development, in line with details to be agreed.
24. As part of any phase or phases of the development intrusive site investigations to be carried out to determine levels of ground gases and soil contaminants on the site. An investigation report to be submitted and agreed before commencing.
25. Where investigation report confirms significant contamination exists, remediation method statement for that phase to be submitted and approved.
26. All elements of agreed remediation statement for each phase to be validated and validation report to be submitted and agreed, before occupation.

27. Details of internal road layout, servicing, parking and pedestrian/ connections green link, widening of footway, wheel washing facility and construction management plan to be submitted.
28. Before occupation accesses on London Road and Osmaston Road, travel plan and green link to be submitted and provided.
29. No vehicle connection between London Road and Osmaston Road.

Reasons:

1. To comply with the relevant Town and Country legislation.
2. To comply with the relevant Town and Country legislation.
3. For the avoidance of doubt.
4. To ensure a comprehensive approach to the development and proper control over delivery and to secure the repair and renovation of the historic buildings on the site in a timely manner – Policy AC6, CP3, CP4, CP6 & CP20
5. To safeguard the significance and setting of the listed structure and ensure proper control over the removal of historic fabric – Policy CP20, saved Policies E19, E20
6. To safeguard the significance and character of the buildings in the Conservation Area and ensure proper control over any alterations or removal of historic fabric – Policy CP20, saved Policy E18
7. To ensure that demolition is carried out as part of an approved phased development and to safeguard the significance and character of the locally listed building – Policy CP20, saved Policy E19
8. To safeguard the significance and setting of the listed structure and ensure proper control over the removal of historic fabric – Policy CP20, saved Policies E19, E20
9. To safeguard the significance and setting of the listed structure and ensure proper control over the removal of historic fabric – Policy CP20, saved Policies E19, E20
10. To safeguard the significance and character of the buildings in the Conservation Area and ensure proper control over any alterations or removal of historic fabric – Policy CP20, saved Policy E18
11. To ensure the development is policy compliant and secures an appropriate contribution towards housing delivery for the city – Policy AC6 & CP6
12. To ensure that commercial and retail uses are complementary to the needs of the residential neighbourhood hereby approved – Policy AC6, CP13 & CP15
13. To minimise impact on the vitality and viability of the defined centres, including city centre – Policy CP12 & CP13

14. To provide appropriate pedestrian and cycle connections through the development, with the wider area to promote varied modes of transport to and from the site – Policy AC6 & CP23
15. The alignment of the pedestrian and cycle link through the development as shown on the indicative layout plan does not secure the use of the route for the public in perpetuity and is therefore not appropriate to accord with the policy – Policy AC6 & CP23
16. To secure a suitable urban design and layout which has regard for the topography and physical features of the site – Policies CP3, CP4, AC6 & saved Policy GD5
17. To minimise the impacts of noise disturbance to future occupants of the development in the interests of residential amenity – saved Policy GD5
18. To assess and minimise impacts from noise disturbance resulting from commercial uses approved on the development – saved Policy GD5
19. To protect future occupants of the development from the adverse effects of poor air quality – saved Policy GD5
20. To protect future occupants of the development from the adverse effects of poor air quality – saved Policy GD5
21. To ensure surface water drainage arrangements for the development which minimise flood risk to the wider area – Policy CP2
22. To safeguard protected species and their the habitat from the adverse impacts of the development and provide mitigation in interests of biodiversity – Policy CP19
23. To provide enhancement habitat features for protected species in the interests of safeguarding biodiversity – Policy CP19
24. To protect future occupiers of the development from site contamination – saved Policy GD5
25. To protect future occupiers of the development from site contamination – saved Policy GD5
26. To protect future occupiers of the development from site contamination – saved Policy GD5
27. In interests of highway safety – Policy CP23
28. In interests of highway safety – Policy CP23
29. In interests of highway safety – Policy CP23

Informative Notes:

Heritage assets

No works to demolish or make alterations any of statutory listed buildings and structures on and around the site can be undertaken without the benefit of listed building consent for those works. Works to demolish or develop any part of the

buildings in the Hartington Street Conservation Area will require a detailed planning application, before any works commence. All further applications affecting the heritage assets will require a detailed heritage impact assessment to be provided of those buildings or structures.

Wildlife protection

No removal of trees or shrubs or works to or demolition of buildings or structures that may be used by breeding birds should take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the work is commenced and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site.

- 1) The above conditions require works to be undertaken in the public highway, which is land subject to the provisions of the Highways Act 1980 (as amended) and over which you have no control. In order for these works to proceed, you are required discuss the proposed works with the highway authority to arrange for the appropriate agreement under the Highways Act.
- 2) For details of the 6C's design guide and general construction advice please contact Robert Waite Tel 01332 642264.
- 3) Derby City Council operates the Advanced Payments Code as set out in sections 219 to 225 Highways Act 1980 (as amended). You should be aware that it is an offence to build dwellings unless or until the street works costs have been deposited with the Highway Authority.

S106 requirements where appropriate:

Contributions towards primary and secondary education and 10% affordable housing to be provided on site.

Application timescale:

The application had a 13 week target date of 12 April 2017, although an extension of time for determination has been agreed until 18 August. The scheme is brought to committee due its strategic nature and objection from the Conservation Area Advisory Committee.

1. Application Details

Address: Site of Former Derbyshire Royal Infirmary, London Road, Derby.

Ward: Arboretum

Proposal:

Construction of up to 500 dwellings (Class C3 and C2) and for 1,000sqm (max) A1 (shops); 500sqm (max) Class A3 (restaurants and cafes); and 1,100sqm (max) Class B1(a)(offices)/A2 (financial and professional services); and for Class D1/D2 (non-residential institutions/assembly and leisure), Class A4 (drinking establishments) together with access, public open space, landscaping and associated engineering works

Further Details:

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan/01/17/00030>

Brief description

At the Planning Control Committee meeting on 20 July 2017, Members resolved to defer this outline application for redevelopment of the former Derbyshire Royal Infirmary (DRI) site, London Road until a future meeting, for the applicant to reconsider the proposal for demolition of the second “pepper pot” tower element of the former hospital building as part of the proposed development. Members welcomed the principle of the proposed comprehensive redevelopment of the site, but wished to see the second tower incorporated into the masterplan vision for the scheme.

In response to Member’s resolution, the applicant has put forward an amended proposal, (known as “Scheme 2”) to retain the second “pepper pot” tower building and indicate a need for the building to be extended at the rear to support its re-use. In support of Scheme 2, a revised set of Parameters Plans and Illustrative Layout has been submitted. In addition, plans have been submitted showing the potential alignment of the access road from London Road, to route around the retained second building.

The applicant is also requesting that Members reconsider and make a resolution in respect to the original proposal, now described as “Scheme 1”, which includes demolition of the second tower building and is unchanged from the scheme considered at the 20 July committee meeting. This report is an addendum to that previous committee report which is attached and should be read in full reference to that report.

Scheme 2 shows the second “pepper pot” building being incorporated into the development and to be brought into use for a potential mix of uses, including A1, A2, A3, B1 office uses and/or residential use in C2 or C3 Use Class. The principal access to the site from London Road is the former hospital entrance and directly opposite the “pepper pot” building. Its alignment would require a sharp bend to turn past the building, into the rest of the site. The proposed heights of the development alongside

Committee Report Item No: 4 – ADDENDUM

Application No: DER/01/17/00030

**Type: Outline
Application (with
means of access)**

the retained building are also proposed to be reduced from 4 to 3 storeys, to be more in line with the scale of that building.

In support of the amended proposal, the applicant has also submitted an updated viability appraisal and Section 106 package, to take account of the costs associated with the retention and reuse of the second “pepper pot” building.

2. Relevant Planning History:

See previous committee report

3. Publicity:

Neighbour Notification Letter – 90 letters

Site Notice

Statutory Press Advert

This publicity is in accordance with statutory requirements and the requirements of the Council’s adopted Statement of Community Involvement.

4. Representations:

No further representations to revised proposal.

5. Consultations:

Conservation Area Advisory Committee:

To be reported.

Highways Development Control:

To be reported.

Built Environment (Conservation Officer):

To be reported.

Historic England:

On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advice. It is not necessary for us to be consulted again, unless there are material changes to the proposal.

Built Environment (Urban Design):

The scheme 2 submission has an illustrative layout which includes the retention of both the Pepper pot towers, in response to recommendations from previous planning committee. The importance of retention of both the towers as a more meaningful re-use of heritage assets has always been encouraged, and is greatly welcomed. In terms of urban design this gives a greater presence of existing features on a large site, which greatly assists in integrating the old with the new and ensures that the proposal relates to it's context. The two towers give a rhythm of features, which are locally well-known landmarks and so contribute to the structure of the townscape and help give the development legibility. However, the second tower is shown on the layout with a street which appears to be diverted (as per the original layout) around it. It appears in the layout as an afterthought. Therefore, I recommend that further work is required to ensure that the second Pepperpot tower is integrated well into it's immediate public/private realm, and the hierarchy/character of the streets revisited so that it enables the hard and soft area around the tower to reflect the symmetry of the building, much in the manner in which the other tower has been treated.

Derbyshire County Council Archaeologist:

To be reported.

Victorian Society:

To be reported.

Regeneration Projects:

The Regeneration Projects team supports proposals for some 500 new homes on this site that would contribute to delivering the city's overall new homes target by 2028.

The regeneration of this site is an important deliverable of the 'Living City' aspect within the City Centre Masterplan 2030. The former DRI site is also known as 'the Nightingale Quarter' which has been identified in the Masterplan as a key development site opportunity. The site is also a key component of Derby's Housing Zone designation and as such receives support from the Homes and Communities Agency.

The ongoing regeneration of Castleward on the opposite side of the London Road has already created a number of family homes with more planned, and as such would welcome education contributions from any neighbouring developments to support a planned primary school as well as secondary education provision.

Overall the proposed development will supplement delivery of the City Centre Masterplan.

6. Relevant Policies:

The Derby City Local Plan Part 1 - Core Strategy was adopted by the Council on Wednesday 25 January 2017. The Local Plan Part 1 now forms the statutory development plan for the City, alongside the remaining 'saved' policies of the City of Derby Local Plan Review (2006). It provides both the development strategy for the City up to 2028 and the policies which will be used in determining planning applications.

Derby City Local Plan Part 1 - Core Strategy (2017)

- CP1a) Presumption in favour of Sustainable Development
- CP2 Responding to Climate Change
- CP3 Placemaking Principles
- CP4 Character and Context
- CP6 Housing Delivery
- CP7 Affordable and Specialist Housing
- CP9 Delivering a Sustainable Economy
- CP11 Office Development
- CP13 Retail and Leisure outside of defined centres
- CP14 Tourism, Culture and Leisure
- CP15 Food, Drink and the Evening Economy
- CP16 Green Infrastructure
- CP17 Public Green Space
- CP20 Historic Environment
- CP21 Community Facilities
- CP23 Delivering a Sustainable Transport Network
- AC1 City Centre Strategy
- AC2 Delivering a City Centre Renaissance
- AC4 City Centre Transport and Accessibility
- AC5 City Centre Environment
- AC6 Castle Ward and Former DRI
- MH1 Making it Happen

Saved CDLPR Policies

- GD5 Amenity
- CC17 City Centre Servicing
- H13 Residential Development – General Criteria
- H14 Re-use of Underused buildings
- E12 Pollution
- E13 Contaminated Land
- E17 Landscaping Schemes
- E18 Conservation Areas
- E19 Listed Buildings and Buildings of Local Importance
- E20 Uses within buildings of Architectural or Historical Importance
- E24 Community Safety
- E25 Building Security Measures
- L4 New or Extended Public Open Space

The above is a list of the main policies that are relevant. The policies of the Derby City Local Plan Part 1 – Core Strategy can be viewed via the following web link:

http://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/policiesandguidance/planning/Core%20Strategy_ADOPTED_DEC%202016_V3_WEB.pdf

Members should also refer to their copy of the CDLPR for the full version or access the web-link:

<http://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/policiesandguidance/planning/CDLPR%202017.pdf>

An interactive Policies Map illustrating how the policies in the Local Plan Part 1 and the City of Derby Local Plan Review affect different parts of the City is also available at – <http://maps.derby.gov.uk/localplan>

Over-arching central government guidance in the NPPF is a material consideration and supersedes earlier guidance outlined in various planning policy guidance notes and planning policy statements.

7. Officer Opinion:

Key Issues:

This addendum report to the previous committee deals specifically with the amended proposal for the redevelopment of the former DRI site, (Scheme 2) which is for consideration by the committee. All other matters described in the previous report for the original proposal (including those addressing the issues of open space and the environmental impact) are also relevant to Scheme 2 and have not been replicated again.

The previous committee report presented to the Planning Control Committee meeting on the 20 July, is replicated and is now known as Scheme 1, which is for Members consideration. This scheme has now been amended and comprises the original proposal which involves demolition of one of the “pepper pot” buildings.

For the purpose of this addendum, the following issues are considered to be the main material considerations which are dealt with in detail in this section.

- Heritage Assets and Design
- Transport Impacts and Access
- Section 106 Package
- Planning Balance: harm v benefits

Heritage Assets and Design

Policy and Legislative background

In determination of this outline application, which impacts on various designated (namely; Wilderslowe House; Queen Victoria Statue; the railings/walls along the London Road boundary; the Hartington Street Conservation Area, with the vacant Victorian villas at 123-129a Osmaston Road, Florence Nightingale Statue) and non-

designated heritage assets (namely; the two locally listed “pepper pot” towers), decision makers must engage Sections 66(1) and 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 which require the authority to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses and pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

Various cases before the courts have upheld the importance that decision makers should attach to this requirement under the Act, even when harm is found to be less than substantial. “less than substantial” (as defined in the NPPF).

Harm to the significance of designated heritage assets is a matter to which considerable importance and weight should be given in any planning balance. Causing ‘less than substantial harm’ is not to be equated with a ‘less than substantial’ objection to the grant of planning permission.

The proposal must also be considered under the new adopted Local Plan – Part 1 (DCLP) policies and those saved Local Plan Review (CDLPR) policies which are still relevant. The Local Plan - Part 1 policy CP20 seeks the protection and enhancement of the city’s historic environment, including listed buildings and Conservation Areas. CP20 states that “Development proposals that would detrimentally impact upon the significance of a heritage asset will be resisted.” CP20(c) requires development proposals which impact on heritage assets to be of the highest design quality to preserve and enhance their special character and significance through appropriate siting, alignment, use of materials, mass and scale.

CP20 also supports the sensitive re-use of under-utilised assets (including locally listed buildings), consistent with their conservation, whilst also recognising that managed change may sometimes be necessary if heritage assets are to be maintained in the long term.

Saved policies E18 and E19 for the preservation and enhancement of Conservation Areas and historic buildings which are statutory listed and on the Council’s Local List, continue to complement the new policy CP20.

Under E19 and E20, proposals including the re-use of listed or locally listed buildings, which have a detrimental impact on the special architectural and historic interest of listed buildings or their setting, should be resisted.

In addition to the impacts on the historic environment, the master plan proposals must also be considered against the wider design principles in Part 1 Policies CP2, CP3 and CP4 and saved policies H13 and GD5 of the adopted CDLPR, which are also applicable. These are policies which seek a sustainable and high quality form of development, which respects the character and context of its location. There is a general requirement to ensure an appropriate design, form, scale and massing of development which relates positively to its surroundings. CP2 in particular seeks to ensure that development is sustainable in terms of its location, design and construction. CP3 specifically sets out place making principles, which require developments to be well integrated into their setting and respond positively to

heritage assets. Policy CP4 then sets out the key considerations that will be taken into account when assessing the response of a proposal to local character and context. Saved policy GD5 is intended to protect the overall amenity of occupiers of nearby properties from unacceptable harm.

Further to the consideration of the treatment of heritage assets, the proposal should also be capable of meeting the wider requirements of Policy AC5, which specifically relates to the City Centre environment. AC5 specifically recognises the London Road / Inner ring road as a 'primary gateway', whilst the Osmaston Road / Inner ring road junction is defined as a 'secondary gateway'. These locations are generally considered to be appropriate locations for higher density development and there is a need to reinforce these locations to aid legibility. The indicated parameters for the proposed development demonstrate that it should be capable of responding appropriately to the context of these gateway locations.

The NPPF at Paragraph 131 provides that LPA's should take account of the desirability of sustaining and enhancing the significance of heritage assets, the positive contribution that conservation of heritage assets can make to sustainable communities and the desirability of new development making a positive contribution to local character and distinctiveness

In terms of considering the impact of a proposed development on the significance of a designated heritage asset (such as a Listed Building, Conservation Area, World Heritage Site) paragraph 132 of the NPPF advises that:

- great weight should be given to the asset's conservation;
- the more important the asset the greater weight should be given;
- the significance of an asset can be harmed through alteration, destruction or development within its setting;
- harm or loss requires clear and convincing justification

Guidance in the NPPF provides that proposed developments involving substantial harm to or loss of designated heritage assets in the case of grade II listed building should be exceptional, in the case of grade II* and grade I listed buildings should be wholly exceptional and in the case of other designated heritage assets such should only be permitted if either the loss or harm is necessary to achieve substantial public benefit that outweigh the loss or harm caused by the development or if the specific tests set out in paragraph 133 are met.

Where the harm to the designated asset is considered to be less than substantial, paragraph 134 of the NPPF provides that the "harm should be weighed against the public benefits of the proposal, including securing its optimum viable use".

In relation to non-designated heritage assets, which include buildings on the Council's Local List, which includes the "pepper pot" buildings, paragraph 135, requires where there are direct or indirect effects on the significance of the asset, then when weighed in the balance, a balanced judgement will be required having regard for the scale of the harm or loss of the asset and its significance.

Paragraph 137 of the NPPF is relevant as it states authorities should “look out for opportunities for new development and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably”.

Impacts on Heritage Assets

The former DRI site includes and affects the setting of various heritage assets, including the statutory listed Wilderslowe House, Queen Victoria Statue and the railings/ walls along the London Road boundary and part of the Hartington Street Conservation Area, with the vacant Victorian villas at 123-129a Osmaston Road. The site also includes two pairs of “pepper pot” buildings, which are on the Council’s Local List and the retained part of former hospital buildings which have now been demolished. The Grade II listed Florence Nightingale statue is adjacent to the site, set within the listed boundary wall and railings fronting London Road. Its setting would be affected by any development on the former hospital site.

The Scheme 2 proposal includes the retention of all of these heritage assets and the retention and reuse of both of the locally listed “pepper pot” buildings. The applicant has made revisions to the masterplan vision for the site, to incorporate the second “pepper pot” building. The revised Parameters Plan demonstrate that both of the Locally listed features can be included in the proposed development without making substantial changes to the proposed layout or to the form and scale of the development. The second “pepper pot” would be brought back into use for either commercial or residential uses, similarly to the other “pepper pot” building, which is proposed for the same mix of potential land uses and for community use.

There would be an impact on the setting of the second “pepper pot” building as a result of an altered alignment of the principal access road into the site from London Road. The route would be required to make a sharp bend around the building, due to the location of the existing access, directly opposite the building. The access alignment would have negligible harm to the setting and significance of the “pepper pot” building and is therefore considered be an appropriate alteration to allow the building to be retained.

The Heritage Statement and Impact Assessment for the heritage assets on the site has not been amended to reflect the proposed changes to the scheme, although since the proposal now seeks to retain both former hospital buildings on the Local List, it is not considered essential that the heritage impacts are reassessed.

Overall, the retention of both the “pepper pot” towers under Scheme 2 is expected to be broadly welcomed by the heritage consultees, since it addresses their primary concerns with Scheme 1 and would result in a positive impact on the significance and setting of those heritage assets. The outstanding consultee comments will be reported at the meeting. The revisions to the indicative layouts and parameters plans show satisfactorily that both buildings can be accommodated within a comprehensive development of the site, without significantly compromising the vision for the site. The details of the layout and the new land uses for the buildings would be appropriately dealt with at reserved matters stage.

The revisions to the proposed development to (Scheme 2) to retain the second “pepper pot” building, would preserve the group value and historic interest of the pair of locally listed buildings and allow the opportunity for them to be brought back into a viable and sympathetic reuse as part of a comprehensive redevelopment of the site. . The revised proposal is not considered to result in loss or harm to the significance of the locally listed structures, or non-designated heritage assets. The proposed retention of the second “pepper pot” tower is therefore considered to accord with the requirements of the heritage policies in the Local Plan – Part 1, Policy CP20 and saved Policies E19 and E20.

The proposals in Scheme 2 maintain the proposed demolition to part of the Grade II listed wall and railings along the London Road boundary of the site, in order to form an additional pedestrian entrance to the development providing a link to the new public realm and linear park and to the “pepper pot” building in the centre of the site. Removed stone material is intended to be reused in the development. The retained sections of wall and railings would be maintained as a strong boundary for the development site and a prominent feature in the street scene.

This proposal is part of the overall vision for the site and is indicative at this stage, although the impact of such demolition works on the designated heritage asset must be considered at outline stage. The locations of the proposed removal of wall and railings on London Road are indicated in the Design and Access Statement, although approval is not being sought at this stage for the precise sections to be removed, the width or finishes of the intended openings. The design principles in the Design and Access Statement gives an indication of how the retention, reuse and repair of these heritage features may sit within the context of the wider development, illustrated through the masterplan proposals and the parameters plans which are provided at this stage. Due to the absence of a detailed scheme for the proposed alterations to the designated heritage assets and the need for further applications for planning and listed building consent, it is considered reasonable at this stage to attach conditions to a permission, to control these works under future applications.

The removal of a section of the wall and railings would amount to a loss of historic fabric and amounts to less than substantial harm to the significance of the listed structure. As required under para.134 of the NPPF the loss of listed fabric must be balanced against the public benefits of the development as a whole. The proposed works to the listed wall and railings would constitute a limited degree of harm in my view since it would result in the loss of a relatively small portion of the listed structure and enable improved pedestrian access into the site. Having said that this element of the scheme has an acknowledged detrimental impact on the listed structure which conflicts with the intentions of Policy CP20 and saved Policy E19.

Successful development and regeneration of this site is reliant upon the positive integration of the various heritage assets located within and surrounding the application site. The need to respond positively to these important features is reflected in Policy AC6 which specifically requires ‘the effective protection and enhancement of heritage assets within and adjacent to the site’ in addition to a ‘positive contribution to the townscape of London Road’.

The retention of the heritage assets on the site is welcomed in principle, including the Grade II listed buildings and features on the site, through the proposed renovation and re-use of Wilderslowe House, the three properties at 123- 129a Osmaston Road within the Hartington Street Conservation Area and the locally listed “pepper pot” buildings. The retention and protection of these assets is generally consistent with the intentions of Policy CP20 which seeks to ensure that heritage assets are positively integrated into regeneration proposals through constructive conservation. This is also consistent with the intentions of the saved Policies E18, E19 and E20 which seek to preserve and enhance heritage assets as part of the new development.

Transport Impacts and Access

The means of access is being determined at outline stage and the proposed access on London Road is one of those access points to be agreed under this application. The access uses the former entrance to the hospital site and the Highways Officer has raised no objections to the use of this entrance as a principal access to serve the development.

The revisions to Scheme 2, which retain the second “pepper pot” building, would have implications for the alignment to the principal access route through the development site, due to the position of the access on London Road. As considered above, the retention of the building would require the alignment of the access road to form a tight bend around the building, to connect with the rest of the development. This access arrangement was approved in principle under the previous outline permission (DER/11/10/01429) granted in 2012, when the “pepper pot” buildings were also to be retained as part of the development.

The applicant has submitted tracking details for the proposed access road to demonstrate that the alignment around the “pepper pot” building is feasible in terms of highway design. The applicant has been in negotiation with the Council’s Highways Officer to agree an appropriate road layout around the building, which would meet the required highway specifications. Whilst, the feasibility of the road alignment needs to be confirmed prior to determination of this application, the current proposal seeks permission only for the principle of the access point onto London Road, which the Highways Officer is in agreement with.

The proposed means of access onto London Road is not altered under Scheme 2 and the required alterations to the road alignment of the access road are considered acceptable in principle, subject to agreement by the Council’s Highways Officer. The transport implications of the development are unchanged from Scheme 1 and accordingly the revised proposals are considered to be in line with the intentions of Policy CP23 of the Local Plan – Part 1.

Section 106 Package

Through Policy AC6 of the Derby City Local Plan – Part 1, the development of the former DRI site is required to provide “effective protection and enhancement of heritage assets within and adjacent to the site” and “a positive contribution to the townscape of London Road”. The revised Scheme 2 proposes to undertake refurbishment works and conversion of the retained heritage assets on the site,

including both of the locally listed pairs of “pepper pot” buildings. Through the Section 106 agreement, the applicant has also agreed to provide a significant amount of on-site public open space to include a linear park on the London Road frontage and green corridor through the site as well as other public realm works and the reuse of one of the retained locally listed buildings for community use. Collectively these works come at a significant financial cost to the development.

The Section 106 Package agreed under Scheme 1 was subject to a rigorous viability appraisal, which was assessed by the District Valuer (DV) and delivered a reduced set of contributions which are set out in the previous report. Setting aside the on-site development contributions set out above, the agreed package would provide 10% affordable housing and off-site contributions towards primary and secondary education. The applicant has agreed to the provision of 10% affordable housing on site, in lieu of an overage/ review mechanism being included in the Agreement. The Scheme 1 affordable housing provision would comprise 60% rented and 40% shared ownership units. The Council’s education team acknowledges that whilst a reduced secondary education contribution may put pressure on future school capacity, this contribution is acceptable in the context of site viability.

The revisions under Scheme 2 give rise to additional development costs associated with the retention and refurbishment of the second “pepper pot” building. As a result, a further viability appraisal has been undertaken, which has been assessed by the DV and this has confirmed that the economic viability of the development has worsened, due to the additional costs of retaining the second locally listed building. The applicant has agreed to honour the package of contributions which were put forward under Scheme 1, but with a change in the tenure mix for the affordable housing. The recommended mix of affordable housing provision, now proposed is 20% rented and 80% shared ownership. It should be noted that this tenure split has not so far been agreed with the Council’s Housing Strategy team.

The proposed Section 106 contributions for Scheme 2 are therefore as follows:

- Full contribution towards primary education
- Partial contribution towards secondary education
- On-site public open space including play area
- On-site public realm
- Community/leisure use in one of the ‘pepper pot’ towers or elsewhere on the site
- On site affordable housing (20% rent/ 80% shared ownership)

Planning Balance: harm v benefits

In coming to a decision on the Scheme 2 proposal, the additional benefits arising from the retention and reuse of both of the locally listed “pepper pot “ towers as part of the development must be considered in the planning balance exercise as required to be carried out by the NPPF. Regard must also be had for the adopted Local Plan policies and the saved policies of the City of Derby Local Plan Review.

The development does result in acknowledged less than substantial harm to a designated heritage asset, by the removal of a section of the listed wall and railings fronting onto London Road, to form a principal pedestrian entrance into the site. This harm to the Grade II listed structure must be considered with regard to para. 134 of the NPPF and balanced against the public benefits of the proposal. The loss of the historic fabric of a small portion of the listed wall and railings constitutes a limited degree of harm in my view and judgement, which must be weighed against the benefit of enabling an improvement to the permeability of the development site between London Road and Osmaston Road and providing additional pedestrian access to the new areas of public realm and to the retained “pepper pot” buildings.

The revisions to the proposal to incorporate the second “pepper pot” building into the development are welcome and amount to a further public benefit of the scheme, which can be weighed in conjunction with the protection and enhancement to the other designated and non-designated heritage assets on the site. Having regard to the requirements of para. 135 of the NPPF relating to non-designated heritage assets, the proposed reuse of both locally listed features would preserve both their significance and setting and the need for a balanced judgement is not triggered in this case.

In terms of the significant planning benefits of the development proposal, the regeneration of a strategic brownfield site in a highly sustainable location is a material consideration which must be given due weight in the planning balance. The proposal would deliver a new residential neighbourhood of up to 500 units, with enhanced connections to the surrounding communities and to the city centre. This amounts to significant housing delivery for the city, which is policy compliant and would make a material contribution towards the city’s housing requirement. The proposal is for a mix of different housing types, including care home facilities to give a sustainable community, with supporting facilities.

The scheme is also proposed to retain and enhance the setting of trees on the site and introduce a new framework of public realm, open space and landscaping through a comprehensive development, incorporating the retained trees and heritage features. The delivery of new high quality public open space within the site, through the provision of the linear park alongside London Road and Bradshaw Way and around one of the retained “pepper pot” buildings would open up the site to public access and make a positive contribution to the townscape in this part of the city.

The overall masterplan proposal, whilst it is indicative, provides clear parameters and a comprehensive urban design vision for future reserved matters applications. The indicative layout has strong urban design credentials and the access components and strong legible routes through the site would, in my opinion, deliver a scheme with a definite ‘sense of place’.

In weighing up the balance between the substantial public benefits and the adverse impacts of the development proposals, I consider that the regeneration benefits of the scheme, delivery of significant new housing and complementary facilities and provision of a network of public green spaces, public realm and pedestrian/ cycle links through the site and comprehensive urban design vision for the site would

outweigh the less than substantial harm to the designated heritage asset which are affected by the development; in this case the part demolition of the listed boundary wall and railings. The retention and re-use of all of the heritage assets on the site, adds further public benefits to be weighed in the balance.

In terms of the planning balance to be considered under the requirements of the NPPF para 134, I conclude that the proposed development does give rise to significant benefits which would outweigh the limited degree of harm to part of the listed wall and railings. The revised proposal is also in accordance with the provisions of the relevant Local Plan policies, in particular Part 1 policies CP4 and AC6 and saved policy E20. Whilst there is conflict with Policy CP20 and E19, due to the loss of part of the listed structure, when taken as a whole the development proposal does in my view accord with the adopted Local Plan – Part 1 and saved City of Derby Local Plan Review, as a result of the significant public benefits associated with the delivery of a large quantum of housing on a highly sustainable site and the inclusion of various designated heritage assets into the scheme.

8. Recommended decision and summary of reasons:

- A. To select between their preferred options of scheme 1 or 2 as outlined in the reports.
- B. **To authorise** the Director of Strategy Partnerships, Planning and Streetpride to negotiate the terms of a Section 106 Agreement to achieve the objectives set out below and to authorise the Director of Governance to enter into such an agreement.
- C. **To authorise** the Director of Strategy Partnerships, Planning and Streetpride to **grant permission** upon conclusion of the Section 106 Agreement and subject to conditions set out below and amended for the purposes of authorising the scheme chosen pursuant to A. above.

Summary of reasons:

The proposed mixed use development of the former DRI site, would result in the comprehensive regeneration of this strategic brownfield site, with a strong urban design vision for the site, legible and accessible routes through the development, the formation of a network of public open spaces and public realm with the use of landscape features and the retention and reuse of various designated and non-designated heritage assets. The development would deliver a significant amount of housing to contribute towards the city's housing need and tie in with the existing townscape. The retention of heritage assets within the site accords with Local Plan and national planning policies. There would be no significant adverse impacts on highway safety and the local transport network. Other impacts in terms of noise, air quality and amenity, flood risk and ecology would also not be significant.

Conditions (Scheme 2):

- 1. Matters to be reserved. – scale, layout, design and landscaping
- 2. Two year time limit for reserved matters and three years for implementation

3. Plans/ drawings to be approved under the permission.
4. Details of the phasing of the development, including timetable for repair and refurbishment of the retained buildings on site: Wilderslowe House, 123-129a Osmaston Road and the two “pepper pot” building to be agreed.
5. As part of any phase or phases of development which requires the removal of part of any section of the wall and railings fronting onto London Road and Bradshaw Way, precise details of the siting and width of opening, finishes, copings and use of material to be removed and proposed footpath levels through the raised ground to be submitted and agreed.
6. Permission does not imply approval for the removal of any of the rear extensions to the buildings at 123-129a Osmaston Road.
7. To agree the layout, boundary treatment and landscaping of the proposed curtilage area for Wilderslowe House, as part of the detailed reserved matters for the works to Wilderslowe House.
8. Permission does not imply approval for the formation of a pedestrian access by any works to the listed curtilage wall of Wilderslowe House.
9. The details to be submitted for re-use and refurbishment of 123 -129a Osmaston Road, to include a heritage assessment of each of the buildings, including their extensions.
10. Minimum number of residential units in C3 use to be implemented across the whole development shall be no less than 400 dwellings, unless an alternative is agreed in writing.
11. Maximum limit on floor space for A1 retail, A3, A4 and B1a uses as per the application.
12. Range of goods limit for A1 retail to limit range of goods to convenience only up to limit the overall floor space to 1,000sqm (gross) only.
13. As part of a detailed approval for any phase or phases of the development, pedestrian and cycle links through that part of the development and connections with the surrounding area, to be submitted showing siting, alignment and width of the route.
14. The route of the informal green link through the site and access onto the private road is not to be approved under this permission.
15. Details to be submitted for any phase or phases of the development to include analysis of existing and proposed floor levels across the site and details of the treatment of finished floor levels for buildings, public realm and outdoor spaces.
16. Details to be submitted for any phase or phases of the development to include a noise mitigation assessment for that phase or phases.
17. Where any phase or phases of the development include a commercial use in the A3, A4 and B1 use class, then a noise assessment to be carried out and agreed for those uses.

18. As part of any phase or phases of the development which fronts onto Osmaston Road, London Road and Bradshaw Way, an air quality mitigation plan to be submitted and agreed, to minimise increases in local emissions from traffic associated with the development and mitigation scheme to protect occupants of all proposed dwellings likely to be exposed to significant levels of air pollution.
19. As part of any phase or phases of the development, no residential units shall be sited within 10 metres of the carriageway of Bradshaw Way and London Road and within 5 metres of Osmaston Road, unless otherwise agreed in writing by the local planning authority.
20. As part of any phase or phases of the development details of a surface water drainage strategy for that phase or phases, to be agreed. Details to include SUDs measures to limit surface water run off.
21. Before any works are carried out to buildings or trees which may affect bat habitat, a bat mitigation and monitoring strategy, including need for Natural England licence to be submitted and agreed.
22. Compensatory bat roosting measures to be implemented as part of any phase or phases of the development, in line with details to be agreed.
23. As part of any phase or phases of the development intrusive site investigations to be carried out to determine levels of ground gases and soil contaminants on the site. An investigation report to be submitted and agreed before commencing.
24. Where investigation report confirms significant contamination exists, remediation method statement for that phase to be submitted and approved.
25. All elements of agreed remediation statement for each phase to be validated and validation report to be submitted and agreed, before occupation.
26. Details of internal road layout, servicing, parking and pedestrian/ connections green link, widening of footway, wheel washing facility and construction management plan to be submitted.
27. Before occupation accesses on London Road and Osmaston Road, travel plan and green link to be submitted and provided.
28. No vehicle connection between London Road and Osmaston Road.

Reasons:

1. To comply with the relevant Town and Country legislation.
2. To comply with the relevant Town and Country legislation.
3. For the avoidance of doubt.
4. To ensure a comprehensive approach to the development and proper control over delivery and to secure the repair and renovation of the historic buildings on the site in a timely manner – Policy AC6, CP3, CP4, CP6 and CP20.

5. To safeguard the significance and setting of the listed structure and ensure proper control over the removal of historic fabric – Policy CP20, saved Policies E19, E20.
6. To safeguard the significance and character of the buildings in the Conservation Area and ensure proper control over any alterations or removal of historic fabric – Policy CP20, saved Policy E18.
7. To safeguard the significance and setting of the listed structure and ensure proper control over the removal of historic fabric – Policy CP20, saved Policies E19, E20.
8. To safeguard the significance and setting of the listed structure and ensure proper control over the removal of historic fabric – Policy CP20, saved Policies E19, E20.
9. To safeguard the significance and character of the buildings in the Conservation Area and ensure proper control over any alterations or removal of historic fabric – Policy CP20, saved Policy E18.
10. To ensure the development is policy compliant and secures an appropriate contribution towards housing delivery for the city – Policy AC6 and CP6.
11. To ensure that commercial and retail uses are complementary to the needs of the residential neighbourhood hereby approved – Policy AC6, CP13 and CP15.
12. To minimise impact on the vitality and viability of the defined centres, including city centre – Policy CP12 and CP13.
13. To provide appropriate pedestrian and cycle connections through the development, with the wider area to promote varied modes of transport to and from the site – Policy AC6 and CP23.
14. The alignment of the pedestrian and cycle link through the development as shown on the indicative layout plan does not secure the use of the route for the public in perpetuity and is therefore not appropriate to accord with the policy – Policy AC6 and CP23.
15. To secure a suitable urban design and layout which has regard for the topography and physical features of the site – Policies CP3, CP4, AC6 and saved Policy GD5.
16. To minimise the impacts of noise disturbance to future occupants of the development in the interests of residential amenity – saved Policy GD5.
17. To assess and minimise impacts from noise disturbance resulting from commercial uses approved on the development – saved Policy GD5.
18. To protect future occupants of the development from the adverse effects of poor air quality – saved Policy GD5.
19. To protect future occupants of the development from the adverse effects of poor air quality – saved Policy GD5.

20. To ensure surface water drainage arrangements for the development which minimise flood risk to the wider area – Policy CP2.
21. To safeguard protected species and their the habitat from the adverse impacts of the development and provide mitigation in interests of biodiversity – Policy CP19.
22. To provide enhancement habitat features for protected species in the interests of safeguarding biodiversity – Policy CP19.
23. To protect future occupiers of the development from site contamination – saved Policy GD5.
24. To protect future occupiers of the development from site contamination – saved Policy GD5.
25. To protect future occupiers of the development from site contamination – saved Policy GD5.
26. In interests of highway safety – Policy CP23.
27. In interests of highway safety – Policy CP23.
28. In interests of highway safety – Policy CP23

Informative Notes:

Heritage assets

No works to demolish or make alterations any of statutory listed buildings and structures on and around the site can be undertaken without the benefit of listed building consent for those works. Works to demolish or develop any part of the buildings in the Hartington Street Conservation Area will require a detailed planning application, before any works commence. All further applications affecting the heritage assets will require a detailed heritage impact assessment to be provided of those buildings or structures.

Wildlife protection

No removal of trees or shrubs or works to or demolition of buildings or structures that may be used by breeding birds should take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the work is commenced and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site.

- 1) The above conditions require works to be undertaken in the public highway, which is land subject to the provisions of the Highways Act 1980 (as amended) and over which you have no control. In order for these works to proceed, you are required discuss the proposed works with the highway authority to arrange for the appropriate agreement under the Highways Act.
- 2) For details of the 6C's design guide and general construction advice please contact Robert Waite Tel 01332 642264.
- 3) Derby City Council operates the Advanced Payments Code as set out in sections 219 to 225 Highways Act 1980 (as amended). You should be aware

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means of access)**

that it is an offence to build dwellings unless or until the street works costs have been deposited with the Highway Authority.

S106 requirements where appropriate:

Contributions towards primary and secondary education and 10% affordable housing to be provided on site.

Application timescale:

The application had a 13 week target date of 12 April 2017, although an extension of time for determination has been agreed until 18 August. The scheme is brought to committee due its strategic nature and objection from the Conservation Area Advisory Committee.

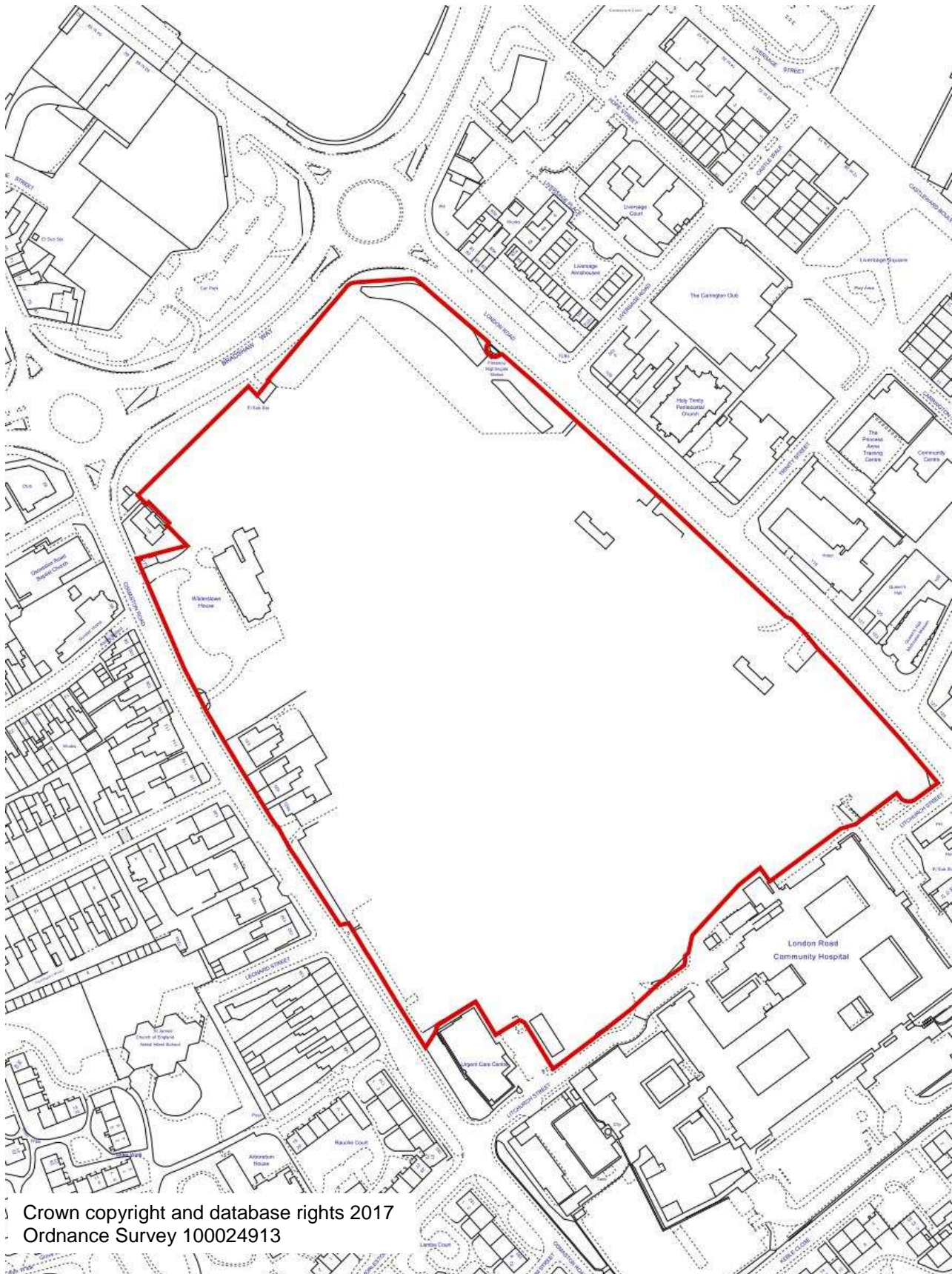
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Committee Report Item No: 4 – ADDENDUM

Application No: DER/01/17/00030

**Type: Outline
Application (with
means of access)**



Classification: OFFICIAL