



Derby City Council

**PLANNING CONTROL COMMITTEE**  
**18 July 2019**

# ITEM 7

Report sponsor: Chief Planning Officer  
Report author: Development Control Manager

## **Applications to be Considered**

### **Purpose**

1.1 Attached at Appendix 1 are the applications requiring consideration by the Committee.

### **Recommendation(s)**

2.1 To determine the applications as set out in Appendix 1.

### **Reason(s)**

3.1 The applications detailed in Appendix 1 require determination by the Committee under Part D of the Scheme of Delegations within the Council Constitution.

### **Supporting information**

4.1 As detailed in Appendix 1, including the implications of the proposals, representations, consultations, summary of policies most relevant and officers recommendations.

### **Public/stakeholder engagement**

5.1 None.

### **Other options**

6.1 To not consider the applications. This would mean that the Council is unable to determine these applications, which is not a viable option.

### **Financial and value for money issues**

7.1 None.

### **Legal implications**

8.1 None.

### **Other significant implications**

9.1 None.

This report has been approved by the following people:

<b>Role</b>	<b>Name</b>	<b>Date of sign-off</b>
<b>Legal</b>		
<b>Finance</b>		
<b>Service Director(s)</b>		
<b>Report sponsor</b>	Paul Clarke	09/07/2019
<b>Other(s)</b>	Ian Woodhead	09/07/2019

<b>Background papers:</b>	None
<b>List of appendices:</b>	Appendix 1 – Development Control Report

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1	1 - 54	19/00631/FUL	Former Friars Gate Goods Yard Great Northern Road Derby	Erection of a secondary school to include a 3 storey teaching block and separate sports hall building, plus associated infrastructure, landscaping and outdoor sports facilities, and new vehicular entrance from Great Northern Road.	<p><b>A. Subject to</b> further comments from the Environment Agency in relation to flood risk and secure appropriate flood mitigation measures through conditions.</p> <p><b>B. To authorise</b> 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.</p> <p><b>C. To authorise</b> the Director of Strategy Partnerships, Planning and Streetpride <b>to grant</b> permission upon conclusion of the above Section 106 Agreement.</p>
2	55 - 89	18/01908/FUL	Site Of 36 Agard Street Derby	Erection of 7-9 storey student accommodation comprising 148 studio flats, together with ancillary facilities and formation of vehicular access off Agard Street	<p><b>A. To authorise</b> 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.</p> <p><b>B. To authorise</b> the Director of Strategy Partnerships, Planning and Streetpride <b>to grant</b> permission upon conclusion of the above Section 106 Agreement.</p>
3	90 - 100	18/01848/OUT	Garage Court, Marks Close Derby	Demolition of garage block. Erection of replacement garages with one apartment above	<b>To grant</b> planning permission with conditions.

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4	101 - 105	19/00057/FUL	74 Burlington Way Mickleover	Two storey side and single storey rear extensions to dwelling house (garage, utility, kitchen/dining/family space, bedroom and en-suite)	<b>To refuse</b> planning permission.
5	106 - 112	19/00662/TPO	24 Carlton Road And 103 Whitaker Road Derby	Crown reduction of the western aspect by 1.5m of a Beech tree and re-pollarding of three Lime trees to original pollard points, protected by Tree Preservation Order no. 280. To be carried out every 2-3 years for a period of 10 years	<b>To grant</b> Consent with conditions.

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**Application No: 19/00631/FUL**

**Type: Full Planning Application**

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### **1. Application Details**

**1.1. Address:** Land at Former Friar Gate Goods Yard, Great Northern Road, Derby

**1.2. Ward:** Abbey

**1.3. Proposal:**

Erection of a secondary school to include a 3 storey teaching block and separate sports hall building, plus associated infrastructure, landscaping and outdoor sports facilities, and new vehicular entrance from Great Northern Road.

**1.4. Further Details:**

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan/1900631/FUL>

**Brief description**

This application seeks full permission for the erection of a new secondary school on land which forms part of the former Friar Gate Goods Yard, to the west of the city centre. The application has been submitted by the Department for Education for a Church of England secondary school which is to be a joint venture between the Derby Diocesan Academy Trust and Derby Cathedral. It is known as the Derby Cathedral School and would be 6 form entry intake with a capacity of 1260 pupils, initially split into 900 11- 16 year olds and 260 in 6<sup>th</sup> form. The school opened in September 2018 and is currently operating from a temporary site at Midland House, Nelson Street, with Year 7 pupils only.

The site is approximately 3.5 ha of the former railway sidings to the west of the Grade II listed former Bonded Warehouse and associated buildings which formed part of the railway goods yard for the Great Northern Railway line. The land has been vacant for a long period of time and is currently derelict, with a rectangular area of hard surfaced concrete slab along the southern side of the site. The northern part of the site has rough vegetation, comprising of trees and scrub. It is a part of the Friar Gate Local Wildlife Site which extends across a large area of the former goods yard site. Much of the site is elevated up to 2 metres above the street frontage of Great Northern Road and the residential streets to the north. As a result there are various retaining walls across the site to demark the level changes.

The proposed school buildings would have gross internal floor area of 9590 sq metres. It would comprise a single three storey building, with all teaching facilities, administration, catering and dining accommodation for the school. The internal layout positions most of the classrooms around the outer walls, to maximise daylight with the central core comprising the communal spaces including the main hall, dining room and library. There would also be a separate two storey sports hall building, which provides 4 sports courts, changing facilities, fitness studio and staff room.

The main school building would have a rectangular footprint measuring approx. 87 metres x 37.5 metres in area. It would be three storeys in height with a flat roofline. The elevations would mainly be faced in red brick with regular window pattern, which are separated by dark grey cladding panels and coloured sections in red and yellow. A triple height glazed entrance in the principal elevation would be the main feature of the building and takes design cues from the cathedral, with grey and coloured

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panels. The sports hall footprint would measure approx. 34 metres x 32 metres in area and be sited adjacent to the main teaching building. It would have a contemporary and distinctive appearance with largely cladding facade in grey and coloured panels on a red brick plinth.

The school would also have external sports facilities in the form of a Multi Use Games Area (MUGA) providing 3 courts for basketball, netball, tennis and handball. Grass sports pitches are also proposed for football, rugby and hockey, with a running track, a long jump pit and space for other athletics. Outdoor recreational and learning space is to be provided for pupils to the north and west of the main school building, which include horticulture area, outdoor dining area and seating areas which are to be stepped into the sloping ground.

The school would be served by a single vehicular entrance and separate pedestrian entrance both to be formed onto Great Northern Road. The main entrance would serve bus and parent drop-off area to the front of the main building and a staff car park to the west of the site. The staff parking would provide 106 spaces, including minibus parking and is to be sited on an existing hard standing area, previously used for car parking. 42 Visitor parking and parent drop-off spaces are provided to the front of the main entrance to the building. There are also 5 disabled bays in this area and a 40 space cycle parking shelter for pupils. 16 additional cycle parking spaces are also to be provided for staff and visitors around the main building.

A landscape and planting strategy for the development has been provided for the external spaces within the school and this includes the recreational and outdoor learning areas and areas to the front of the school site. The strategy incorporates retention of some trees and grassland habitat along the northern boundary and provision of new tree and meadow planting and a dry swale area to compensate for loss of the existing wildlife site. A boundary treatment strategy has also been submitted, which shows the secure and controlled access areas within the school and proposed 2.4 metre high mesh fencing around part of the perimeter boundary with retention of existing security fencing in other areas.

The application is supported by various planning and technical documents to address the array of environmental, heritage and highways matters which arise from this development. As well as the Design and Access Statement, the submission includes Transport Assessment, Flood Risk Assessment, Bramble Brook Culvert Assessment, Drainage Maintenance Strategy, Heritage Statement, Archaeological Desk Based Assessment, Air Quality Assessment, Noise Impact Assessment, Arboricultural information, Ecological Mitigation Strategy and Biodiversity Enhancement and Management Plan, Land Contamination Assessment and Construction Method Statement.

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### **2. Relevant Planning History:**

<b>Application No:</b>	DER/03/11/00246	<b>Type:</b>	Outline Planning Application
<b>Decision:</b>	Granted Conditionally	<b>Date:</b>	07/11/2013
<b>Description:</b>	Conversion Of And Extensions To Bonded Warehouse To Form Supermarket (Use Class A1) And Mall (Use Classes A1, A2 And A3). Conversion Of Former Engine House To Restaurant /Cafe/Drinking Establishment (Use Classes A3/A4). Conversion And Extension Of Former Station Viaduct To Provide Financial And Professional Services / Restaurant / Café / Drinking Establishment / Hot Food Take-Away (Use Classes A2, A3, A4 And A5) And Heritage Centre (Use Class D1). Residential Development (Up To 150 Dwellings), Petrol Filling Station (Sui Generis Use) Together With Formation Of Vehicular Accesses, Internal Roads, And Car Parking And Associated Earthworks And Landscaping		
<b>Application No:</b>	DER/03/11/00247	<b>Type:</b>	Listed Building Consent
<b>Decision:</b>	Granted Conditionally	<b>Date:</b>	07/11/2013
<b>Description:</b>	Alterations and Conversion of Bonded Warehouse for Retail Use		

### **3. Publicity:**

Neighbour Notification Letter – 53 letters

Site Notice - Yes

Statutory Press Advert - Yes

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

Prior to the application being submitted, the applicant carried out a public consultation of the proposal. This involved a public exhibition at the temporary secondary school at Midland House, near the railway station. 12 people attended the event, most of whom were residents who live close to the application site. 8 written responses were also given.

### **4. Representations:**

Three representations to the application have been received to date, which comment on the scheme. These raise the following issues:

- Visits to the site to view the different species of butterflies, some of which are rare. The site is a Local Wildlife Site and many people visit to see the rare and threatened wildlife. As much as possible of the wildlife site should be retained as a nature reserve, to allow people to view the rare habitat.
- Local resident concerned about boundary treatment proposed along school boundary. Buildings should not overlook rear garden. Open sports area are accepted.

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- Landowner of Granville Street, seeks opportunity to improve street for residents by provision of parking bays at end of street. However safeguarding of cycle route along north boundary has taken precedence.

### **5. Consultations:**

#### **5.1. Conservation Area Advisory Committee:**

Welcome the retention of the view of the Cathedral. Welcome the re-use of this site. The design of the school reflects the design of the Bonded Warehouse. Welcome additional landscaping/planting and ecological enhancement.

Recommendation: Consideration should be given to enhancing ecology and increasing landscaping where possible.

#### **5.2. Highways Development Control:**

##### **Interim comments (June 2019)**

Site Access Arrangements Drg No J32-3879-PS-009

Generally, the access arrangements shown on the above drawing appear acceptable. The visibility splays show a 'y' distance of 43m it is suggested that 47m would be appropriate to cater for the HGVs and buses using Gt North Road, however I do not think this causes an issue. Clearly there will be an impact on on-street parking, resulting in the loss of a number of parking spaces, this impact has yet to be determined.

The tracking drawings appear adequate, however it is for the applicant's to satisfy themselves about the workability of their proposals as it they who will need to control internal movements on a day to day basis.

Uttoxeter New Road Mitigation (Drg No J32-3879-PS-008)

The revised bus lane should be 4m wide, which is the minimum preferred width as defined by Local Transport Note 1/97. Before a decision can be made in respect of the suitability of the proposed mitigation proposals in catering for the additional right turning movements in to Gt Northern Road we will need to understand the assessment of the 'Linsig' of the clean air scheme

#### **5.3. Highways Transport Planning:**

##### **Interim comments (July 2019)**

Summary

The following elements of the assessment have been considered and are acceptable:

- Proposed traffic generation
- Proposed mode share
- Proposed traffic distributions across the local highway network
- Proposed staff parking acceptable

The following information needs to be updated and provided for assessment:

- An update of traffic flow figures containing all proposed committed development

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- An update of junction assessments, Picady and Linsig
- Further information for the Traffic Management arrangements on Great Northern Road
- Further consideration of cycle parking numbers.

The following elements of the assessment require further consideration by DCC:

1. DCC assessment of Great Northern Road/Junctions Street/Uttoxeter Old Road/Parcel Terrace junction capacity assessment
2. DCC assessment of the proposed development with the NO2 roadside scheme in place
3. DCC assessment of updated traffic flows with all committed development
4. DCC assessment of the proposed level of parking and traffic management arrangements along Great Northern Road.

### **5.4. Natural Environment (Tree Officer):**

The submission of a Preliminary Arboricultural Assessment and Arboricultural Impact Assessment (AIA) is welcomed as is the Biodiversity Enhancement and Management Plan (BEMP). The proposed tree removals are acceptable to facilitate development. A draft Tree Protection Plan (TPP) has not been supplied within the AIA; I would expect one to be supplied within at this point. The draft TPP must show phasing of protection measures to allow development. I would like to request a draft TPP. Trees on the north east part of the site are protected by a TPO and have been identified within the AIA.

The sports pitches, amenity grassland, meadow grass and Long Jump are shown within the RPAs of G7, G8, T4, T5, T8, T12 and T13. The installation of these habitats /features must be addressed in an Arboricultural Method Statement (AMS). The installation of new surfaces and gates within the RPAs of T4 and T5 must also be addressed within the AMS. The planting of 548 m of new native species-rich hedgerows along the northern, western and southern boundaries of the site is welcomed as is the planting of approximately 80 trees. Planting specifications (to include the provision of appropriate soil volumes), exact locations and maintenance can be conditioned. Thought must be given to planting locations. I note that the Landscape layout Plan indicates new trees are to be planted to the north and south of the informal and formal sport courts. Tree selection is important in these areas to make sure that a suitable juxtaposition is achieved. In principal I have no objection subject to: A draft TPP being supplied prior to determination and if acceptable: AMS (to include monitoring) and TPP (tree protection) condition' Landscape detail and final landscape plan condition.

### **5.5. Environmental Services (Parks):**

Thank you for inviting us to comment on the initial proposal for the above project. As indicated in the proposal, the aim is to undertake wildlife mitigation works on two sites within Derby City Council's Park Team management, namely Cheviot Street Open Space and Mackworth Park.

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### Cheviot Street Open Space

In principle we are happy to explore the recommendations made to remove topsoil and turf reducing the fertility of the wildflower area, import some gravelly substrate from Friar Gate with its attendant seedbank and select appropriate wildflower grassland seed and plug plant species to cover an area of 0.13 hectares within the open space. However would like alternative areas to be explored for this creation rather than the current proposed sites. This includes a reduction in the east area to cover just the bank, rather than come up to the sports wall area. There is a concern that the areas will be disturbed by this activity. We also do not feel that it would be appropriate to have a strip of wildflower area behind the residential properties. We propose to create a bed to the west of the skatepark, leaving a mowing strip around the skatepark of 1m.

As part of the proposed works, please confirm if the removed materials will be removed from site and that the levels remain the same on the land. As noted in the plan, there is some Japanese Knotweed located on site. Please can you confirm that there are no further invasive species which could be brought onto the site from Friar Gate.

Further details on the long term management of these areas are required, along with details on any fire risk that could be created by leaving these meadows uncut. We are aware that work is currently taking place on this and will be forwarded on, once confirmed.

We would also ask that this project is managed by an outside company, as part of the overall Derby Cathedral School project. Based on this we would require further details of the works, safe ways of working in what is a public park, risk assessments and public liability insurance.

We would ask as part of the mitigation, whether the DFE would compensate by paying for improvements to the circular footpath around the open space, which needs resurfacing.

### Mackworth Park

In principle we are happy to explore the recommendations to improve the floristic diversity of Compartment K on Mackworth Park through a traditional hay-meadow management regime. This is to include initial frequent cuts and removal of arising in the first year to reduce the fertility of the grassland. Then followed on by annual or bi-annual cuts, with appropriate over seeding and plug planting to be undertaken to increase botanical diversity of the sward. Scrub management and removal of ash saplings are appropriate and can be burnt onsite. This work would be required prior to the cutting of the meadow. Additional work around a butterfly bank, log piles or insect hotels can be created in appropriate locations, would come later once the management of the meadow has been established.

To assist this work, vehicle access is required to the site and should be considered as part of the mitigation package. Currently it is not possible for to access the site with the appropriate machinery, to cut and remove arising from the site. There is also concern over the ground carrying capacity of the ground, as it tends to be wet in places. The works will need to be undertaken during the drier months of the year.

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Additional hedgerow management may be required during the proposed management period to prevent the encroachment of these hedgerows into the meadow. Again costs will need to be included into the mitigation process.

We would also like it considered within the mitigation for a pond area to be created assisting with the management of brooks and streams within the meadow. Drainage ditches run on the west, east and southern side of the meadows and in some places are blocked in places.

A potential all user path has been proposed for the site, following consultation with Friends of Mickleover Meadows. If this is to go ahead, then it would be through this meadow.

### Consultation

The above is subject to further consultation with local residents, Ward Councillors and Friends of Mickleover Meadows. This is required to ensure all parties are aware of the proposals and have an opportunity to put forward their views.

## **5.6. Sport England:**

### The Proposal and Assessment against Sport England's Objectives and the NPPF

The development would incorporate the creation of a new secondary school including a 3 storey teaching block, separate 4 court sports hall, new playing field area for either a full adult sized single natural turf football or rugby pitch and summer athletics provision, fenced '3 court' multi-use games area measuring 34.7 metres x 53.7 metres (to incorporate netball, tennis, handball, basketball and football training), further informal hard court and all weather long jump track.

The inclusion of the sports facilities to help meet the sport needs arising from the new school is very much welcomed, as is the stated commitment to make the facilities available for community use. However, the extent of playing field is quite limited for the scale of school, being sufficient to accommodate just a single senior football or rugby pitch.

In view of the limited hectarage of playing field, it will be especially important to ensure that its design and specification is of high quality in order to maximise its carrying capacity and ensure it meets as much of the additional needs generated by the school as possible. Given the limited amount of playing field, it is unlikely that additional use by the community would be sustainable.

However, this would not be the case for the external courts and the sports hall, which instead are judged to provide a potentially valuable resource for community users.

Ideally though, Sport England would wish to see a larger 'community' sports hall measuring 690 square metres and to provide additional elements such as space for indoor netball, improved safety margins and room for spectators.

If site or budget constraints do not allow for this, then it may nevertheless be possible to look at improving specific aspects of the design such as the storage areas, or perhaps installing lighting to the external courts to enable sports like netball, tennis and informal football to be played outside in the evenings.

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The storage areas shown for the hall facility fall below the recommended 12.5% of the total floorspace of the hall, and the community store measuring just 2 metres x 2 metres does not represent a practical or usable resource. Based on experience, this leads to usable space being occupied for storage purposes and the need for external storage containers to be installed once a facility becomes operational, in order to serve community users and outdoor sports activity whether relating to the school or wider community.

Overall, I would emphasise that the inclusion of sports facilities within the scheme is welcomed in principle, and that it is recognised to have the potential to deliver both curricular and wider community sports benefits in line with Sport England planning objectives. To help maximise the sports benefits from the scheme it is recommended that the detailed design of the hall is reviewed in the light of relevant design guidance, including that highlighted above. It is also recommended that conditions are imposed to ensure that the new playing field is constructed to a suitable standard, and to set out a formalised arrangement for community use.

I have not included precise wording for these conditions within this response, but instead invite feedback from the applicant on the points raised above and the potential wording of suitable conditions. This would be with a view to ensuring that the timescale of playing field delivery to a suitable standard, for example, are agreed to align with the wider project timescale, and also arrangements for community use are clarified and formalised where relevant.

### **5.7. Environmental Services (Health – Land Contamination):**

I refer to the Preliminary Land Contamination Assessment, Great Northern Road, Derby, LBH Wembley, Report Ref: LBH4569lca Ver. 1.0 dated April 2019) submitted in support of the above discharge of condition planning application. The original report was reviewed by this department on the 20th September. The comments on this issue of the report were as follows.

#### **Report Summary**

1. The site has seen a longstanding use as part of the Great Northern Railway land and, following the decommissioning of the railway, use as a vehicle maintenance and refuelling depot for the electricity board. There were also UST's on the site.
2. In relation to potential land contamination sources on the site, the report states that the surface of the embankment may have been subject to railway contamination including heavy metals and PAHs from ash and asbestos from brake linings. Aside from coal residues, the report suggests that there is no expectation of contaminative residues arising from the goods station. Hydrocarbon contamination may have resulted from the spillage or leakage of any fuels, lubricants, anti-freeze or other potential contaminative substances stored at the transport depot. Due to the age of construction, asbestos was likely to have been used in the previous structures of the post railway structures on the site.
3. A preliminary site investigation was undertaken by Delta-Simons in November 2017 comprising mechanical excavation of 6 trial pits (TP1 to TP6), 6 shallow

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dynamic sampler boreholes (WS1 to WS6) to a maximum depth of 4m and 12 dynamic sampler boreholes with rotary follow on (BH1 to BH12) to a maximum depth of 18m.

4. Between 3m and 6m of made ground has been recorded forming the railway embankment. The exploratory holes recorded tarmac and up to 300mm of concrete in the south of the site. Where concrete was encountered it was found to overlie a limestone subbase. This may have been derived from former track ballast.
5. A total of 29 soil samples are reported to have been recovered from the near surface soils by Delta-Simons but only a proportion of these were actually tested for contamination. Only eleven samples were screened for asbestos and this was found in one of them. Some elevated metals and Polycyclic Aromatic Hydrocarbons (PAHs) were detected on occasion, but the overall extent of the survey was insufficient to draw conclusions.

### **Conclusions and Recommendations**

6. The consultant recommends further investigation of the site which I believe can be undertaken under a planning condition. The risk to critical receptors at the site is considered by the consultant to be Medium to Low.

I would recommend that conditions to secure details of;

1. Contaminated Land – Risk Assessment
2. Contaminated Land – Remediation Scheme
3. Contaminated Land – Verification Report following Remediation
4. Contaminated Land – Reporting of Unexpected Contamination

### **5.8. Environmental Services (Health – Air Quality): Revised comments – 5 July 2019**

Further to my comments of 28th May 2019 regarding air quality implications associated with the above planning application, I note the submission of an additional Technical Note - Air Quality Addendum (Air and Acoustic Consultants Ltd, Ref: 100270, Dated: 2 July 2019) produced in response to some of the concerns raised.

I can comment on the Technical Note as follows.

#### **Technical Note - Air Quality Addendum**

1. The main purpose of the Addendum is to address concerns around consideration of the impact of the scheme on the local road network in light of imminent changes to traffic flows created by the Council's Local Roadside NO2 Plan Traffic Management Scheme (TMS), due to be implemented over the next 12 months.
2. The underlying methodology used in the Technical Note was agreed with this Department. Fundamentally, detailed air quality modelling has been agreed as being impractical in the circumstances and therefore the only appropriate approach for consideration of AQ impacts in conjunction with the TMS appears to be through a qualitative assessment.

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3. Paragraph 1.1.2 highlights the importance of the TMS in terms of air pollutant concentrations on Stafford Street itself. In particular, it points out that the sole purpose of the TMS is to restrict traffic flows along Stafford Street and therefore air quality along Stafford Street should be unaffected, irrespective of the development.
4. I agree with this principle and would therefore accept that there should be little concern for air pollutant concentrations on Stafford Street to be impacted by the development, at least for the period of time that the TMS is in place and assuming that the TMS is effective.
5. The main discussion in the Technical Note is based around the outputs of Linsig traffic modelling, which is a model which assesses the performance of junctions, in particular in relation to queue lengths, which are detailed and discussed in the report with respect to the roundabout junction at Uttoxeter New Road/Stafford Street.
6. Whilst the Linsig modelling also provides data for other junctions, these have not been discussed in the report. This Department has already agreed that the Uttoxeter New Road/Stafford Street junction is the main point of concern in relation to this application, due to the existence of sensitive receptors (residential dwellings) relatively close to the junction, therefore exclusion of consideration of the other junctions on air quality grounds is acceptable.
7. Whilst not detailed in the Addendum, it is important to note that the closest sensitive receptors to this junction (i.e. dwellings with the nearest façade within 10m of the kerb) are located approximately 85 metres away on the southern boundary of Uttoxeter New Road (adjacent to the west-bound lane) and around 170m on the northern boundary of Uttoxeter New Road (closest to the east-bound lane).
8. Based on the Linsig modelling, the development is expected to increase the mean max queue length by 1.1pcu (equivalent to 6.3m) and 2.2pcu (equivalent to 12.7m) in the two east-bound (roundabout approach) lanes at the Uttoxeter New Road/Stafford Street junction in the AM Peak i.e. the morning rush hour.
9. The maximum queue length in the AM Peak is modelled at 15.4pcu, which is approximately equivalent to 88.6m (assuming an average pcu of 5.75m).
10. The impact in the PM Peak is understandably less significant, due to the majority of traffic heading away from, rather than into, the City.
11. The Technical Note concludes that this level of increase in queuing is considered to be minimal and therefore is 'not anticipated to adversely impact air quality concentrations'.
12. Whilst I would accept the conclusions to a degree, the increase in queue length heading towards the Uttoxeter New Road/Stafford Street roundabout in the AM Peak could in theory cause emissions to be higher at the nearest receptors on the southern boundary of Uttoxeter New Road, which are located approximately 85 metres from the junction.

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13. I do note however that, as the additional queuing is predicted in the east-bound lane heading towards the junction (i.e. on the northern boundary of the road), the impact is likely to be diminished due to the distance between the dwellings on the southern side of the road and the opposite lane (a distance of approximately 13.5m).
14. The nearest receptors to the northern boundary, where the majority of queuing is predicted to occur, are located much further to the west along Uttoxeter New Road at a distance of around 170m from the junction. The impacts of emissions from the additional queuing is unlikely to impact these dwellings.
15. Whilst there are a block of apartments closer to the junction on the northern side of Uttoxeter New Road (located approximately 70m from the junction close to the corner of Great Northern Road), these are set back a more significant distance from the road at a distance of over 12m. Consequently, the rapid drop-off of emissions away from the road means that these dwellings are unlikely to be significantly affected by any increase in emissions along the road itself.

### Conclusions and Recommendations on Air Quality

16. Previously, I have highlighted concerns about the development potentially affecting the Council's ability to comply with EU Limit Values along Stafford Street, which has previously been identified as being in exceedance of the EU Limit Value for annual average NO<sub>2</sub>.
17. In relation to this development however, these concerns are allayed by the proposed implementation of the Council's Local Roadside NO<sub>2</sub> Plan - Traffic Management Scheme (TMS) which is designed to control capacity/flows along Stafford Street.
18. **Assuming that the TMS is effective, the impact of the proposed development on Stafford Street itself, should therefore be negligible.**
19. In terms of air quality impacts along Uttoxeter New Road, whilst it would still have been preferred to accurately model the increases in NO<sub>2</sub> concentrations at the closest receptors along Uttoxeter New Road due to the additional queuing created by the development, it is accepted that this is not practically possible in the circumstances.
20. Whilst a very small increase in emissions from additional queuing could occur, as highlighted above in points 12 to 15, **the relative locations of the closest receptors along Uttoxeter New Road suggests that air quality impacts should be limited and therefore unlikely to be significant within the context of relevant planning policy.**
21. **Nonetheless, it is important to acknowledge that there is still a degree of uncertainty surrounding the potential air quality impacts of the scheme and therefore, it would still be prudent to ensure that suitable and commensurate air quality mitigation is secured as an integral part of the scheme.**
22. The proposed Travel Plan does go some way to provide air quality mitigation, **however, the Environmental Protection Team would still strongly**

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recommend that a bespoke Air Quality Mitigation/Compensation Strategy is secured by condition, should planning permission be granted.

23. I further note that discussions are ongoing to try and secure walking/cycling infrastructure along what is known as the Mick/Mack route through the site. The development of strategic cycling/walking infrastructure on site would be strongly supported by the Environmental Protection Team on air quality grounds.

### **Original Comments – May 2019**

I have reviewed the application information and I would offer the following comments in relation to Air Quality implications for the development as follows.

1. The application is for a new moderately-sized secondary school accommodating 1,260 students and a further 134 members of staff. New traffic movements generated on the local road network are therefore expected to be significant.
2. Whilst the road adjacent to the development (Great Northern Road) is not currently estimated to have significantly high air pollution levels, the site is located close to roads which are shown to exhibit high concentrations of nitrogen dioxide (NO<sub>2</sub>) in particular, most notably Uttoxeter New Road and Stafford Street.
3. Consequently, the development has the potential to exacerbate poor local air quality at a time when the Council is being legally required to improve it.
4. An Air Quality Assessment (Air & Acoustic Consultants, Ref: 100270, Dated: April 2019) has been submitted with the application. I can comment on the report and its implications for local air quality as follows.

### Air Quality Assessment

5. The assessment includes consideration of local air quality impacts arising from the development, in terms of both construction and operational effects.

### Operational Impacts (Traffic):

6. Section 1.4.2 of the Report states that “it has not been possible to include any traffic related air changes relating to the proposed traffic management measure proposals for Stafford Street”. **Given the potential influence from and on the proposed Traffic Management Scheme around Stafford Street and its importance for compliance with EU Limit Values, this is an important omission in the assessment and potentially renders the conclusions invalid.**
7. Traffic air quality modelling has been completed using the ADMS-Roads software package, with construction dust effects having been assessed in accordance with IAQM methodology.
8. A total of 10 receptor locations were modelled as part of the operational impacts assessment, with only 1 receptor location modelled along Stafford Street. Given the implications for the EU Limit Values along Stafford Street, I would strongly advise the use of a greater number of modelled points along Stafford Street.

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9. I note the use of a 'Calculator Using Realistic Emissions for Diesels' (CURED) sensitivity test within the modelling. Whilst this is considered to be more robust than using DEFRA's 'optimistic' emission factors, the CURED approach still predicts improvements in emission factors in the future. Using baseline year emission factors for the future year predictions would have been a more conservative approach.
10. A future opening year of 2024 has been used in the modelling. It is my understanding that the school, if granted permission, would be developed well before 2024 (with a target opening date of September 2020). Consequently, the modelling appears to be being overly-optimistic in this regard, as it takes into account emission improvements which gradually get better over time within the modelling data inputs.
11. Table 6.1 depicts the predicted annual mean NO<sub>2</sub> concentrations in 2024 at the 10 receptor locations, with and without the development in place.
12. According to the modelling, the maximum predicted concentration of annual average NO<sub>2</sub> in 2024 is a concentration of 32.33µgm-3 (sensitivity test with development) at receptor location 10 (Stafford Street). This is an increase of 0.2µgm-3 compared with the situation without the development.
13. When applying the EPUK/IAQM impact descriptors, the assessment concludes a 'negligible' impact in all cases when considering annual average NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub>.
14. Local monitoring at what appears to be the same location as receptor 10 suggests potentially higher concentrations of NO<sub>2</sub> than those modelled in the assessment however. Notably, the decreases in concentrations predicted in the model in the future year scenario should be viewed with caution based on local diffusion tube monitoring at this location over the last three years, which resulted in data suggestive of neither an upward nor downward trend:
15. Further uncertainty surrounding future NO<sub>2</sub> concentrations remains following the Council's decision to implement a Traffic Management Scheme around Stafford Street, due to be implemented later this year or in early 2020.

### Construction Impacts (Dust):

14. The construction dust assessment has been undertaken in line with the IAQM (2014) guidance methodology, which is deemed appropriate in the circumstances.
15. The report proposes mitigation measures designed to ensure that the impact of the construction phase of the development is 'not significant' with respect to dust nuisance. These are outlined within Section 7 of the report.

### Conclusions and Recommendations on Air Quality

16. Whilst broadly speaking the submitted assessment follows relevant methodology, there are some notable omissions which need to be resolved in order to be confident in the reported air quality impacts associated with the proposed development, namely:

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- Use of traffic data which includes consideration of the Council's Local NO2 Plan Traffic Management Scheme;
  - Modelling at additional points along Stafford Street;
  - Modelling of a more relevant predicted opening year e.g. 2020 or 2021.
17. In the absence of further consideration of the above points, it is hard to rely on the assessment confidently.
18. **I would strongly recommend that the points outlined in point 16 above are addressed by updating the submitted air quality assessment, before a decision is made on whether to grant planning permission or not.**
19. **Should a decision need to be reached before these points have been addressed, then I would recommend refusal of the application on air quality grounds due to insufficient information being available.**
20. A high level of confidence is needed in this instance due to the significance of increasing air pollutant concentrations within an area which is at risk of exceeding the EU Limit Value for annual average NO2, which could result in the UK Government and/or Derby City Council being issued with significant fines from the European Commission.
21. The construction dust assessment is appropriate. Should planning permission be granted, I would strongly recommend that the dust mitigation measures outlined in Section 7 of the submitted Air Quality Assessment are included within a detailed construction dust management scheme, to be implemented throughout the whole period of construction and this should be secured by a relevant planning condition.

### **5.9. Environmental Services (Health – Noise):**

I can confirm that a review of the following document has been undertaken:

- An Acoustic report by SLR ref: CI4870A/T06/TWR dated 22nd January 2019

Having reviewed these documents in the context of the application, the following comments are offered with respect to potential noise impact for the site.

#### Acoustic Report

1. The noise report considered measured noise levels around the proposed Derby Cathedral School at Great Northern Road Derby, in respect of a multi-use games area, grass pitch and fixed plant. The report considered the users of the school and nearest residences.
2. Section 2.0 of the report entitled survey data specifies that the survey is documented in 14870A/T03/CMW. This document has not been submitted, which could be useful to review.
3. Some of the survey details are provided in appendix A and B. Section A4 states that there was a light breeze (this could be anything from 2-3 m/s so probably within requirements) no indication of actual measured wind speed or direction is recorded as would normally be the case for carrying out a BS4142 assessment. Appendix B indicates that only 30 minutes of measurement was carried out at

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each of the 7 sampling locations, although the times roughly correlate to the time of a school day.

4. Section 3.2 states that typical background levels at Grenville Street are 45dBLA90. The comment has also been made that external plant is not expected to operate during the night (7:00 -18:00). This needs to be confirmed as it is possible plant/ heating/cooling equipment may operate during the night for efficiency reasons. The rating level of the plant is stated not to exceed 45dBLATR, however no plant details or specification have been provided so this information cannot be relied on. The report suggests that the cumulative limit for all plant at the nearest noise sensitive receptors will be 40 dBLAeq. However it goes on to state that characteristics of the plant noise will need to be assessed when specific details of the plant are known and therefore noise limits given may change. No candidate system has been provided to make a reasonable assessment. Please provide details of candidate plant to be used in the development so the noise levels can be calculated.
5. Section 3.2 also mentions plant noise must be controlled to no higher than 50dB LAeq. in external teaching areas and no more than 45dB LAeq. Outside any windows. The report does not mention which standard is being related to which is potentially WHO criteria. Please provide details of the noise criteria which is being used.
6. Section 3.2 also states: Please let me know if plant will operate outside of these times as we may need to revise the noise limits given for plant. This indicates uncertainty so the conclusions of the report cannot be relied on.
7. Section 4.0 show predicted noise breakout levels but no source of the data has been given the noise levels in the rooms appear to be reasonable estimate though. Please provide details on the source of information these calculations have been made on.
8. Section 5.2 mentions a ventilation system such as Gilberts 'Mistrale MFS' and a sound insulation value of 34dB Rw, however there is no sound power level or specification sheet to determine what sound will actually be produced by a proposed unit. Without knowing what internal ventilation systems will be used or external plant then the internal noise levels or the glazing or insulation requirements will not be known. Please provide noise details on the candidate ventilation system proposed to be used and provide predicted calculations on these being used.
9. In relation to the multi use games area (MUGA) in section 6.2 it states that in the Sport England Guidance "It is normally advisable to locate a MUGA (especially floodlit ones) at least 12m, and ideally at least 30m from other residences". It is noted that this proposed MUGA will be 20m from the nearest residence.
10. Section 6.2 states that noise levels at the nearest receptors will only be acceptable if a 3m high fence (acoustic shielding) is erected to the north and south of the MUGA. No specification of the proposed density of the close boarded timber fence has been provided other than giving a 10db(A) attenuation. Further details of this are needed. There is the potential for edge

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diffraction (sound waves diffracting around the edge of the barrier), so it is unclear whether properties either side of the closest noise sensitive ones will become adversely affected. Please provide further details on the specification of the fencing and calculations to demonstrate the impact of edge diffraction to adjacent noise sensitive premises.

11. It is understood that weld mesh fencing is proposed and this is quieter than rebound boards however there is still a reverberation noise associated with these when impacted.
12. Section 7.0 in reference to the grass pitch the noise sensitive receptors for this are closer 20m and 9m. A typical level of 95dBLA<sub>max</sub> at 1m has been considered and compared against a predicted dBLA<sub>max</sub> at the nearest noise sensitive property. Whilst this useful, it would also be useful to consider LA<sub>eq</sub> for comparison, and possibly consider level increase percentage change, what would it increase the ambient levels by especially to the north where the ambient levels appear much lower.

### Conclusion

13. The acoustic report states that there are many uncertainties with the proposed development as it is not currently known what plant will be used in the school. The specifications of some of the proposed plant and attenuation barriers have not been detailed.

### Recommendations

14. The noise report is not able to provide sufficient information on predicted noise levels or impact to the users of the school or the nearest noise sensitive premises. The main points above in bold will need to be addressed. I am unable to support this application with respect to noise until such a time that the above concerns have been satisfied.

## **5.10. Environmental Health (Construction Management Plan): Revised Comments- 8 July 2019**

I refer to the Construction Method Statement (BAM, Ref: HMD.0313, Version 02, Dated: 5 July 2019) submitted in support of the above planning application.

1. The submitted document (version 02), is an update to the originally submitted Construction Method Statement (CMS) and provides additional details in relation to noise and dust management proposed on site.
2. This is in light of concerns raised by this Department regarding the close proximity of the site to neighbouring residential dwellings, in conjunction with the relatively large scale of the development.
3. Section 1.3 states that the CMS has been 'specifically prepared to respond to decision notice 2018/06997/PA Pre-commencement condition 13'. This is confusing given that the document has been submitted in support of an application which does not yet have consent. I therefore assume this is a typo and would suggest removal of this section which has no relevance and quotes a condition apparently attached to an unrelated consent at another authority.

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4. I note the proposed construction hours in Section 2.2.1 stated as:

- 07:00 to 18:00hrs Monday to Friday; and
- 08:00hrs to 13:00hrs on Saturday

Given the proximity of residential dwellings, this department would recommend an amendment of these hours in accordance with our usual policy to:

- **07:30** to 18:00hrs Monday to Friday; and
- 08:00hrs to 13:00hrs on Saturday

### Construction Dust Mitigation

5. Section 2.4 refers to 'Dust Control/Air Quality'.

6. This section copies across details of the IAQM assessment methodology which was included in the Air Quality Assessment previously submitted in support of the planning application. Unfortunately, it does not include either the results of the assessment or more importantly, the proposed dust mitigation measures to be employed on site.

7. The only suggestion of actual dust mitigation measures provided in the CMS is a single sentence at the end of Section 2.4. Further detailed dust mitigation proposals therefore need to be provided.

### Construction Noise Mitigation

8. Section 2.5 outlines 'Noise Control' measures.

9. This section provides a total of 5 short bullet points of proposed noise mitigation measures, which, although welcomed, lack sufficient detail to be considered sufficient for the purposes of a CMS.

10. The measures need to take proper account of the local circumstances and the significant risks of noise nuisance which could occur given the scale of the development and the proximity of residential dwellings.

11. I would recommend consideration of BS5228 and other relevant guides on construction noise control, for example the dust and noise construction guides provided by Lewisham or Camden Councils.

### Conclusions and Recommendations

12. The submitted CMS is insufficient for the purpose of providing detailed dust and noise mitigation to be employed on site for the duration of construction works.

13. **I would therefore strongly recommend the inclusion of a planning condition, should consent be given, requiring the submission and approval of a Construction Management Plan, specifying measures designed to mitigate the risk of nuisance from dust and noise during construction activities on site and taking into account the above comments.**

14. **The Plan should be agreed before construction activities commence and should be complied with fully throughout the construction/demolition phase of the development.**

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### **5.11. Police Liaison Officer (Revised comments June 2019):**

I've been in discussion with developers regarding my previous consultation response and boundary treatment for the site.

In response, they supplied an updated plan showing some amendments to the scheme boundary. I can confirm that the proposed scheme on the drawing attached is acceptable, with some reservations about the retention of existing fencing around the staff car park, but this is more from a perspective of practicality in bringing a patchwork of differing treatments to an acceptable finish, and of visual amenity, rather than a strict matter of security.

#### **(Original comments May 2019):**

The principle of developing this isolated and neglected site would be strongly supported.

A secondary school proposal would be appropriate, and in my view the security and community safety element of this proposal is well thought through and specified.

At this point the only comments I'd make relate to queries in clarifying some points of detail which might be open to interpretation.

Site enclosure is shown as 2.4m high welded mesh fencing for the majority of the site, excluding the proposed teachers parking area in the north west corner of the site, where there is potential to retain the existing industrial fencing.

The supporting design and access statement states that 2.4m high welded mesh fencing is proposed for the south and eastern boundaries, with retention of existing fencing to the north and western boundaries, which would include the majority of existing residential boundary to the north.

In my view the existing mixed residential boundaries to the north would not form an adequate secure boundary, and the proposed fencing plan submitted should form the basis to move forward.

Plan 25 online sets out a potential DCC cycleway through the site running along the back of the main school building, with access points at the Uttoxeter Old Road bridge and South Street end footpath link.

This would be at odds with the enclosure and security strategy, even if intended for school use only, which in itself is not made clear.

The interruption of secure enclosure, particularly for the South Street end where the immediate environment is isolated and prone to anti-social behaviour, would be strongly advised against.

The security element of the school isn't explored beyond enclosure, probably as expected at this stage, but external security should either be fleshed out during the application, or set as a condition of approval, specifically a lighting strategy and CCTV coverage.

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### **5.12. Derbyshire County Council Archaeologist:**

We provided pre-application advice on this proposal in May of 2018. At this stage we requested the production of archaeological desk-based assessment of the site – including map regression and walkover survey – in order to clarify the evolution of the site and identify any surviving elements of the railway infrastructure.

The reason for this was that the site overlaps three records on the Derbyshire HER – for the line of the Great Northern Railway (HER 99013) opened in 1878, for the Friar Gate Goods Yard complex (HER 32343) and for the road overbridge (HER 32217) lying at the western end of the site. The site is also some 470m from the edge of the City Council's Archaeological Alert Area corresponding to the extent of the medieval town of Derby. The site is also within the close setting of the Grade II Listed railway warehouse and engine house associated with the Goods Yard, and a setting assessment for these buildings (using the Historic England 5 step process at Historic Environment Good Practice Advice 3) was also recommended.

The map regression included as part of the desk-based assessment confirmed that track and structures which were part of the 19th century railway infrastructure had been removed in the later 20th century ahead of the study site been developed as a depot.

No surviving above ground structures were identified during the walk-over survey. For this reason we would not request any further archaeological input to this scheme. We would recommend however that the City Council's Conservation Officer be consulted on the Heritage Statement which has been produced as part of the application, and which addresses the potential impact of the proposed development on the setting of these structures.

### **5.13. Highways (Land Drainage):**

#### **Original comments – May 2019**

The application has been supported by a Flood Risk Assessment (FRA), a Bramble Brook Culvert Assessment and a drainage design. On review of these documents, we have the following comments and issues to raise that should be fully addressed by the applicant prior to approval of the planning application:

1. The corner of the proposed sports hall is within the easement of the Bramble Brook culvert. Construction and operation of this building could impart additional loading on the antiquated culvert structure and increase the risk of collapse. This will need to be addressed.
2. Under the Land Drainage Act access to watercourses need to be maintained for maintenance. With culverts this generally implies that access for the culvert replacement should be maintained. Given the depth of the culvert (over 6m) the 5m easement is seen as an absolute minimum requirement. The proximity of the building to the culvert appears to prevent this. The location of the culvert is difficult to establish given its depth. It may also be offset from the line of the manholes covers and may not run straight. The culver is also indicated by a single line where it is believed to have internal dimensions of width of 1.1m and height of 1.6m. Given the construction thickness the culvert could have an

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overall external dimension approaching 1.5m. The easement for the culvert is therefore not adequate.

3. Likewise, elements of the drainage system, namely the oversized pipes and the eastern attenuation tank are located within the easement of the culvert. During construction or any maintenance activities this could also impart additional loading on the culvert and these structures will again hinder the culvert replacement.
4. The sizes of the manholes on the culvert do not appear to be to current standards for safe man access. This will make access for maintenance and inspection difficult. Replacement of the manholes should be considered.
5. The condition of the culvert is also questioned. A survey of the culvert in 2007 graded one section of the culvert as grade 4. This was caused by a length of 8m of total mortar loss and the report also identified missing brick work. Due to the difficulty gaining access to the culvert when the school is fully operational, culvert refurbishment should be considered.
6. The proposal seems to direct any overland surface water flood flows from off the site into the site drainage system. There is little detail about how surface water will be directed to the system and how the system will be sized to manage these flows without compromising the performance of the onsite drainage system. Our understanding and preference is that the intention was to provide a separate overflow into the Bramble Brook Culvert to prevent the onsite drainage becoming inundated.
7. The drainage strategy is not acceptable. It does not appear to provide adequate sustainable drainage or treatment on all elements of the network particularly on for the roof.

The sizes of the manholes on the culvert do not appear to be to current standards for safe man access. This will make access for maintenance and inspection difficult. Replacement of the manholes should be considered.

The condition of the culvert is also questioned. A survey of the culvert in 2007 graded one section of the culvert as grade 4. This was caused by a length of 8m of total mortar loss and the report also identified missing brick work. Due to the difficulty gaining access to the culvert when the school is fully operational, culvert refurbishment should be considered.

The proposal seems to direct any overland surface water flood flows from off the site into the site drainage system. There is little detail about how surface water will be directed to the system and how the system will be sized to manage these flows without compromising the performance of the onsite drainage system. Our understanding and preference is that the intention was to provide a separate overflow into the Bramble Brook Culvert to prevent the onsite drainage becoming inundated.

The drainage strategy is not acceptable. It does not appear to provide adequate sustainable drainage or treatment on all elements of the network particularly on for the roof.

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### **5.14. Environment Agency:**

In the absence of an acceptable Flood Risk Assessment (FRA) we object to this application and recommend that planning permission is refused.

Reasons: The proposed development will increase the ground floor occupancy within flood zone 3a (defined within the National Planning Policy Framework (NPPF) having a high probability of flooding. Therefore a detailed FRA is required to fully assess the risk to the property and its occupants.

The submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the planning practice guidance. The FRA does not therefore adequately assess the development's flood risks. In particular, the FRA is deficient in the following respects:

1. **Flood Risk Sources:** The FRA should consider all sources of flood risk, including Main River, ordinary watercourse, surface water and groundwater. The FRA should consider the probability and consequences of flooding from all sources.
2. **Design Flood:** This is a flood event of a given annual flood probability that a development should mitigate and ensure safety for the lifetime of the development to. The design flood is generally taken as flooding likely to occur with a 1% annual probability (a 1 in 100 chance each year). An appropriate allowance for climate change should be considered in accordance with the design flood. For More Vulnerable developments in Flood Zone 3, the FRA should consider the Higher Central and Upper estimates. The design flood for More Vulnerable developments is a 1% annual probability (a 1 in 100 chance each year) and therefore the '2080s' (2070 to 2115) epoch should be applied and mitigated to. Please check Climate Change allowances for Flood Risk Assessments guidance.
3. **Finished Floor Levels:** The FRA should describe the finished floor level (FFL) of the property in relation to the design flood height and where the FFL cannot be raised above the design flood, including climate change and (600mm) freeboard, flood resistance and resilience measures should be proposed.
4. **Flood hazard and safe access and egress:** The FRA should identify the flood hazard during the design flood with the appropriate allowance for climate change. FD2320 guidance should be used to assess the hazard rating. Please also consider how access and egress is going to be achieved during a flooding event. Protection of Controlled Waters

#### Protection of Controlled Waters

The planning application is supported by a Preliminary Land Contamination Assessment (LBH Wembley, April 2019).

The report thoroughly examines the history of the site as well as previous investigative work that has been carried out on site in the past. We agree with the conclusions of the report that further site investigation is required to characterise the site and also to ascertain the risk posed to controlled waters by the site. Page 26 of the report provides a plan of proposed further ground investigation. This seems

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satisfactory for a general spread of investigation locations across the site, but may need supplementing further for more targeted investigation / soil sampling / groundwater investigation.

The applicant should be aware that the regulatory authorities may require further detailed investigation into certain areas of the site.

It is noted that the culverted Bramble Brook flows through the site. It will be particularly important to establish any hydraulic connectivity between any groundwater on site and the Bramble Brook. An investigation into the integrity of the Brook would be useful to add to the conceptual site model.

All attempts should be made to retrieve representative samples of groundwater and water from the Brook both as it enters and as it leaves the site.

The drainage plan appears to show some aspect of infiltration type drainage. It must be ensured that only clean uncontaminated surface water is disposed of in this way and that it is only drained into clean and uncontaminated ground. As such, site investigations will also need to target any areas of the site where infiltration features are proposed.

### **5.15. Derbyshire Wildlife Trust:**

The application seeks permission for the erection of a secondary school with associated infrastructure and landscaping on part of the former Friar Gate Goods Yard site.

The desk study of the initial Preliminary Ecological Appraisal prepared by deltasimons issued January 2018 confirmed that part of the Friar Gate Station local wildlife site DE006 is located within the northern extent of the site. The Phase 1 Habitat Survey completed on 18th January 2018 identified that the trees, shrubs and scrub on the site provide opportunities for nesting birds. The habitats on site were also considered to have a suitable structural mosaic for reptiles and two stands of Japanese Knotweed were identified on the site.

A targeted reptile survey was subsequently carried out by Middlemarch Environmental as documented in the report dated April 2019. No reptiles or amphibians were recorded during the survey. Overall, we advise that there are unlikely to be any protected species issues arising with the application.

From consideration of the submitted Masterplan we estimate that the proposal will have a significant direct adverse impact upon approximately 1.36ha (44%) of the total area of the Friar Gate Station Local Wildlife Site DE006. The Local Wildlife Site comprises a mosaic of unimproved grassland, scrub and scattered trees which supports notable invertebrate and botanical interest. The construction of the development will lead to the destruction of the majority of natural habitats on the site.

Paragraph 175(a) of the National Planning Policy Framework states that the following principle should be applied when determining planning applications:

*"If significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately*

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*mitigated, or, as a last resort, compensated for, then planning permission should be refused."*

Policy CP19 Biodiversity of the Derby City Local Plan – Part 1 2017 states that

*The council will*

- *seek to avoid, minimise and mitigate the impacts on biodiversity and contribute to the City's ecological and geological resources resulting in a net gain in biodiversity over the plan period.*
- *ensure that development will protect, enhance and restore the biodiversity and geodiversity value of land and buildings*

*"All development should ensure the protection, conservation, and where possible, enhancement of biodiversity. Designated international, national and local sites of biological or geological importance for nature conservation will be offered protection commensurate to their status within the established hierarchy."*

*"Proposals for development in, or likely to have an adverse effect (directly or indirectly) on a Locally Designated Site such as Local Nature Reserves, Local Wildlife Sites, Local Geological Sites and/ or ancient woodlands, veteran trees and hedgerows or wildlife corridors, priority habitats and species will only be exceptionally permitted where:*

- *they cannot be located on alternative sites that would cause less or no harm;*
- *the benefits of the development clearly outweigh the impacts on the features of the site and the wider network of natural habitats; and*
- *adequate mitigation or, as a last resort, compensation measures are provided."*

It is therefore somewhat disappointing that greater emphasis has not been placed upon retention and incorporation of a greater extent of the local wildlife site as part of the development rather than seeking offsite compensation as the solution, which both national and local policies clearly state should only be considered as a last resort.

The submitted Planting Strategy Rev P09 and Landscape Layout P10 show the northern and southern site boundaries to be subject to landscaping that will include the creation of species-rich grassland areas, native scrub, trees and species-rich hedgerow planting. The plans do not appear to include the retention of any of the existing local wildlife site areas. In addition the northern boundary landscaping could potentially be compromised in the future by the formation of a cycleway, the reserved route of which is shown on the Potential Cycleway Parameters Plan Rev P04. It is unclear why the land offset for the provision of a DCC cycleway is included within the perimeter fencing of the proposed school and not excluded from the development boundary.

We concur with the recommendation in the Ecological Mitigation Strategy report prepared by Middlemarch Environmental dated February 2019 that a suitable offsite compensation site should replicate as much as is practicable the urban situation and unique character of the site.

Based upon the results provided in a detailed Grassland Botanical Survey report prepared by Middlemarch Environment dated May 2019 and the use of the Defra

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Biodiversity Impact Calculator it is shown that the proposal will result in a net residual loss of -7.2 biodiversity units after taking into account the 4.56 units that will be provided by the proposed onsite landscaping strategy. It is therefore important that a Mitigation Strategy is put forward that includes off-site compensation capable of delivering the 7.2 biodiversity units in order to achieve no net loss of biodiversity. Given that both national and local policy now aspire to achieving a net gain for biodiversity rather than simply achieving no net gain, a greater level of compensation will now be required.

An off-site compensation scheme including grassland creation on an area of public open space at Cheviot Street and grassland restoration in Mackworth Park together with subsequent appropriate grassland management at both sites is put forward. Such measures, as detailed in the Ecological Walkover Assessment reports for both sites prepared by Middlemarch Environmental dated June 2019, will provide 9.19 biodiversity units thereby achieving a net gain of 1.99 units. In relation to the off-site areas, the Cheviot Street site would more effectively replicate the urban situation and unique character of the Friar Gate site as recommended in the Ecological Mitigation Strategy report dated February 2019 as well as providing a suitable microclimate for invertebrates. In addition, it is closer to the source of impact and displays some degree of connectivity to the Friar Gate site.

We support the recommendation in the Grassland Botanical Survey report for the submission of a Method Statement for the translocation/re-creation of the species-rich grassland at both the development and offset sites. It is likely that the unique character of the botanical interest of the site is associated with the existing substrate and, as such, the Method Statement should include transfer of substrate and its associated seedbank, in order to replicate its unique character, where practicable.

The overall acceptability of the proposed development in ecological terms in accordance with paragraph 175a of the National Planning Policy Framework and CP19: Biodiversity of the Derby City Local Plan – Part 1 2017 depends upon securing the provision and long-term management of habitats amounting to a minimum of 7.2 biodiversity units at the Cheviot Street and Mackworth Park sites.

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

*“Before the development hereby approved is commenced, a scheme for the offsetting of biodiversity impacts at the site shall be submitted to and approved in writing by the Local Planning Authority. The proposed offsetting scheme shall provide for the creation and/or improvement of habitat/s both within the development and off-site of a value no less than 11.76 Biodiversity Units & shall include:*

- *A management and monitoring plan, to include for the provision and maintenance of the offsetting measures for a period of no less than 25 years from the commencement of the development. The management and monitoring plan is to include:*
- *Description of all habitats to be translocated/created/enhanced with the scheme both on and off-site including expected management condition and total area;*

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- *Detailed designs, method statements and management prescriptions to achieve proposed habitats and management conditions, including extent and location of proposed works;*
  - *Type and source of materials to be used, including species list for all proposed planting and abundance of species within any seed mix/planting scheme;*
  - *Identification of the persons responsible for implementing the works;*
  - *A timetable of ecological monitoring to assess the success of all habitat creation/enhancement.*
  - *A timetable of future ecological monitoring to ensure that all habitats achieve their proposed management condition as well as description of a feed-back mechanism by which the management prescriptions can be amended should the monitoring deem it necessary. All ecological monitoring and all recommendations for the maintenance/amendment of future management shall be submitted to and approved in writing by the Local Planning Authority.*
  - *The offsetting scheme shall thereafter be completed in accordance with the approved details.”*

We fully support the proposed installation of integrated bat and swift boxes on the new building as shown on the Locations of Bat Roost & Bird Nesting drawings which should be secured by a planning condition.

To avoid harm to nesting birds we advise that a condition to secure the following is attached to any consent:

*“No removal of trees, shrubs or brambles shall take place between 1st March and 31st August inclusive unless a survey to assess the nesting bird activity on the site during this period and a scheme to protect the nesting birds has first been submitted to and approved in writing by the Local Planning Authority. No trees, shrubs or brambles shall be removed between 1st March and 31st August inclusive other than in accordance with the approved bird nesting protection scheme.”*

*In order to contain and remove an invasive, non-native species from the site in the long term interest of the natural environment, noting that initial preparatory works could have unacceptable impacts, we recommend that a condition to secure the following is attached to any permission:*

*“No development, including preparatory works, shall commence until an Invasive Non-Native Species Protocol (INNSP) has been submitted to and approved in writing by the Local Planning Authority. The INNSP shall detail the timing and method of containment, control and removal of Japanese Knotweed on the site. The measures identified in the INNSP shall be carried out strictly in accordance with the approved scheme.”*

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### **5.16. Built Environment (Conservation Officer):**

#### Comments

This application is for a new school with associated vehicular access (from Great Northern Road). The site is to the western part of the Friar Gate Goods Yard Site. These comments are made in response to the additional information received June 2019.

#### Heritage Assets affected

Listed buildings nearby and Conservation Areas are designated heritage assets. The affected by proposals are: -

- The Friar Gate Goods Yard Bonded warehouse is grade II and so is the separately listed Friar Gate Goods Yard Engine shed. These are the closest heritage assets. They were constructed in 1870's and there were railway lines and other structures in associated uses on the site.
- There are views of the Cathedral along Great Northern Road and from the site so the Cathedral as a listed building and its setting (as part of its significance) is also important and views should be retained. The grade II listed Friar Gate Bridge is upon the Friar gate Goods Yard but is away from the site.
- Friar Gate Conservation Area is near and located to the north of the site and views of the new development from the Conservation Area and whether there is impact on its setting will need to be assessed.
- There are undesignated heritage assets on the site affected such as the culvert.

#### Impact of proposals on Designated Heritage Assets

Friar Gate Goods Yard site:

There is a real need to repair and to regenerate in a comprehensive way the vacant listed buildings adjacent and the Friar Gate Goods Yard Site as a whole. This proposal is for a large school buildings and it is a great shame that the Bonded warehouse could not be repaired and converted to this school use. It would be an ideal prominent location, when viewed from Mercian Way, and would have achieved the repair of a key heritage asset in this part of the city.

The site relating to these proposals is part of the historic Friar Gate Goods Yard Site as a whole, as historic maps show, and has recently been sold off. It looks to be a lost opportunity to obtain a clear, detailed, deliverable plan to regenerate the whole site and bring it back into use. The proposed scheme could be detrimental in achieving a sustainable future for the overall site and will, in my view due to the reduction of the site area, make the adaptive reuse of the listed buildings on the site more difficult. I would suggest that the owners of the Goods Yard Site create a detailed masterplan with timescales for the buildings repair and the whole site's regeneration and submit this to us for discussion. There are, in my view, potential health and safety risks with having a 'building at risk' in disrepair right next to a school.

#### Impact on significance (setting) of Listed Buildings

The site is located to the western most part of the site and is within the setting (as part of significance) of the listed Bonded warehouse and engine shed. The proposal would have a harmful impact on the setting (as part of significance) of these two

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designated heritage assets mainly through the loss of their historical low level context and relationship with the rest of the site (where the railway lines would have run through the site). I note, however, that the harm would have been greater had the proposed buildings had been proposed nearer to the listed buildings without the intervening playing fields etc.

I note the design and aspirations of the school buildings to have some relationship to their context in terms of design and materials. I note the elevation plan showing the buildings in context and in terms of the listed Bonded warehouse and Engine shed, views from the listed buildings towards the site are submitted showing the impact of the proposals on these views. I note the new external views information submitted (ref 18800-4902-DCS-BMD-XX-XX-DR-A-18800-S2-PO1-External views - reduced). It would have been more useful if this clearly showed the viewing direction, view cone or the listed building marked on the visuals. It does demonstrate that the impact on the listed buildings would be limited.

It is important to retain clear views to and from the cathedral across the site – which this scheme does. There is no impact on the setting (as part of significance) on Friar Gate Bridge.

In terms of the culvert, as a heritage asset, all attempts should be made to retain in good repair this heritage asset during and after construction. I suggest archaeological advice should be obtained regarding this.

Impact on significance (setting) of Listed Buildings - The site is located to the western most part of the site and is within the setting (as part of significance) of the listed Bonded warehouse and engine shed. The proposal would have a harmful impact on the setting (as part of significance) of these two designated heritage assets mainly through the loss of their historical low level context and relationship with the rest of the site (where the railway lines would have run through the site). I note, however, that the harm would have been greater had the proposed buildings had been proposed nearer to the listed buildings without the intervening playing fields etc.

I note the design and aspirations of the school buildings to have some relationship to their context in terms of design and materials. I note the elevation plan showing the buildings in context and in terms of the listed Bonded warehouse and Engine shed, views from the listed buildings towards the site are submitted showing the impact of the proposals on these views. I note the new external views information submitted (ref 18800-4902-DCS-BMD-XX-XX-DR-A-18800-S2-PO1-External views - reduced). It would have been more useful if this clearly showed the viewing direction, view cone or the listed building marked on the visuals. It does demonstrate that the impact on the listed buildings would be limited.

It is important to retain clear views to and from the cathedral across the site – which this scheme does. There is no impact on the setting (as part of significance) on Friar Gate Bridge.

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### Impact on the Conservation Area

The Friar Gate Conservation Area is to the north of the site and views of the new development from South Street and areas adjacent within the Conservation need to be assessed to see what impact there would be on the setting of the conservation area. The buildings would be able to be seen but the impact on the setting (as part of significance) of the conservation area would be limited.

### Interpretation/ Public Art

I suggest there is some opportunity regarding the access through the rear of the site to have some form of interpretation and public art on the site (either within the landscaping or in terms of interpretation boards etc.) to reflect the railway lines which were once on this part of the site.

### Policy

Section 66 of The Planning (Listed building and conservation Area) Act 1990 is relevant here. The Local Planning Authority has a duty to special regard to the desirability of preserving listed buildings and their setting.

In terms of the levels of harm to designated heritage assets, as listed above, in NPPF (2019) terms it can be defined as less than substantial under para 196. Therefore the Development Management Officer has to weigh up the amount of harm (demonstrated above) against any public benefits of the proposal.

Para 197 of the NPPF (2018) is also relevant here, as regards non-designated heritage assets (the culvert and wider Good Yard Site) and the need to take into account and weigh up a balanced planning judgement having regard to the scale of harm and the significance of the heritage asset.

The proposal has to be looked at in relation to the Local Plan Review (2008) saved policies E18 and E19 as well as relevant policies within the Local Plan – Part 1 Core Strategy (2017) including the Heritage policy CP20 regarding the protection of heritage assets and AC2 regarding the opportunities to deliver a mixed use scheme to the Friar Gate Goods Yard site.

### Conditions

Should you be minded to grant permission for this application, at a later stage, I would suggest the following conditions are submitted relating to all materials, samples to be agreed within materials palette, windows and door details (and how they sit within window and door apertures) , louvers details, details of landscaping scheme and fencing etc.

### Conclusion

This scheme does not offer any heritage benefits such as the repair or safeguarding of the important listed buildings on the rest of the Friar Gate Goods Yard site. The scheme has a limited amount of harm to designated heritage assets. This harm has to be weighed against the public benefits of the scheme under para 196 of the NPPF. Para 197 (NPPF, 2019) covering heritage assets, such as the culvert and overall goods yard site, needs to be taken into account in the planning balance.

Recommendation: - No objection on heritage grounds.

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### **5.17. Historic England:**

#### The proposed scheme

The site of the proposed scheme lies within the former Friar Gate Goods Yard complex which includes Friar Gate Bridge (Grade II and also within the Friar Gate conservation area), the Bonded Warehouse (Grade II) and the Engine House (Grade II). These Grade II listed heritage assets are in need of regeneration to bring them back into a sustainable use, as is the goods yard as a whole. The goods yard area has been the subject of initiatives over a number of years to regenerate the area and tackle the risks to the designated heritage assets. Historic England (formerly English Heritage) has previously provided advice related to master-planning and development proposals on the Friar Gate Goods yard site (including proposals to bring the Bonded Warehouse back into use).

The proposal is for the erection of a secondary school including a 3 storey teaching block and separate sports hall, plus associated landscaping, sports facilities and vehicular entrance. The school would be located in the western part of the former goods yard with access from the south.

Historic England advocates a clear, viable and deliverable plan to regenerate the whole goods yard site and bring it back into use to ensure a sustainable future for the associated heritage assets. We note that this proposal is sited in the western part of the site and is less central to the areas immediately related to the heritage assets. We advise that your authority should ensure that the proposed scheme would not be detrimental to the sustainable future of the heritage assets and conforms to your following policy:

#### Legislation, national policy and guidance

The statutory requirement 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 (section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act, 1990) must be taken into account by your authority in determining this application.

Our advice also reflects policy and guidance provided in the National Planning Policy Framework (NPPF), the NPPF Planning Practice Guidance and in good practice advice notes produced by Historic England on behalf of the Historic Environment Forum including Managing Significance in Decision-Taking in the Historic Environment and the Setting of Heritage Assets.

As you are aware, there is a presumption in favour of sustainable development in the NPPF (paragraphs 10 and 11, NPPF). Achieving sustainable development means that the planning system has three overarching objectives - economic, social and environmental (paragraph 8, NPPF). The environmental objective includes contributing to protecting and enhancing our built and historic environment (paragraph 8, NPPF).

Local authorities should recognise that heritage assets are an irreplaceable resource (paragraph 184, NPPF and the Planning Practice Guidance paragraph: 003 Reference ID: 18a-003-20140306). Your authority should also take account of the desirability of sustaining and enhancing the significance of heritage assets (paragraph 192, NPPF).

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### Recommendation

Historic England has concerns regarding the application on heritage grounds. Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice.

## **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)

- AC2 City Centre Renaissance
- CP1a) Presumption in favour of Sustainable Development
- CP2 Responding to Climate Change
- CP3 Placemaking Principles
- CP4 Character and Context
- CP16 Green Infrastructure
- CP17 Public Green Space
- CP19 Biodiversity
- CP20 Historic Environment
- CP21 Community Facilities
- CP23 Delivering a Sustainable Transport Network

### Saved CDLPR Policies

- GD5 Amenity
- R2 Friar Gate Station and Environs (Regeneration Opportunity)
- E12 Pollution
- E13 Contaminated Land
- E19 Listed Buildings and Buildings of Local Importance
- E24 Community Safety
- E25 Building Security Measures
- T2 City Council Schemes
- T10 Access for Disabled People
- T15 Protection of Footpaths, Cycleways and Routes for Horseriders

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](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\\_2017.pdf](http://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/policiesandguidance/planning/CDLPR_2017.pdf)

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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.

#### **7.1. Policy Context**

#### **7.2. Design and Heritage Impacts**

#### **7.3. Transport and Highways Impacts**

#### **7.4. Environmental Impacts**

#### **7.5. Ecology impacts and Mitigation**

#### **7.6. Conclusions and Planning Balance**

### **7.1. Policy Context**

This application seeks full permission for erection of a new secondary school on part of the former Friar Gate Goods Yard site, which fronts onto Great Northern Road. The site is elevated above the surrounding townscape and amounts to just less than half of the total Goods Yard site. It is located on to the west of the city centre, close to the Inner Ring Road, where Stafford Street and Uttoxeter New Road form a roundabout junction with Mercian Way.

The Friar Gate Goods Yard site (FGGY) has been a designated regeneration area for a long period of time and is identified through saved Policy R2 of the City of Derby Local Plan Review (CDLPR) as a regeneration opportunity. It is also recognised as a key priority in the adopted Derby City Local Plan Part 1 (DCLP Part 1) through Policy AC2. Whilst Policy AC2 focusses on the eastern portion of the site around the bonded warehouse (and isn't applicable to the application site in this instance), Policy R2 encompasses the entire site. It is envisaged through these policies that the entire Goods Yard would be developed in a comprehensive manner and there are some reservations about subdividing the land to form piecemeal developments, without incorporating the listed bonded warehouse and associated buildings. However, in this case these concerns must be balanced against the benefits delivered by the provision of a new secondary school in this sustainable location, which would meet the Council's school place needs.

Through the length of the FGGY site an allocated express bus way, known as the Mickleover/ Mackworth Protected route is safeguarded through the saved Policy T2 of the CDLPR. This safeguarded route extends from the west of the city into the city centre along the former railway line, with FGGY forming a key linkage to Friar Gate. In addition, saved Policy T15(4) protects the same route as a walking, cycling and

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horse-riding route. Although the envisaged scheme to provide an express bus route may not be delivered, it is the intention of the Council to continue to protect the route through the Part 2 Local Plan by providing a new cycleway connecting the city Centre to the western suburbs of the city.

There is significant ecological interest on the FGGY site, with the large portion of it being designated as the Friar Gate Station Local Wildlife Site (LWS). The wildlife site covers roughly the northern half of the application site, which is essentially the areas which are not hard surfaced with tarmac or concrete slab. Its main significance is due to its grassland habitat, which includes rare plants and invertebrates, particularly butterflies, which lies over the former railway track beds. Policy CP19 (Biodiversity) is relevant here, which seeks to protect such areas from the adverse effects of development unless the specified criteria are satisfied, which are where:

1. *they cannot be located on alternative sites that would cause less or no harm;*
2. *the benefits of the development clearly outweigh the impacts on the features of the site and the wider network of natural habitats; and*
3. *adequate mitigation or, as a last resort, compensation measures are provided. Where development proposals have the potential to impact on a natural heritage asset, including where sites are derelict, vacant or previously developed, the Council will require a supporting ecological site assessment to be submitted in conjunction with the planning application. The assessment should identify the nature and extent of any impact and mitigating measures that need to be taken.*

There is also a Tree Preservation Order which covers a group of trees along part of the northern boundary of the application site. The protection and provision of trees and other green infrastructure within development is dealt with through Policy CP16.

The development includes the provision of new outdoor sports facilities for the use of the school and local community, which is in line with the intentions of Policy CP17 (Public Green Space). This policy reiterates the Council's commitment to ensure that everyone has access to a network of multi-functional green spaces; a network which includes outdoor sports facilities and playing pitches. The proposal is to enable the indoor and outdoor sports facilities will be made available for the wider community to use and their provision is fully supported in this dense urban location, which currently has a deficit of all types of open space when compared with the Local Plan standard of 3.8 hectares per 1000 people. Whilst I note Sport England's desire for a larger sports hall to meet their requirements for community usage, there are significant constraints in the amount of site area available to increase the sports provision, beyond what is currently proposed. The delivery of both outdoor and indoor sports facilities for the school, which are also to be made available for the local community, is of significant public benefit to the residents in this area of the city, where there is currently an absence of outdoor facilities in particular.

There are no heritage assets within the application site, although there a number of Grade II listed buildings to the east in the wider FGGY site. The former bonded warehouse is the most significant of those listed buildings and is currently in a severely derelict state, as well as the Friar Gate Bridge which lies further to the east of the former Friar Gate station. The former railway track beds within the application

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site form part of the listed curtilage of the bonded warehouse and associated railway buildings. Friar Gate Conservation Area lies close to the site, to the north, with nearest area around the South Street and Vernon Gate. Policy CP20 seeks to protect the historic environment and is reinforced by saved Policies E18 and E19, which requires the preservation and enhancement of listed buildings and Conservation Areas and their setting. Policy CP3 also highlights the requirement for high quality design, particularly in the City Centre and areas of significant change. Finally, Policy CP4 states that 'all proposals for new development will be expected to make a positive contribution towards the character, distinctiveness and identity of our neighbourhoods'.

The proposal is a for a provision of a new secondary school and associated sports facilities, which would have up to 1260 school places, including sixth form when at full capacity. There would be 134 staff. The school is being provided for the Derby Cathedral Trust to increase secondary school provision within the city. 420 of the school places are being provided to meet the rising need for secondary places across the city. Improvements to school provision are dealt with under Policy CP21, although the delivery of new secondary schools is not specifically covered by the policy. Broadly, the proposed secondary school would accord with the intentions of the policy, which promotes improvements/ extensions to secondary schools to meet growing education need.

As part of the feasibility process to identify a suitable site for provision of a new secondary school, the applicant has explored various alternative sites around the city centre for delivery of the school, including the DRI and land on Castleward. These sites all have significant constraints both physical and in terms of ownership, which have meant that they were not suitable for the requirements of the proposed school. The Friar Gate Goods Yard site also has numerous constraints, which have to be addressed before a high quality school development can be delivered on the site.

### **7.2. Design and Heritage Impacts**

#### **Design and Amenity**

The existing site is currently a vacant and derelict area of land, which has been disused for a long period of time. There are the remains of a former office building and car parking which occupied the south and western parts of the site, but have since been demolished. The northern part of the site has not been in use since the closure of the railway line and has regenerated with scrub, grassland and trees. This area is now the designated Local Wildlife Site. The site is largely hidden from the surrounding urban area by vegetation and substantial retaining walls along the boundaries.

The proposed development would provide a secondary school, comprising a three storey main teaching building, a separate sports hall with fitness studio and outdoor sports facilities, including MUGA and grassed sports pitches. The main buildings are to be sited towards the western end of the site with the outdoor sports facilities at the eastern end, closest to the listed former railway buildings. The teaching building has a rectangular form, which is designed to provide classrooms around the perimeter to maximise daylight, around shared areas within a central core.

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The design approach taken to the appearance and elevational treatment of the building is to take reference from the former railway buildings on the wider site and use red brick for the principal facades, with more contemporary elements in the form of different colour cladding panels. The windows have a regular pattern, also highlighted with coloured panels and a full height glazed entrance feature breaks up the front elevation. The sports hall building uses similar materials with coloured cladding panels over the upper part of the building, to give a distinctive modern appearance. The design and form of the school buildings are in my view of a high quality, which would complement and takes cues from the industrial built heritage on the wider site. The development would also create new active frontage onto Great Northern Road, enhancing the street scape and sense of place in this part of the city.

The site is elevated between 2 -3 metres above the surrounding streetscape and the school buildings are to be sited at roughly the existing floor levels. This means that the buildings will be visually prominent from the both Great Northern Road and from the terraced housing area to the north of the site on Granville Street and Ponsonby Terrace. This is not necessarily harmful to visual amenity and would in actual fact present a more positive presence in the streetscene than the current site.

In terms of design and placemaking, I am satisfied that the proposed school development would meet the intentions of the Policies CP3 and CP4 and CP21, with regards to design.

The housing area to the north, which is characterised by terraced housing and apartment blocks, abuts up to the boundary of the site and is largely at a lower level than the site. The nearest residential properties are butting up to the boundary wall and overlook the site, particularly those on Granville Street, Sims Avenue and Ponsonby Terrace. In terms of residential amenity, there is potential for adverse impacts on the adjacent houses and flats due to their proximity to the site and the elevated position of the proposed school buildings. However, it is noted that the nearest streets are orientated at an oblique angle to the site boundary and therefore the most affected properties face in a roughly east- west direction, such that principal window openings do not directly face towards the main teaching buildings which has its window openings facing directly north. At its closest point to the teaching building, the nearest terrace on Granville Street (No17) is approx. 12.6 metres from the building, although its principal elevations do not face towards the building. There would also be hedge and tree planting along the northern boundary, to provide additional screening inside a 2.4 metre weld mesh fence along the boundary. The siting and scale of the school buildings would result in a degree of massing impact and overlooking of the residential properties to the north of the site, due to its elevated position relative to the nearby housing. Further to the east, houses and apartments on Ponsonby Terrace would abut the proposed outdoor sports pitches and there would be some potential overlooking of these facilities from those properties. The Police Liaison Officer had requested revisions to the proposed boundary treatment to ensure minimum disturbance and to protect privacy for the nearest houses on Ponsonby Terrace. The proposed erection of 2.4 metre high acoustic close boarded fencing along their shared boundaries would ensure that their privacy and amenities are adequately protected and I note that the Police Officer is satisfied with this amendment. Overall, the proposed boundary fencing for the school

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development would ensure that adequate security and privacy is enjoyed by neighbouring properties.

Overall, I am satisfied that given the orientation and position of the adjacent housing relative to the elevated position of the proposed school and the proposed screening measures proposed along the boundary, the development would not result in significant harm to the amenities of the nearby residential properties.

The northern boundary of the site is also the intended route of the Mick- Mack cycle path, which is safeguarded in the Local Plan and is identified in this application. This route would itself have impacts on the adjacent residential properties, due to its proximity to the nearby houses. This is a material consideration in assessing the impacts of the proposal on residential amenity. Subject to appropriate boundary treatment being provided along the boundaries with the neighbouring houses, as shown on the submitted drawings, which gives security and protects privacy for local residents, then I am satisfied that the proposed school would not have an unreasonable impact on residential amenity.

The amenity requirements of saved Policy GD5 are therefore considered to be satisfactorily met by the proposal.

### Heritage Impacts

The proposed development would have impacts on nearby heritage features, although there are no designated historic features on the site. The site falls within the curtilage of the Grade II listed former bonded warehouse and engine shed on Friar Gate Goods Yard, which lie to the east of the application site. The Grade II listed Friar Gate Bridge and Friar Gate Conservation Area are also nearby. The site also has views of the Cathedral, which is a listed building and these views are of significance to the setting of the site.

In considering this application, the decision maker must have due regard for the duties under 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.

The proposal must also be considered under the adopted DCLP Part 1 policies and those saved Local Plan Review (CDLPR) policies which are still relevant. Policy CP20 seeks the protection and enhancement of the city's historic environment, including listed buildings and Conservation Areas. 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.

Saved CDLPR Policies E18 and E19 require the preservation and enhancement of Conservation Areas and listed buildings and continue to complement the new policy CP20. Under Policy E19 proposals should not have a detrimental impact on the special architectural and historic interest of listed buildings or their setting.

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The NPPF (2018) gives guidance in relation to proposals which affect the significance of heritage assets. When 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) paragraphs 193 and 194 advise 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;
- any harm or loss requires clear and convincing justification.

Paragraph 196 states that where proposals “will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use.”

The application is supported by a Heritage Statement and streetscene sections through the development which show its relationship with the listed bonded warehouse to the east of the site. The statement concludes, in relation to the impacts of the development on the listed former railway buildings to the east, that the school buildings would appear visually recessive in this context, given their siting, palette of materials and comparable height. In respect to the nearby Conservation Area, it is considered that there would be limited inter-visibility with the development and accordingly no substantive impacts on the character or setting of this heritage asset.

The new school buildings are proposed to be sited towards the western end of the FGGY site, giving a distinct separation from the group of listed buildings to the east of the wider site, including the former bonded warehouse. The outdoor playing pitches are to be located nearest to the listed buildings and this would maintain a visual gap between the two sets of buildings. The submitted section images also demonstrate that the school buildings would be a substantial distance from the bonded warehouse. I note that the Council's Conservation Officer agrees that the substantial separation between the former railway buildings and the new school buildings would minimise the harm to the setting of those listed buildings. The Conservation Officer does however consider there to be a harmful impact on the setting of the listed railway buildings, by reason of the loss of their historic context; the area where the former railway lines ran. Whilst I acknowledge that the development would have an impact on listed curtilage of the former railway buildings, most of the evidence of the previous railway sidings has been lost through the office development which once occupied the site in the 1980s and 90's. These buildings have also since been demolished leaving remains of concrete floors, walls and hard surfacing areas over part of the former railway tracks. The design and form of the main teaching building, with the use of red brick and regular window treatment also takes reference from the industrial character of the bonded warehouse and given they would be similar in relative height, the development would not in my view result in any substantive visual harm to the setting or significance to those listed structures.

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The Conservation Area is located approx. 80 metres to the north of the application site, which takes in the former Gaol site, now redeveloped. Although the site is elevated relative to the nearby residential streets in the Conservation Area, the three storey teaching building would be of relatively low height and scale and given the high density of housing in the nearby streets to the north of the site. As a result the school would only be seen in glimpsed views from South Street and Vernon Gate which lie within the Conservation Area. The design and red brick façade used in the school buildings would also be complementary to the Victorian housing in the adjacent streets. The Conservation Officer also considers that the impacts of the development on the nearby Conservation Area would be very limited and result in minimal harm. I am therefore satisfied that the proposal would preserve the character and significance of the Friar Gate Conservation Area and accord with the requirements of saved Policy E18.

There are views of Derby Cathedral from the FGGY site, which are important views of the Grade I listed building and these would be retained from within the school development. The siting of the buildings towards the west of the site allows a key view from Great Northern Road and across the site to be maintained and its setting enhanced by the removal of concrete walls and modern structures which currently occupy the land.

Given the substantial distance from the application site, the Conservation Officer accepts that the development would have no adverse impact on the setting or significance of the listed Friar Gate Bridge.

All the heritage consultees are broadly supportive of the development, with a general concern raised about the missed opportunity to repair and reuse the listed former railway buildings on the wider site, as part of a comprehensive approach to regenerating the site. It is regrettable that the current proposal does not include any works to renovate or reuse the bonded warehouse and its associated listed buildings. In fact, the school development subdivides Friar Gate Goods Yard such that the eastern part of the site is to be separated from the rest of the former railway sidings. Historic England is mindful that the proposed scheme should not be detrimental to the sustainable future of the listed buildings on the FGGY site, in accordance with Policy AC2. However, AC2 does not include the application site and focuses on the eastern part of the site and the listed buildings. The Council's Conservation Officer shares a similar view and has concerns that the proposal would make the adaptive reuse of the listed buildings more difficult. However, I am not convinced that the school development would inhibit the future reuse and regeneration of the listed railway buildings, since they still occupy a large area of land which forms their setting and which is part of the significance of the heritage asset. This includes the former railway station up to the listed Friar Gate Bridge and the land which fronts onto Stafford Street and Uttoxeter New Road. This land also has its own separate vehicle access onto the roundabout junction with Uttoxeter New Road. The absence of a comprehensive approach to redeveloping the FGGY site, must be balanced against the substantial public benefits of delivering the proposed new school and associated sports facilities on part of the site, with the potential to kick start regeneration and renovation scheme for the presently neglected heritage assets.

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Having regard for the Conservation Officer's view that the development would result in a loss of listed curtilage of the Grade II listed former railway buildings on the FGGY site, which is harmful to their significance and therefore results in less than substantial harm, as defined in paragraph 196 of the NPPF (2018). For this reason, the proposal is contrary to the requirements of Policy CP20 of the DCLP Part 1 and saved Policy E19 of the CDLPR. The policy requirements of the NPPF are therefore triggered and the less than substantial harm arising from the siting of the development, must be weighed against the public benefits of the proposed secondary school, in the planning balance which are briefly set out above.

The public benefits of the development are set out below:

- The delivery of a new full form entry secondary school, in a highly sustainable and central location within the city, to increase educational provision in the city and address a shortfall in secondary school places.
- The provision of new indoor and outdoor sports facilities for the use of the local community as well as for the school, meeting a gap in sports facilities, particularly for outdoor pitches in this part of the city
- The significant regeneration and redevelopment of a strategically important and long term derelict site on the edge of the city centre, forming part of the former Friar Gate Goods Yard, which will also deliver substantial social and environmental improvements for the wider area.

Accordingly, I consider that the public benefits of the proposed development do outweigh the limited harm caused to the significance of the Grade II listed former bonded warehouse and engine house and the tests of paragraph 196 are satisfactorily met.

### Archaeology

The Friar Gate Goods Yard site contains Historic Environment Records for the former railway line, the former goods yard complex and the Friar Gate bridge (Grade II listed). The application site therefore has some potential archaeological significance, arising from the 19<sup>th</sup> Century railway structures. The applicant has submitted an archaeological desk based assessment of the site in support of the application to investigate any surviving features.

The assessment confirmed that no structures are remaining on the site, from the former railway and the County Archaeologist accepts its conclusions. Since all above ground features have been removed in the late 20<sup>th</sup> Century, he does not recommend any further archaeological investigations for the site. I am therefore satisfied that the requirements of archaeology saved Policy E21 have been addressed.

## **7.3. Transport and Highways Impacts**

### Access and Parking

The proposed school development is to be served by single vehicle and pedestrian accesses onto Great Northern Road, with no other access being formed from the residential area to the north of the site. This is part of a strategy to manage access to the site and provide a secure environment for the pupils at the school. A new

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vehicular access is to be formed close to the western boundary, with a dedicated pedestrian access being formed further to the east. Both would be ramped accesses formed through the retaining brick wall on the highway frontage. Car parking provision includes separate car parking for staff and visitors, with disabled parking, bus drop-off areas and minibus bays. The staff parking area with 106 spaces would utilise an existing hard standing area of previous car parking to the western part of site. The visitor parking and drop-off area would comprise 42 spaces and 5 disabled bays. Cycle parking is shown in 3 locations around the main school building, with most spaces provided pupils in a 40 space shelter.

The proposed access and parking arrangements for the school development are generally considered to be acceptable. The Highways Officer is satisfied that the proposed vehicular access onto Great Northern Road is suitable for the use, subject to appropriate visibility being provided. The amount of car parking to be provided on-site is in excess of the Local Plan standards, although given there will be some reduction for implementation of the Mickleover/Mackworth cycleway, the level of parking proposed is accepted.

The cycle parking provision proposed is 56 spaces and although this meets the Local Plan requirement, this amount is not considered sufficient for a school with 1260 pupils. The applicant is intending to increase this amount over time as the pupil numbers rises with additional demand. However, this does not give sufficient assurance that a more appropriate level of cycle parking would be provided, to encourage greater cycling and reduce the number of car trips. Further consideration of the proposed number of cycle spaces is therefore required and I am satisfied that this could be secured by a suitable planning condition.

The formation of a new vehicle access onto Great Northern Road, would displace a number of existing Pay and Display parking bays on the highway and therefore could have impacts for existing parking on Great Northern Road. Future school traffic drop-off and pick-up on the highway could also have adverse effects on existing residents and businesses who are served off the highway. Additional Traffic Road Orders (TRO) restricting parking on Great Northern Road may be required to mitigate for the impacts of school parking. The implementation of new parking restrictions on Great Northern Road can be secured by means of a Section 106 Agreement.

### Sustainable Transport and Mick/Mack Cycleway

The site is located in a highly sustainable and well connected location just outside the city centre, which is close to areas of high density, Victorian housing immediately to the south and north of the FGGY site. This area is accessible to various modes of transport and it is disappointing that the applicant has chosen not to include a direct pedestrian/ cycle linkage to the residential area north of the site, which would have improved accessibility to the school for pupils from this part of the city. Despite this a School Travel Plan has been submitted in support of the application which sets out a strategy for encouraging sustainable modes of transport and reducing associated car borne trips. The Council's Travel Plan Officer has also noted that cycle parking provision should be increased to increase opportunities for cycling, which would also be brought forward through the delivery of the strategic Mickleover/ Mackworth cycle route from the west of the city. Broadly the intention to introduce measures to reduce car trips is welcomed, although more details of the means to achieve this will be

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required. A detailed Travel Plan for the new school could reasonably be secured by means of a planning condition.

The application site contains the designated Mickleover/ Mackworth express busway route, which is a sustainable transport project to be delivered under saved Policy T2 of the CDLPR and is being brought forward in the Local Plan – Part 2 as a dedicated cycleway. The designated route extends from the new housing areas to the west of the city into the city centre. Parts of the route to the west of the A38 are being delivered through Section 106 contributions and approved housing development. The section through the FGGY site is a key element of the route, which links directly to the city centre. It would provide a direct off-road cycle route through the western part of the city and is therefore a strategically important sustainable transport route which needs to be safeguarded through new development.

Whilst a timeframe for delivery of the Mick/Mack route is currently uncertain, being subject to funding, the applicant is aware that Council intends to implement this section of the route, when funding becomes available. The applicant has submitted a parameters plan with the application to show a safeguarded minimum 7 metre wide corridor along the northern boundary of the site, for the provision of the cycleway. The proposal is to develop the whole site for the secondary school, with associated landscaping/ recreational areas and staff parking within the safeguarded corridor. This is on the understanding that at some time in the future, this land would need to be given up by the school for construction of the cycle route. The development of this corridor currently identified for the proposed school, for delivery of the cycle route can be secured through a Section 106 Agreement. The principle of this arrangement has been agreed with the applicant and Heads of Terms are currently being negotiated.

The implementation of the Mick/Mack cycle route will result in the loss of around 35 of the proposed staff parking spaces. However, the staff parking provision is in excess of the parking standards set out in the Local Plan by 39 spaces, so the removal of those spaces to form the cycleway should not give rise to any substantive on-street parking issues, particularly given they would be replaced by an accessible cycleway. The cycleway would also require the relocation of the refuse store for the school, although this can easily be achieved elsewhere within the site.

The delivery of the cycle route would also have adverse impacts on part of the Local Wildlife Site which runs along the northern side of the site, through the loss of tree and scrubland habitat. However, much of the land within the safeguarded corridor is identified for landscaping and new planting for the school development. The loss of this part of the Wildlife Site is to be mitigated for with both on-site and off-site mitigation measures, which form part of the landscaping proposals and biodiversity compensation strategy. The construction of the cycleway would also provide an opportunity to reinstate species rich grassland habitat alongside the new path. Such a route should be compatible with the type of grassland, which is currently found in the Wildlife Site.

### Transport Impacts

The NPPF (2018) sets out the criteria for assessing the highway impacts of a development proposal. Paragraph 32 of the NPPF states: *“All developments that generate significant amounts of movement should be supported by a Transport*

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*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 limits 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.*

The first two criteria have been dealt with above and are considered to be satisfactorily addressed, subject to an increase in on-site cycle parking to be controlled by condition. The third criteria, seek to ensure that the traffic impacts on the local highway network arising from the development, can be mitigated where possible and advises that permission can only be refused, where “residual cumulative impacts of development ( on the highway network) are severe”.

The application is accompanied by a Transport Assessment (TA) and subsequent addendum, which seeks to address the traffic impacts of the development on the local road network and the specific impacts of the air quality reduction scheme for Stafford Street (NO2 scheme), which is yet to be implemented. The applicant’s TA has taken into account current road capacity of nearby junctions, accident data and effects of the development based on full occupancy of the school. The school would initially have an intake of 3 form years only, which would rise year on year to full capacity by 2024. The impacts on the local road network would therefore increase from the first opening of the school, intended to be in September 2020, to full occupation.

The proposal would have impacts on three existing road junctions close to the site, which are all currently experiencing traffic congestion at peak times. The TA has modelled the effects of the new school on these junctions which are: Great Northern Road/ Uttoxeter New Road, roundabout junction at Uttoxeter New Road/ Stafford Street/ Curzon Street/ Mercian Way and Great Northern road/ Junction Street/ Uttoxeter Old Road/ Parcel Terrace. Only the junction of Great Northern Road/ Uttoxeter New Road has any scope for improvement to traffic flows and the applicant has put forward a scheme of mitigation to form right hand turning lane into Great Northern Road, which has been considered by the Council’s Highways Officer. The Officer has some concerns about the proposed widening of the Great Northern Road junction to form a right turn lane from Uttoxeter New Road, on the grounds that this arrangement would not materially improve highway safety at this junction. The applicant has agreed to amend the proposed junction improvement by widening the altered bus lane to 4 metres in line with minimum highway requirements. A revised design for the junction improvement has not yet been provided for Highways Officers to assess, although it is unlikely that this will show severe impacts would result from the proposed works to increase capacity on this section of the highway. It is reasonable therefore that this element can reasonably be dealt with by a suitable

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planning condition, unless a satisfactory scheme can be agreed with Highways Officers prior to the committee meeting.

The traffic impacts of the proposal also need to be assessed in the light of the modelling of the proposed NO<sub>2</sub> air quality scheme. There are two other current planning applications, both for A1 retail food store developments, which also have potential cumulative traffic impacts on the same roundabout junction of Uttoxeter New Road/ Stafford Street/ Curzon Street/Mercian Way and air quality impacts on the NO<sub>2</sub> scheme for Stafford Street. The applicant has been asked to consider the effects of these two live applications within their TA for the school.

The results of the applicant's air quality modelling of the NO<sub>2</sub> scheme, is being assessed by the Highways Officers to determine the likely traffic impacts on the traffic management scheme. Their assessment of the impacts has not yet been concluded and will be reported orally at the committee meeting. The Council's Environmental Health Officer has also assessed the modelling on the basis of its air quality impacts on properties around Stafford Street and the roundabout junction. The EHO's comments to the modelling are set out below.

### **7.4. Environmental Impacts**

#### Air Quality

The application site is not directly affected by high pollution levels, since Great Northern Road does not currently experience poor air quality associated with traffic flows. However, the site is in close proximity to the Air Quality Management Area (AQMA) which covers Uttoxeter New Road and Stafford Street and the roundabout junction with Curzon Street/ Mercian Way, where concentrations of Nitrogen Oxide are particularly high. The traffic generation from the proposed school, given its size, has the potential to increase poor air quality in those areas, where the Council is being required, by central government, to improve it.

Saved Policy E12 (Pollution) is relevant to air quality and seeks to prevent development which would "generate pollutants that would be unacceptably detrimental to the health and amenity" of the users of the development and the wider public.

Prior to the application being submitted, the Council adopted a traffic management strategy for Stafford Street, as part of the Roadside NO<sub>2</sub> scheme. This scheme seeks to reduce air pollution levels for residential properties which front onto Stafford Street and the roundabout junction and are currently exposed to poor quality levels which exceed those recommended by the EU Air Quality Directive. The highway most affected by the exceedance NO<sub>2</sub> pollution levels are around Stafford Street and the signalised roundabout junction with Uttoxeter New Road/ Curzon Street and Mercian Way. The highway improvements which are proposed are designed to manage the flow of traffic on Stafford Street and the roundabout junction. Physical works to the design of the highway in this location are proposed which would reduce the volume of traffic using this part of the highway network. The scheme is planned to be completed by the end of 2019, which is before the secondary school is due to open in September 2020. The implementation of the NO<sub>2</sub> scheme is a material consideration in the determination of this application, since the proposed school would have traffic impacts on the affected roundabout junction and also on Stafford

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Street. This could then have a knock on effect on worsening air pollution levels in the AQMA. New development proposals must not impede the Council's ability to achieve and maintain compliance with the EU Air Quality Directive and avoid any new exceedances elsewhere.

In order to properly assess the potential impact of additional traffic generation on the highway works delivered under the Council's NO2 scheme, the applicant has undertaken traffic air quality modelling to assess the effects of the predicted levels of school traffic on those works to reduce exceedances in air pollution around Stafford Street. This modelling is being considered by both Highways and Environmental Health colleagues.

The Environmental Health Officer is in agreement with the conclusions of the air quality modelling that the additional traffic generated by the school development should not result in a significant impact on air pollution levels where the proposed traffic management scheme is operating. The implementation of the NO2 scheme in his view would alleviate exceedances of the NO2 pollution levels for those most affected residential properties, even with the increase in traffic generation arising from the new school. Assuming that the NO2 scheme highway works are effective in reducing traffic volumes on Stafford Street and the roundabout junction then his conclusion is that the impact of the proposal on air quality exceedances in Stafford Street would be negligible.

In respect to local air quality impacts arising from the proposed development, both for construction and operation of the school, an Air Quality Assessment has been submitted with the application. The Environmental Health Officer has requested further information on noise and dust mitigation in the Construction Management Plan, which forms part of the assessment. This information can be secured through a planning condition, in the event that it is not forthcoming before determination. He is generally satisfied with the conclusions of the assessment, subject to compliance with an agreed construction method statement.

Having regard for the implementation of the highway works under the NO2 scheme, being carried out before the school is due to open and the comments of the Environmental Health Officer in regards to air quality impacts of the development, I am satisfied that the requirements of saved Policies E12 and GD5 would be adequately met.

### Land Contamination and Noise

Due to the previous industrial and railway related uses which operated on the site, the land is known to be contaminated, with hazardous substances present on and below ground. Saved Policy E13 supports the re-use of contaminated sites, while recognising that new development can raise health and safety concerns.

The application is supported by a Preliminary Land Contamination Assessment, which identifies contamination on the site, which would need to be dealt with effectively before the proposed school development could be brought into use. The Environmental Health Officer is satisfied with conclusions of the assessment, that the risk to health is medium to low and recommends that the contamination is addressed through various pre-commencement planning conditions.

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### Noise Impacts

In relation to noise impacts arising from the development, the primary issues are the potential effects of the school development on the nearby residential properties which lie close to the site. The houses and flats which lie to the north of the application site are likely to be most affected by the proposed use of the site as a school. Some of these properties are very close to the site, which is elevated some 2 to 4 metres above the adjacent residential area. Granville Street and Ponsonby Terrace in particular have the end terraces almost abutting the site boundary. There is therefore a potential for noise disturbance from activities at the proposed school, particularly from the sports pitches and recreational areas which are positioned close to the shared boundary with this residential area.

An acoustic report has been submitted in support of the application, which considers the potential noise levels arising from the school development and specifically the plant equipment on the school building and from the outdoor sports facilities. The report states that the type of plant equipment to be used within the school buildings is not yet known, so the likely noise levels arising from the plant cannot yet be determined. Having said that, these noise impacts can be effectively be mitigated through appropriate measures and I am satisfied they can be controlled by a suitable planning condition. In relation to the outdoor sport and recreation facilities, the report recommends the use of acoustic fencing to reduce the noise disturbance to the nearest residential properties to the north of the site. A section of 2.4 metre high acoustic fencing is already proposed alongside properties on Ponsonby Terrace. This could be extended further along the northern boundary if considered necessary to protect the amenities of nearby residents. Given that some of the properties are at a much lower level than the proposed sports pitches and recreational spaces with substantial retaining walls along the northern boundary, there would be some attenuation for nearby dwellings, which would be improved by the use of acoustic fencing. I note that the Council's Environmental Health Officer has requested some additional information to the noise assessment in order to be satisfied that the school use would not have an excessive noise impact on nearby residents. The use of acoustic fencing is already included in the proposals and if necessary it could be extended along the northern boundary to minimise noise disturbance. Subject to the required updates to the acoustic report being provided by the committee meeting, the details of acoustic boundary treatment can reasonably be dealt with by means of planning conditions. This would ensure that residential amenities would be safeguarded in line with the requirements of saved Policy GD5.

### Trees

There is an Area Tree Preservation Order covering a group of trees along the northern boundary of the site, which lie in the north eastern corner alongside the proposed outdoor sports pitches. There are other scattered trees and groups of trees which are also in the northern half of the site and form part of the local wildlife site, composed of grassland and scrub habitat.

An Arboricultural Impact Assessment has been submitted with the application which has surveyed the trees on the site and most are categorised as B or C in terms of quality. Most of the trees and groups of trees are identified for removal to accommodate the proposed development. However, the group covered by a Tree Preservation Order and three other individuals are proposed to be retained as part of

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the landscaped areas along the northern boundary of the site. The retention of these trees is welcomed, although it should be noted that most of these are within the safeguarded corridor for the Mick/ Mack cycle route and may be under threat of removal when the cycleway is implemented. However, this will need to be considered as and when the cycleway scheme is developed.

The Council's Tree Officer is generally satisfied with the tree survey and recommendations for tree removal to accommodate the development. The sports pitches are shown to impact on the root protection areas of some of the retained trees and the tree officer has recommended the submission of a method statement and tree protection plan to ensure that these trees are protected. He is also supportive of the proposed tree and hedgerow planting which is proposed as part of the submitted landscaping scheme, which would provide substantial mitigation for the removal of existing trees and scrub, most of which is in the local wildlife site. Subject to further arboricultural information for tree protection and method of working being secured by planning condition, I am satisfied that the development makes appropriate provision for retention of existing trees and new planting, which mitigates for the loss of green infrastructure from within the site. The proposal would therefore accord with the intentions of Policy CP17.

### Flood Risk and Drainage

The Council's Level 1 Strategic Flood Risk Assessment (SFRA), is the most up-to-date flood risk assessment for the city, which supercedes the Environment Agency Flood Maps. In respect to this site it has substantially reduced the extent of the predicted flood risk in a 1 in 100 year flood event, where it impacts on the application site. The SFRA indicates that the western corner of the application site is affected by flood risk arising from Bramble Brook and this area lies in Flood Zones 2 and 3 (medium to high flood risk). Bramble Brook runs west to east across the length of the site in a culvert which is understood to be located over 6 metres below ground level. A large proportion of the development site lies outside these flood zones and is elevated significantly relatively to the surrounding townscape, as set out elsewhere in this report.

The application is supported by a Flood Risk Assessment (FRA) and a Bramble Brook Culvert Assessment and further flood risk modelling and drainage information has been provided in response to concerns raised by the Environment Agency and the Council's Land Drainage Officer.

In relation to the risk from the Bramble Brook culvert, the Environment Agency has raised an objection on the basis that the FRA submitted with the application does not adequately assess the flood risk to the development. The applicant has provided a revised FRA and detailed flood modelling information in order to address the EA's concerns. I understand that assessment of the flood modelling is likely to take up to 4 weeks to carry out, which will mean that the EA's response to the modelling is unlikely to be received before the committee meeting. It should be borne in mind that the areas of the site at high risk are to the western end of the site, which primarily affects the staff car park and the access road. The proposed school buildings lie in areas which are at low risk and the Council's Land Drainage Officer does not share the EA's concerns about the potential risk to the development from flooding. Given the need to deliver the school to open in September 2020, a substantial delay in the

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determination of the application could cause issues for secondary place provision. In the event that comments are not received from the EA before the meeting, then delegated authority will be sought to address the potential risk of flooding and any mitigation measures requirements under delegated powers.

The drainage strategy for the development has been amended following concerns raised by the Land Drainage Officer and now incorporates SuDs elements, which includes rain gardens and drainage swale area. The building footprints have also been shifted slightly to move them away from the easement of the Bramble Brook culvert. The Land Drainage Officer is now satisfied that the proposed drainage solution, with SuDs features is an acceptable provision for the development which would not have an adverse effect on flood risk for the development.

Having regard for the results of the flood modelling for Bramble Brook, which will feed in to revised comments from the Environment Agency, I am satisfied that provided any impacts can be dealt with by suitable flood mitigation. Subject to the recommended conditions for drainage and flood risk being complied with, then I am satisfied that there would not be adverse impacts for users of the development arising from flooding. The proposals would therefore accord with the requirements of Policy CP2 in relation to drainage and flood risk.

### **7.5. Ecology Impacts and Mitigation**

The proposed school development would result in a direct adverse impact on part of the Friar Gate Station Local Wildlife Site which runs along the northern half of the application site and amounts to approximately 1.3 ha of the overall 3.5 ha site. The whole wildlife site is approx. 3.06 ha in area and extends to the east of the application site around the former railway buildings and Friar Gate station. The wildlife site is significant for its mix of grassland and scrubland habitats with scattered native trees. The unimproved grassland is considered to be an important habitat, (which is a substantial element of the application site) because it is species rich grassland with a high proportion of rare types of plants and insects, particularly butterflies. There are also two areas of Japanese Knotweed on the site. Various supporting documents relating to the ecological significance of the site have been submitted. These include an ecological appraisal and mitigation strategy for the site, a grassland botanical survey for the areas of grassland habitat and walkover assessments for the two identified off-site compensation areas.

The proposed development of the school and associated sports facilities would result in the removal of a large proportion of those significant habitats within the site. This would amount to a direct impact on approx. 1.35 ha of the wildlife site, or 44% of its total area. I note that Derbyshire Wildlife Trust has expressed disappointment that “*greater emphasis has not been placed upon retention and incorporation of a greater extent of the local wildlife site*”. However, discussions with the applicant at pre-application stage explored the potential for retaining more of the habitats within the development, although with all the other constraints affecting the site and the need to achieve a large secondary school, with all its ancillary facilities on a relatively narrow area of land, it was accepted that limited scope exists to preserve much of natural areas within the site. Some efforts have been made to include retention and replacement of species rich grassland, native scrub, trees and hedge planting within

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the landscaping areas along the northern boundary and to the southern part of the site, however these areas are relatively small, compared with the existing area of the wildlife site. The northern area of the wildlife site, which is being retained, would be affected by the route of the safeguarded Mick/Mack cycleway, which if constructed is to be a 3 metre wide route and some levelling of the sloping land levels would be required. This would inevitably further impact on the remaining habitat, once it is implemented and I note that Derbyshire Wildlife Trust (DWT) raises some concerns about this. However, the construction of the cycleway does not form part of this application, even though the route is being safeguarded. It will need to be considered at a later date, how adverse impacts on the retained wildlife site are to be mitigated or addressed by the formation of the safeguarded cycle route.

Where there is significant harm to biodiversity resulting from development, the NPPF (2018) advises that if it cannot be avoided, (through locating on an alternative site with less harmful impacts), adequately mitigated or as a last resort compensated for then it should be refused. DCLP Part 1 Policy CP19, seeks to minimise or mitigate impacts on biodiversity and states that developments which impact on local wildlife sites should only be exceptionally permitted where they meet specified criteria, including where adequate mitigation or as last resort compensation measures are provided.

Since there are limited opportunities to retain and create larger areas of the natural habitats within the proposed school, the possibility of off-site compensation for the biodiversity loss has been explored, in consultation with the Council's Parks team and Derbyshire Wildlife Trust. The off-site works should allow relocation and creation of grassland habitat suitable for the invertebrates, including butterflies found on the local wildlife site. The creation and enhancement of grassland and scrubland habitat would allow a similar ecological mix of species to be supported on alternative areas of public open space which are close in distance and in unique character to the current habitat on Friar Gate Goods Yard. Following discussion and agreement with the Parks Officer the applicant has identified two potential open spaces; Mackworth Park and Cheviot Street open space, which are considered suitable for off-site compensation of the significant grassland and scrub habitats on the development site.

Further investigation of the suitability of the two sites has been carried out for the proposed relocation and creation of the identified habitats and an Ecological Walkover Assessment was submitted for both open spaces. This recommended the relocation of the species rich grassland habitat, suitable for butterflies onto part of the Cheviot Street open space; and enhancement of grassland areas on Mackworth Park to form a wildflower meadow and manage scrub to create better habitat and biodiversity within the site. Both areas would be subject to a long term management plan to maintain their ecological interest, which would be implemented and maintained by the Council's Parks team. The Parks Officer has set out their agreement in principle to carrying out the habitat enhancement/ relocation, subject to appropriate long term management of the two sites being secured. Derbyshire Wildlife Trust is also supportive of the principles of suitable off-site compensation being provided and has noted that the proposals would result in achieving a no net loss of biodiversity from the site and would also achieve a net gain across the two open spaces.

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A management plan for both off-site compensation areas is awaited shortly from the applicant, which will include the proposed maintenance regime and costs associated with the initial works and long term management. Further comments on these from the Parks Officer and DWT will be reported at the meeting. The implementation and management of the new habitat areas would be secured through a Section 106 Agreement to ensure that the works are carried out at the appropriate time and to agree a long term management regime for the maintenance of those areas, which are in Council control. The terms of the obligations to secure the off-site compensation works have been agreed in principle by all parties, although the details of the agreement have not yet been finalised and would need to be dealt with following the committee resolution.

The principles of the off-site compensation have been agreed by both the Council's Parks team and Derbyshire Wildlife Trust. New and relocated habitats to replicate those on the local wildlife site would be formed on public open space controlled and managed by the City Council and the new habitats would amount to a net gain in biodiversity to that which would be lost by the proposed development. I am satisfied that the off-site habitat creation is a last resort and that sufficient mitigation cannot be reasonably be achieved within the development. The provision of a replacement species rich habitat and relocation of parts of the existing grassland is rarely undertaken because mitigation measures and habitat enhancement can normally be provided within a development site. However, in this case, there is a convincing argument to justify the off-site compensation route and the applicant has provided robust reports and assessments to demonstrate that the proposals to enhance biodiversity in the two identified open spaces can be realistically achieved with the collaboration of the Council's Parks team and Derbyshire Wildlife Trust. The requirements of the NPPF and Local Plan Policy CP19 in relation to safeguarding biodiversity can therefore be satisfactorily met by this proposal.

### **7.6. Conclusions and Planning Balance**

#### **Section 106 Heads of Terms**

As set out in this report, the proposed secondary school development would generate the requirement for some specific planning obligations which must be secured by means of a Section 106 Agreement. There are three draft heads of terms which have been agreed in principle by the applicant to mitigate the adverse traffic impacts of the development and the loss of part of the local wildlife site. The heads of terms set out below have been agreed in principle, although the details are currently being negotiated with the Council's Implementation team. The final terms will be reported to Members at the meeting and in the event that negotiations are not completed before the meeting, then delegated authority will be sought to continue discussions with the applicant to agree Heads of Terms and complete the legal agreement.

1. Transfer of land (identified in pink on the layout plan submitted in support of the application) for the purpose of constructing the Mick/ Mack cycleway route in the event that funding is secured and a detailed scheme has been agreed and is ready to be implemented.

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2. Implementation of a biodiversity off- site compensation scheme to be split between Cheviot Street open space and Mackworth Park, with agreement of the Council's Parks team and Derbyshire Wildlife Trust. A commuted sum for planting and management/ maintenance of the new habitat areas for a period of 30 years. The relocation of the identified areas of grassland habitat will take place before any development works to the affected areas takes place.
3. The implementation of a Traffic Regulation Order (TRO) to secure additional parking management on Great Northern Road has been requested and is still subject to negotiation. This is mitigation for parking to be displaced by formation of new access to the school and additional parking demand which would be generated by the development.

### **Conclusions**

This proposal is for the delivery of a new secondary school, with full ancillary facilities and sports provision on part of a strategically important brownfield site in a highly sustainable location on the edge of the city centre. The 1260 place school, including sixth form, would meet a shortfall in secondary school places within the city, which cannot currently be met through existing city schools. The proposed school would also deliver a range of both indoor and outdoor sports facilities for use of the pupils and would be made available for use of the local community. The proposal would provide a high quality teaching environment, which would enhance educational facilities and meet a current need for additional secondary school provision within the city meeting the intention of Policy CP21 in relation to schools.

The development of this site accords with the Council's aspirations to redevelop the former Friar Gate Goods Yard site, which is significant regeneration opportunity on the edge of the city centre through both saved policy R2 and Policy AC2 (although application site is not included). Whilst it is regrettable that the proposal subdivides the goods yard site and does not incorporate the renovation and reuse of any of the listed buildings on the site, the development must be considered on its own merits and it does not prejudice the provision of a high quality regeneration scheme for the rest of the site. The redevelopment of the western part of the former railway sidings would bring forward significant benefits through development of large area of derelict and contaminated land, which is currently isolated from the surrounding townscape and subject to anti-social activity. The proposal also has the potential to lead to further development opportunities on the wider goods yard site.

There are numerous constraints which affect this site, either on site or off site and these have informed the proposals. Some of these constraints continue to be addressed in consultation with consultees and in the event that any are not resolved before the committee meeting, then delegated authority will be sought to deal with these, if Members are minded to grant permission for the development. There are outstanding matters in relation to the traffic impacts of the development on the wider road network, flood risk modelling, management of off-site biodiversity works and noise mitigation, for which updates will be reported to the meeting. Some of these will feed into the Heads of terms for a Section 106 Agreement which has agreement in principle, but negotiation of the details are likely to be completed following the committee meeting.

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In determination of this proposal, any adverse impacts in relation to traffic impacts and highway safety, flood risk, noise disturbance, loss of local wildlife site and harm to the setting of heritage assets must be weighed in the balance against the substantial public benefits of the proposed school development. In respect to the heritage impacts, there is acknowledged to be less of than substantial harm arising from the development within the listed curtilage of the former bonded warehouse. Having regard to para. 196 of the NPPF (2018) the harm must be weighed against the public benefits of the proposal, which are set out below:

1. The delivery of a new full form entry secondary school, in a highly sustainable and central location within the city, to increase educational provision in the city and address a shortfall in secondary school places.
2. The provision of new indoor and outdoor sports facilities for the use of the local community as well as for the school, meeting a gap in sports facilities, particularly for outdoor pitches in this part of the city
3. The significant regeneration and redevelopment of a strategically important and long term derelict site on the edge of the city centre, forming part of the former Friar Gate Goods Yard, which will also deliver substantial social and environmental improvements for the wider area.

The proposed school would have significant benefits, which are considered to outweigh the less than substantial harm and meet the heritage tests in the NPPF.

In weighing up the significant social and environmental benefits of the development, the scheme also provides other direct benefits, which mitigate some of the adverse impacts of the scheme, in the form of a net gain in off-site biodiversity through enhancements to Cheviot Street open space and Mackworth Park and the provision for transfer of a corridor of land for construction of part of the Mick/ Mack cycle route. Both of these benefits will be secured through a Section 106 Agreement. The scheme would also include on-site environmental improvements through use of SuDs drainage to reduce flood risk and native planting and habitat creation as part of comprehensive landscaping for the school. The provision of a range indoor and outdoor sports facilities which will be available for use of the local community is of benefit to the residents in this area of the city, where there is currently a shortfall of recreational and sports facilities.

These benefits would in my view outweigh the adverse impacts of the proposal and the intentions of the Local Plan policies as a whole, enshrined in the Derby City Local Plan Part 1 and saved City of Derby Local Plan Review and the overarching guidance in the NPPF are satisfactorily met by this development.

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

#### **8.1. Recommendation:**

- A. **Subject to** further comments from the Environment Agency in relation to flood risk and secure appropriate flood mitigation measures through conditions.
- 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 above Section 106 Agreement.

#### **8.2. Summary of reasons:**

The proposed development of a new secondary school and associated sports facilities would provide a high quality teaching environment, which would enhance educational facilities and meet a current need for additional secondary school provision within the city. The development of this site accords with the Council's aspirations to redevelop the former Friar Gate Goods Yard site, which is significant regeneration opportunity on the edge of the city centre. Whilst it is regrettable that the proposal subdivides the goods yard site and does not incorporate the renovation and reuse of any of the listed buildings on the site, the development must be considered on its own merits and it does not prejudice the provision of a high quality regeneration scheme for the rest of the site. There is less than substantial harm to the setting and significance of the Grade II listed former railway buildings on the wider site, specifically from the siting of the development within the listed curtilage of the buildings. Other adverse impacts of the proposal in relation to traffic impacts and highway safety, flood risk, noise disturbance, loss of local wildlife site and the identified heritage impacts are considered to be outweighed by the substantial public benefits of the proposed school development, which relate to the provision of high quality teaching and facilities to meet a shortfall in secondary school places, in a highly sustainable location and redevelopment of a strategically important regeneration site and meeting a shortfall in sports facilities for use of local community in this part of the city. The development would also provide environmental benefits through a net gain in off-site biodiversity to compensate for loss of important habitat and safeguarding of the Mick/Mack cycle route.

#### **8.3. Conditions:**

##### General conditions:

1. Three year time limit.
2. Approval of specified plans.

##### Pre-Commencement conditions:

3. Site investigation risk assessment for land contamination to be submitted and approved.
4. Remediation scheme for land contamination to be submitted and carried out as approved and verification report to be submitted and approved.

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5. Reporting of any unexpected land contamination during construction.
6. Tree protection plan and arboricultural method statement to be submitted and approved and implemented before works affecting any of the trees is carried out on site.
7. Notwithstanding the submission of a Construction Management Plan (Version 2) with the application, a plan to be submitted and approved and implemented before works commence.
8. Before construction of buildings, details of external materials, including windows and depth of reveal to be submitted and approved and implemented.
9. Air quality mitigation/ compensation strategy for development to be submitted and approved.
10. Notwithstanding the proposed junction mitigation scheme for junction of Great Northern Road and Uttoxeter New Road, submitted for application, details of a junction improvement and right turn lane to be submitted and approved and implemented before occupation of the school.

### Pre-Occupation conditions:

11. Notwithstanding details of boundary treatment and acoustic fencing submitted with application, details to be submitted and approved and implemented before school is brought into use.
12. Noise mitigation measures for plant/ equipment to be installed on the building to be submitted and approved and implemented before school is brought into use.
13. Details of external security arrangement including any CCTV coverage, to be submitted and approved before school is brought into use.
14. Details of hard and soft landscaping, including native species planting to be submitted and approved and implemented before school is brought into use.
15. Bird and Bat boxes to be installed within development as shown on approved drawings before school is brought into use.
16. Notwithstanding provision of cycle parking as shown on approved drawings, details of additional cycle shelters for both pupils and staff to be submitted to and approved before school is brought into use.
17. Community use agreement for sports facilities to be submitted and approved before school is brought into use.
18. Sports pitches to be implemented in line with details and timetable for construction to be submitted and approved.
19. School Travel Plan to be submitted and approved before school is brought into use and implemented

## **8.4. Informative Notes:**

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No removal of trees, shrubs or brambles shall take place between 1st March and 31st August inclusive unless a survey to assess the nesting bird activity on the site during this period and a scheme to protect the nesting birds has first been submitted to and approved in writing by the Local Planning Authority. No trees, shrubs or brambles shall be removed between 1st March and 31st August inclusive other than in accordance with the approved bird nesting protection scheme.

The control and removal of Japanese Knotweed should be undertaken in accordance with the relevant legislation.

### **8.5. S106 requirements where appropriate:**

- Transfer of land for the purpose of constructing the Mick/ Mack cycleway route in the event that funding is secured and a detailed scheme has been agreed and is ready to be implemented.
- Implementation of a biodiversity off- site compensation scheme to be split between Cheviot Street open space and Mackworth Park, with agreement of the Council's Parks team and Derbyshire Wildlife Trust. A commuted sum for planting and management/ maintenance of the new habitat areas for a period of 30 years. The relocation of the identified areas of grassland habitat will take place before any development works to the affected areas takes place.
- Implementation of a Traffic Regulation Order (TRO) to secure additional parking management on Great Northern Road has been requested and is still subject to negotiation. This is mitigation for parking to be displaced by formation of new access to the school and additional parking demand which would be generated by the development.

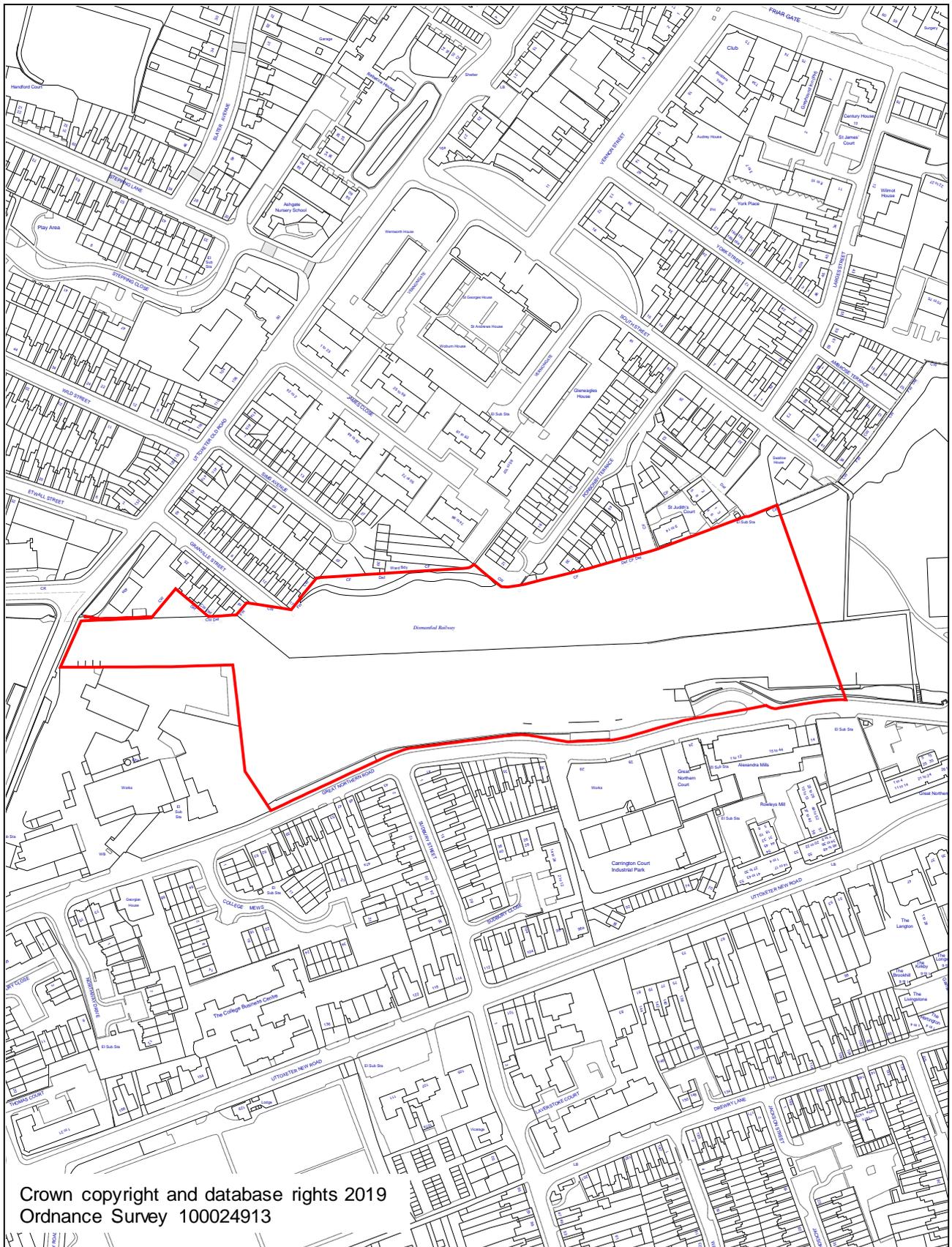
### **8.6. Application timescale:**

The application determination period will expire on 30 July 2019.

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**Type: Full Planning Application**



## **Committee Report Item No: 2**

**Application No: 18/01908/FUL**

**Type: Full Planning Application**

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### **1. Application Details**

**1.1. Address:** Car Park adjacent to Northgate house, 36 Agard Street, Derby.

**1.2. Ward:** Darley

**1.3. Proposal:**

Erection of an 8 storey student accommodation comprising 142 studio flats, together with ancillary facilities and formation of vehicular access off Agard Street.

**1.4. Further Details:**

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan/18/01908/FUL>

**Brief description**

**The Proposal**

The proposed development is for an 8 storey building delivering 142 student flats. The ground floor accommodation will also comprise ancillary facilities (resident's lounge, laundry, management office/reception; bin store; cycle parking; plant room). The proposed building design has been amended and reduced in height. These amendments have been negotiated during the life of this application.

It would comprise a 25.6m high block, constructed primarily of brickwork, with glass feature sections on the 8<sup>th</sup> floor, either side of the main central feature. The building would be set back from the Agard Street frontage, with an area of landscaping, cycle storage and parking in front of the building. A single access point, off Agard Street, is proposed, to serve 4 car parking spaces.

**The Site and Surroundings**

The site currently comprises open land, which has been used as a commuter car park, serving nearby office premises, for about 40 years. The car park is served via a centrally positioned access on the Agard Street frontage, which also serves as a right of access to properties at the rear. The site is surrounded by existing development, with the 5-storey former Tax Office building to the east; 4-storey Sir Peter Hilton Court, student accommodation, and the Golden Eagle PH on the opposite side of Agard Street (to the north); Friar Gate Surgery and Snug Recording Studios to the west; and 4-storey buildings, mainly in office use to the rear (south) of the site. Derby Gaol and chapel building are also to the south. Agard Street itself is a 2-lane, one-way route, part of the A52, giving access to the City Centre from the northwest. The site is some 200m west of the Ford street inner ring road. The site lies within the Friar Gate Conservation area. There are numerous Listed Buildings in the vicinity, including Grade II\* Buildings in Friar Gate, immediately to the south.

**1.5 Applicant's Submissions**

The applicant has submitted several supporting documents. The plans have also been amended, to address concerns raised by consultees. The submissions are summarised as follows:

**Design & Access Statement**

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The proposed use is in keeping with this location. Furthermore, it is located within immediate proximity to a wide range of facilities and good transport links and will enhance the community balance. The amount of the development is compatible with the location in terms of densities of current and approved schemes, together with the availability of services, shops and public transport. The layout responds well to the surrounding environment and maximises the achievable amount of accommodation on this site within that context. The scale of the development compliments that of existing and emerging developments. Issues around over-dominance and over-shadowing have also been considered throughout the design process. The proposed appearance is of a high quality and is set to enhance Agard Street and contribute to the regeneration of the City Centre. The proposal will create construction jobs and lead to increased spending at local businesses, helping preserve and create more jobs. The proposal complies with the NPPF and local development policies and respects the impacts on the Friar Gate Conservation Area and listed buildings. The proposal is economically, socially and environmentally sustainable and can therefore be granted without delay.

### **Amended Design Statement**

In responding to the setting of the building and to help mitigate a 'canyon effect', the building has been set back. This is designed to address air quality concerns and has led to creating a communal circulation space to the front of the building with landscaping to improve a sense of place. The revised design articulates the entrance with a projection in the facade. The portico has been highlighted with a surround in a contrasting material reminiscent of the local vernacular. The new proposal uses a simpler material palette with the use of a single brick type and a complimentary colour for the fenestration. With the simpler materials we have created visual interest with the use of fluted brick columns and by bringing out the central portion of the facade it allows for a positive frontage that engages with the surrounding architecture. The scale and massing has been varied to create an interesting roof scape and much greater articulation in the facade.

The [amended] solution is a careful synthesis of our analysis and design process. A sense of place and belonging is achieved through architectural form and reference to the heritage and buildings of Derby. The student living typology is reflected through the architecture and embedded in the creation of a learning environment that provides a positive engagement with its surroundings.

### **Integrated Visual / Heritage Assessment**

The application affects the Friar Gate Conservation Area and the settings of a number of listed buildings. The statutory requirements to have special regard to the desirability of preserving listed buildings, their settings and any features of special interest (section 66, 1990 Act) and to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas (Section 72, 1990 Act) must be taken into account when determining this application. Regard must also be paid to the requirements of the NPPF and in particular those paragraphs concerning the historic environment as set out within section 3 of this report.

The possible impacts of the proposed development on the historic environment were reviewed with DCC Officers at the Pre-Application stage and feedback received has

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informed an iterative design process. This process has been concerned to ensure that the proposed development represents an enhancement to Agard Street and that any visual harm to designated heritage assets is avoided, minimised or appropriately mitigated.

Whilst the application scheme clearly alters the settings of a number of designated heritage assets any visual impacts are largely neutral. However, it is acknowledged that the impact of the proposed Scheme will have limited minor to moderate adverse effects upon the settings of some designated heritage assets.

The scheme is largely concealed from Friar Gate and the high concentration of listed buildings which line it and is not visually harmful to Friar Gate's significant northern frontage. The scheme has more impact on the less significant rear elevations of the listed buildings which range along the northern side of Friar Gate where settings will be changed. Given the generally poor townscape quality of the existing context for these rear areas the overall impact of the scheme is not considered severe.

Nevertheless, it is recognised that the scale of the development will lead to moderate and minor adverse visual effects on a limited number of heritage assets which equate to less than substantial harm.

On balance the application scheme represents an enhancement to degraded section of Agard Street, helping to repair a fragmented townscape. It must also be therefore seen as an enhancement to the sections of the Friar Gate Conservation Area which includes Agard Street (south).

### **Statement of Public Benefits**

The proposal causes less than substantial harm to heritage assets, which must be balanced against its public benefits in compliance with Paragraph 196 of the National Planning Policy Framework. The benefits, summarised below, cumulatively and significantly outweigh the harm.

- Regeneration of a Prominent Gap Site in the City Centre

A high-quality building will replace an eyesore car park site that has been a prominent gap on one of the City Centre's busiest streets for nearly 40 years.

- Removal of a Commuter Car Park

40 commuter car parking spaces will be removed from the City Centre, encouraging more use of public transport, reducing congestion, and improving noise and air quality.

- Employment Generation

Over 400 construction jobs throughout the construction period, with local companies benefitting, with up to 10 jobs supported by ongoing management and maintenance when completed.

- Provision of Purpose-Built Student Accommodation

The Core Strategy supports purpose-built accommodation to help free up existing housing stock (about 35 houses from the proposed 142 bed spaces) and improve the attractiveness of the University.

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- Contribution Towards the Local Economy from Students

The 142 students will make a valuable contribution to the local economy and nearby businesses, as part of the £270m benefit of the University to the local economy.

### Air Quality Report

The potential development is not expected to have an 'adverse impact' on health or quality of life. It is considered that all 'adverse impacts on health and quality of life' (relating to noise) could be mitigated by the use of an appropriate glazing and ventilation strategy. Double glazed units with a sound reduction of Rtra 30 dB are anticipated to be sufficient for living areas and Rtra 34 dB for bedrooms across the site in order to achieve the target internal noise levels when windows are closed for the worst-case façade facing Agard Street. This specification will reduce as the distance from Agard Street increases, as you go up the building and on the sides and rear of the building screened to Agard Street. The rooms within the development will have an MEV ventilation solution to include acoustic trickle vents as required. It is considered that the noise mitigation ... is sufficient to reduce the effects of any traffic noise and entertainment noise from the surrounding environment by preventing noise levels exceeding BS 8233/WHO criteria for LAeq and a majority of LMax within all areas of the proposed development. A further survey could be considered to be undertaken to inform the proposed mitigation and assess the number of LMax events during the night-time period. This requirement can be suitably controlled through an appropriately worded planning condition.

### Flood Risk assessment

All forms of flood risk have been reviewed for the proposed development site which is located within Flood Zone 1, and it is considered that the site and surrounding land would be at a low flood risk following redevelopment. A robust drainage strategy has been proposed to deal with both foul and surface water which would be generated by the redeveloped site, with no surface water flooding occurring for storms up to and including the 1 in 100 year plus climate change event. Flow routing has been considered to ensure that in the event of a blockage, existing adjacent landowners are not subject to an

increased flood risk. It is therefore considered that from a flood risk and drainage point of view, the proposed development is appropriate.

### Desk-Based Archaeological Assessment

There is no evidence that the site contains any buried archaeology and it's concluded that the archaeological potential is negligible to low.

However, the proximity of the former Derby Gaol means a single trial trench should be considered towards the southern end of the site.

### Transport statement

Road safety records within the TS study area have been examined and no identifiable road safety issues have been identified. This report demonstrates that the site is sustainable and has good access to local facilities and amenities by both foot and cycle. The site has been shown to meet local and national accessibility standards as a number of the key facilities, amenities and most services (e.g. food retail, health, employment and education) are within maximum journey times via at least one form of sustainable transport in accordance with local and national

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guidance. Public transport serves roads near to the site from a number of local stops, with a variety of services enabling access to and from the site to a wide number of centres and facilities. Trip generation for the proposed site has been based on the agreed trip rates set out in the Cathedral Road development, which is located in a similar location and is also a student accommodation development. The proposed development is expected to lead to a slight vehicle trip reduction during the AM peak and PM peak periods compared to the existing use of the site. Therefore, the traffic impact of the proposed development cannot be deemed severe and does not warrant any off-site highways mitigation. It is considered that the transport effect of the proposed development is not severe and as such, transport issues should not present a barrier to the granting of outline planning permission for the proposed development.

### **Travel plan**

The proposed development is located within a sustainable area giving the existing facilities support for sustainable lifestyles. This Travel Plan (TP) has been produced to build upon the existing infrastructure benefitting the development and to provide measures that further encourage sustainable transport modes to further reduce single occupancy car journeys and replace them with more sustainable alternatives.

Baseline travel data will be collected either at 1 year after first occupation of the site, or when the site is fully occupied, whichever is sooner. Measurable targets have been produced which will be monitored against the baseline data. This document also clearly outlines the role and responsibilities of the Travel Plan Co-ordinator (TPC).

The TPC will be responsible for arranging the monitoring and review of the impact of the Travel Plan after the site is fully occupied. It is intended that further measures, initiatives and promotions will be developed over time by the TPC.

### **Ground Investigation**

There is nothing on the site that prevents the proposed residential development, though mitigation will be required as appropriate. This will include use of a suitable capping material in any landscaped areas. The presence of invasive plants will need to be checked and soakaway drainage is not suitable for the site.

Any waste materials from the site should be tested to ascertain their suitable means of disposal.

## **2. Relevant Planning History:**

<b>Application No:</b>	DER/11/17/01446	<b>Type:</b>	Full Planning Application
<b>Decision:</b>	Refused	<b>Date:</b>	27/07/2018
<b>Description:</b>	Erection Of An 8 Storey Building Of 77 Flats And Associated Car Parking		

Refused for the following reasons:

1. The local planning authority is of the opinion that the proposed development would, by virtue of its materials, design, layout, height, scale and overwhelming massing impact, not preserve or enhance the character or appearance of the

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Friar Gate Conservation Area and cause harm to its significance. It would also cause harm to the significance of a number of listed buildings in the area including the highly graded 47-51 Friar Gate (grade II\*) and 56-57, 58 and 59-60 Friar Gate (grade II), and those listed buildings slightly further away including 2, 4-6 (consec.), 8-10, 18-20 Bridge Street (grade II) and the Church of St John the Evangelist (grade II\*). The proposed development is, therefore, contrary to section 66(1) and 72(1) of the Planning (Listed Building & Conservation Areas) Act 1990, adopted Policy CP20 of the Derby City Local Plan – Part 1: Core Strategy and to saved Policies E18 and E19 of the adopted City of Derby Local Plan Review. The harm caused to the designated heritage assets in regards to the heritage policies in the National Planning Policy Framework is considered to be 'less than substantial harm' and, whilst there are some potential public benefits that may arise from the proposed development, these are not considered to outweigh the harm that would be caused in this case.

2. The local planning authority is of the opinion that the proposed development would, by virtue of its materials, design, layout, height, scale, and overwhelming massing impact, create an unacceptable form of residential development in this part of the street-scene. The proposed development is, therefore, contrary to adopted Policies CP3 and CP4 of the Derby City Local Plan – Part 1: Core Strategy and to saved Policy GD5 of the adopted City of Derby Local Plan Review.
3. The local planning authority is of the opinion that it has not been satisfactorily demonstrated that the proposed development would have an acceptable impact on local air quality. It is considered that locally-specific factors have not been accurately considered by the air quality modelling and that the impact of the development, creating a 'street canyon' effect, has not been properly considered within the submitted documentation. The proposed development is, therefore, contrary to adopted Policy CP3 of the Derby City Local Plan – Part 1: Core Strategy and saved Policies E12 and GD5 of the adopted City of Derby Local Plan Review.

An appeal against this decision has been lodged with the Planning Inspectorate and will be considered in due course.

### **3. Publicity:**

- 51 Neighbour Notification 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:**

41 representations have been received, 1 representation in support was received from Marketing Derby, their comments are listed below. The 40 representations object on the following grounds:

- Minimal changes to the proposal from the previous refused scheme.
- Construction noise, vibration and dust will have a detrimental impact on the adjoining Recording Studios. Harmful to local business use, which may be forced to close. Consequential impact on Derby's music culture and local musicians.
- Lack of consideration for impact of construction phase on nearby noise-sensitive uses.
- Proposal would not enhance cultural growth. Particularly threatening long term strategy for nearby historic assets.
- Proposal building excessively tall, overbearing and out of character with surrounding area and harmful to surrounding Listed Buildings and Conservation area.
- Potential overshadowing and overlooking of buildings to the rear and to the flats opposite.
- Increased traffic generation and inadequate parking will lead to highway safety problems, including deliveries to the site.
- Agree with concerns raised by heritage bodies.
- Lack of detail to confirm rights of access to rear of Friar Gate properties.
- Lack of demonstrable need for student accommodation, especially as proposal has no connections with the University.
- Concern regarding the credibility of the developers, and whether they are able to deliver the proposal.
- Would exacerbate air pollution issues.

**5. Consultations:**

**5.1. Marketing Derby**

This letter is written in support of the application above for the site on Agard Street and the 150 student studios on the site. The content has been formed following discussions between Marketing Derby and representatives from Bondholder businesses and the Economic Development Advisory Committee (EDAC) including the Cathedral Quarter BID, Knights plc, Pick Everard, Derby Cathedral, Justin Smith Architects, Smith Partnership, BB&J, Lathams, Rigbyandco, Intu, Derby Quad, Archer Hampson, Katapult, Derbyshire County Cricket Club, Bear, Nielsen McAllister and Salloway Property Consultants.

**Introduction**

Marketing Derby is the place marketing and inward investment agency for Derby – a key partner of Derby City Council, receiving funding from 350 business Bondholders from the public, private and third sectors. Our mission is to attract investment into Derby and we strongly support the ambition to develop the city as a place fit for purpose for living, working and playing in the 21st century.

Derby City Council's corporate, regeneration, economic and planning strategies are summarised in the Local Plan Part 1 AC1 policy, which states that the "Council is committed to delivering a renaissance for the City Centre and reinforcing its central economic, cultural and social role by supporting sustainable economic growth and regeneration, improving the quality of the built environment, creating new residential neighbourhoods and enhancing its standing as a regionally important business, shopping, leisure, tourism and cultural destination."

**Setting the context**

The summary above ties in to Derby City Masterplan 2030, a guide put in place to direct and inform development and regeneration of Derby city centre. When launched in 2015, it was done so ahead of work expected to commence on facilities such as a new swimming pool, replacement performance venue, tendering of Becket Well as a regeneration scheme and further significant regeneration programmes.

In a recent study by Centre for Cities, it was identified that the leading cities in the UK have seen substantial increases in city living with some seeing increases of as much as 150%. Derby currently sits at 32%.

The City Council, businesses and the population of Derby wish to see a vibrant city centre where people can live, work and visit. In light of this, it is more important than ever that when an opportunity arises to regenerate low-grade vacant sites such as this, we take it.

**The proposed scheme**

The site in question is a surface car park which provides no visual quality to Agard Street and is surrounded by business and residential uses. It is adjacent to Northgate House, a 6-storey building with commercial floor-ceiling heights. The building is very poor architecturally and will be vacated when HMRC leave. Situated on a slight slope downwards from the Friar Gate townhouses, it is also adjacent to the 2-storey Snug recording studios, and opposite the 4-storey Centro West development.

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Brownfield sites are crucial to the NPPF, which was revised in 2018. It clearly states a preference for Local Authorities to ensure that urban, brownfield sites are brought forward for high-density use. Without doing this, greenfield land will be swallowed to accommodate the challenging housing targets that cities face. In Derby's case, 11,000 new homes must be delivered by 2028 within the city boundaries.

Viability issues mean that smaller sites such as this one must deliver a certain number of homes to be buildable. That need for density means that buildings will have to be taller to accommodate those homes. In a city such as Derby, that will inevitably mean being taller than much of the existing built environment. In the context of Agard Street, the proposed building is similar in height to Northgate House and smaller than the development at One Friar Gate Square.

Historically, Agard Street was a minor thoroughfare, with a series of yards and gardens off it to service the Georgian buildings on Friar Gate. However, with the completion of the inner ring road, Agard Street is now a vital traffic artery into the city centre, whilst the yards and gardens of the past have been replaced with surface car parks and derelict buildings. As a result, we believe that the proposed development will greatly enhance the aspect along Agard Street.

With regard to the Friar Gate Conservation Area, whilst Agard Street is included, the main views of protection are those along Friar Gate itself and not of Agard Street.

To refuse this application on the basis of affecting views on the functional rear of the Friar Gate townhouses sets a dangerous precedent for the future of Agard Street. Any building constructed here will block those views, regardless of height, scale and massing. To use this as a reason for refusal will stymie any future development. If this happens, one of the main gateways to the city from the West will remain as a patchwork of surface car parks, 1960's office buildings and garages.

Agard Street sits at the heart of the University of Derby's plans for a city campus. These plans will see a greater student presence in the city centre, contributing significantly to the economic vibrancy of Derby. Encouraging integration between the University, its students and the city should be of importance to Derby City Council, bringing greater numbers of potential customers to city centre businesses.

The city must find a way to embrace modern development that sits alongside heritage assets - with so much of the city centre either in, or adjacent to, Conservation Areas - in order to continue the regeneration and improved vibrancy we are seeing.

There is a danger of a de-facto moratorium on development in Agard Street as two schemes have already been refused planning consent in the past few months (with one already subject to an appeal).

We believe the conservation concerns are overstated and not convincing.

We would support any efforts to improve the fabric of the Conservation Area, most especially the Friar Gate Bridge and associated buildings on Friar Gate (many of which are in a poor state of repair), allowing for development on the current dead space in the south side of Agard Street.

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Finally, the applicant has tried to address Air Quality issues by stepping the building back from the road and breaking up the massing. We believe that this fulfils their obligations in this respect.

Marketing Derby and EDAC support the principle of residential development in the city centre and would urge the Case Officer to balance the concerns of consultees against the economic and regeneration benefit of bringing this site back into use with a high-quality student residential development.

### **5.2. Conservation Area Advisory Committee (CAAC):**

Objection to proposal

The previous scheme was refused last year on heritage grounds and design. The Architect has done more work in how the scheme fits together. The new proposed height, scale and mass are similar to the original scheme, but building is different in design with fluted finishes to the brickwork. The building is set back into the site, as the original proposal, to address air quality issues.

CAAC agreed this was a better designed building, with improved articulation. However, there were fundamental concerns over the bulk, scale and height which were all unacceptable. The building would cause irreversible harm to surrounding Listed Buildings and to the setting of the Conservation Area. Proposed height would overshadow the accommodation opposite. Contrary to the (unadopted) Agard Street design brief. The building would set an unacceptable precedent for other developments on adjoining sites.

With respect to the latest amendment, CAAC commented:

Despite the marginal change, the proposal is still unacceptable as it would have a detrimental impact on the conservation area, listed buildings and heritage assets. Would recommend a reduction to 5 storeys. Recommendation: Objection

### **5.3. Historic England**

Comments on Amended Design Proposals:

We have been consulted on additional information in relation to planning application 18/01908/FUL. We have previously provided advice on the proposals in our letter of 29th January 2019 and 25th April 2019 including an assessment of significance, which remains relevant to the determination of this application.

The additional information provided includes amended plans. We note some modest improvements have been made to the overall design of the building, which includes a removal of one storey from the building, lessening the impact of proposed development when viewed from Friar Gate. However, we consider the proposal would still have a harmful impact in relation to views from Friar Gate, as well as, views identified within our advice letter of 29th January. We note only selected views within the integrated visual assessment have been amended to reflect the reduction in height. We advise that this omission is addressed to fully demonstrate the impact of the amended design.

Notwithstanding this, the revised design fails to address our previous concerns in relation to the proposed scale, design and massing of the building outlined in our

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previous advice letters of 29th January 2019 and the 25th April 2019. We therefore re-iterate this advice, in our view the proposal would constitute an inappropriate and intrusive development that would result in harm to the significance of a number of listed buildings. The proposal would also have a harmful impact on the significance, character and appearance of Friar Gate conservation area.

The NPPF is clear on the need for a 'clear and convincing justification' for any level of harm, weighing up public benefits associated with the proposal against the level of harm. The greater the significance of the heritage asset affected, the greater the level of justification required. It does not follow that if the harm is identified as 'less than substantial' that little weight should be given to the heritage asset and this has been reinforced by many recent appeal decisions considering this issue. The courts have established that considerable importance and weight has to be given to any harm to the special interest of a listed building or its setting.

The current surface car-parking on the site currently detracts from this part of the conservation area. In our view, there is an opportunity for development which is of a more appropriate scale, massing, height and quality design to enhance this part of the conservation area and repair the fragmented townscape within this area.

Ultimately, the soundness of a decision by your authority requires careful weighing of the significance of the heritage assets and the degree of harm arising from the proposed development against any public benefits arising from the proposed scheme.

### **Recommendation**

Historic England objects to the application on heritage grounds as outlined above and in our previous letters of 29th January 2019 and 25th April 2019. We recommend that you seek further advice in relation to the issues raised from your in-house Conservation Officer.

We consider the application does not meet the requirements of the NPPF, in particular paragraphs 192, 193, 194, 196 and 200. In determining this application you should bear in mind the statutory duty of section 66(1) and 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 to have special regard to the desirability of preserving a listed buildings or their setting or any features of special architectural or historic interest which they possess and pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation areas.

## **5.4. DCC – Conservation officer**

### **Comments on latest amended scheme:**

I note the previous consultation comments and previous application on this site which was refused for an 8 storey building of 77 flats and associated car parking (ref 11/17/01446).

This application is for student accommodation comprising 142 studio flats, together with ancillary facilities and formation of a vehicular access off Agard Street. The proposal's layout does not follow the back of footpath but is located set back from this alignment and projects forward centrally. The proposal used to step from 7, to 8 and up to 9 storeys. Then it was amended to step from 7 to 8 storeys. The 8th floor either

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side of the central element was light weight. The now amended proposal has been reduced a storey and steps from 7 up to eight storeys. The proposal does not address my fundamental objection made in previous comments as regards to height, scale, massing, and there is little information on proposed materials/ detailed design.

I note there are a minimum of views / proposed views in the Heritage statement / Heritage impact assessment and not all of them have been updated with the amended scheme.

I agree with the comments made by Historic England in their comments made 29th January 2019, 25th April 2019 and 14th June 2019.

Please see my comments that are still relevant to the amended scheme below: -

### **Heritage assets affected by proposal:**

There are a number of designated heritage assets affected by this proposal. This includes many of the highly graded listed buildings in the area and the Friar Gate Conservation Area.

Specifically the proposal would affect a number of listed buildings in the area including the highly graded 47-51 Friar Gate (grade II\*) which includes the main building and it's outbuildings and 56-57, 58 and 59- 60 Friar Gate (grade II), and those listed buildings slightly further away including 2, 4-6 (consec.), 8-10, 18-20 Bridge Street (grade II) and the Church of St John the Evangelist (grade II\*).

This proposal is within the Friar Gate Conservation Area and the character and appearance of the conservation area as an area of architectural and historic interest will be affected.

The setting (as part of its significance) of the conservation area will also be affected by this proposal. This can be seen when viewed from just outside the conservation area e.g. from the Markeaton Brook and Mill Street.

### **Impact and harm to heritage assets:**

I note the comments that have been previously made by the Conservation Team made on the previous application, the comments made by Conservation Advisory Committee and Historic England in response to this application. I agree with the contents of the letters from Historic England.

I disagree with the applicants assessment that the impact of the harm on significance is minor adverse as regards the Friar Gate Conservation Area and that the impact is moderate adverse for the impact on 18-20 Bridge Street and 47-51 Friar Gate. In my view the impact and the harm on significance of these designated heritage assets are higher than stated in the table.

I have strong concerns about this proposal in terms of the buildings height, size, scale and overwhelming massing, layout and materials.

The proposal would not preserve or enhance the character or appearance of the Friar Gate Conservation Area and cause harm to its significance as a designated heritage asset. It does not relate to its context.

In particular the views submitted of the development does show it would have a detrimental impact in terms of height, scale and massing, layout and materials on the

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character and appearance of the conservation area and does not preserve or enhance. There is harm to the conservation area and nearby listed buildings and this is illustrated within the integrated visual assessment (townscape, heritage and visual) within amended views A, B, D and H and within the other non-amended views C, E, F and G. These illustrate the proposals over dominance within its context within this area of architectural and historic interest. Within the conservation area and as regards the setting (part of significance) of nearby listed buildings of particular note is the harm when viewed from Ashbourne Road, Friar Gate, Agard Street and Mill Street where it towers over the listed buildings on Bridge Street from Mill Street.

There are also views of the development that negatively affect the setting of the conservation area.

In terms of height, scale and massing, layout and materials the development would also cause harm to the significance (setting) of a number of listed buildings in the area including the highly graded 47-51 Friar Gate (grade II\*) and 56-57, 58 and 59-60 Friar Gate (grade II), and those listed buildings slightly further away including 2, 4-6 (consec.), 8-10, 18-20 Bridge Street (grade II) and the Church of St John the Evangelist (grade II\*). As regards 47-51 Friar Gate the development is very close and is over dominant as regards the chapel outbuilding which is attached to the main building fronting Friar Gate. It would also tower over and be over dominant as regards Bridge Street listed buildings and break above the ridgeline of the highly graded listed buildings when viewing from Friar Gate. The materials proposed are a mix of buff brick and glazing. I object to the use of buff brick as they do not reflect the true character and appearance of the conservation area. And do not preserve or enhance the character or appearance of the conservation area.

In terms of design I suggest that due to the materials, design, layout, height and scale, overwhelming massing impact it creates an awkward, inappropriate and unacceptable form of residential development in this location so therefore contrary to saved policy GD5 of the CDLRR (2006) and adopted policies of the DCLP – part 1 core strategy Policies CP3 and CP4.

### Policies

The proposed development is contrary to section 66(1) and 72(1) of the Planning (Listed Building & Conservation Areas) Act 1990 and the NPPF including section 12 Conserving and enhancing the historic environment. In particular paragraphs 192, 193, 196, 197, 198 are particularly relevant here. The proposal is contrary to the Adopted Policy CP20 of the Derby City Local Plan – Part 1: Core Strategy (2017) and to saved Policies E18 and E19 of the City of Derby Local Plan Review (2006).

There is harm caused to the designated heritage assets and as regards to heritage policies in the National Planning Policy Framework this proposal's level of harm (classed as less than substantial harm) it is considered to be under para 196. 'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use' (NPPF, Para 196).

This means that where there is this level of harm, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its

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optimum viable use. This weighing is undertaken by the Development Management Case Officer.

### Conclusion:

In my view there is still much harm to the significance of a number of designated heritage assets (listed above including listed buildings and the Friar gate Conservation Area and its setting) and the level of harm means that para 196 of the NPPF is relevant here and therefore harm should be weighed against any public benefits of the proposal.

Recommendation: Strongly object on heritage grounds.

### **5.5. DCC – Urban Design Officer**

#### Comments on amended design proposal:

The re-consulted scheme has reduced the height of the central projecting section of the block, which reduces the roof-line to 8 residential storeys (the uppermost of which is set back).

As articulated before, I feel that the sum of the improvements over the iterations makes a more coherent and therefore acceptable proposal:

- Reductions in height;
- Articulation of entrance with projection and clear legible, and symmetrical entrance from the street;
- Varying roof levels, with step back of upper storey and glazing;
- Simpler range of materials, which relate better to local context, but with a modern style;
- Horizontal brick banding and verticality of the columns

The choice of bricks and other materials should be carefully considered and conditioned – my view is that there should be minimum variation in colour, to avoid over-elaborate detailing, and changes in texture/tone instead between the banding/corbellings.

The set back of building is required for air quality reasons – as this is less than ideal in terms of providing a strong street edge, and in terms of relating to historical context, this means that a very high quality of boundary is important – a well-designed brick/low wall, possibly combined with hedging. I recommend conditions for the external works and boundary treatment.

### **5.6. DCC - Highways Development Control:**

Comments on amended scheme and responses from the applicant:

#### Recommendation:

The Highway Authority has No Objection to the proposals, subject to a S106 contribution and conditions.

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### Observations:

In its observations of 08/05/2019, the Highway Authority recommended refusal of the application on highway safety grounds; specifically in respect of refuse collection.

As a result of this, the applicant's agent (in an email dated 8 May 2019) has suggested that as the site will be managed premises; that on collection days, refuse and recycling containers will be moved to areas between the parking spaces and the highway. Thus meaning that refuse collection can be carried out from the kerbside and removing the likelihood of vehicles reversing on the highway.

The agent has also indicated that their client would accept a suitably worded condition to this effect. This has satisfied the concerns of the Highway Authority.

### Recommendation:

The Highway Authority has No Objections to the proposals, if the LPA is minded to approve it is recommended that a S106 contribution of £6000 is sought for alterations to local traffic Regulation Orders to restrict loading along the site frontage to times outside of the peak period for traffic in order to permit the free flow of traffic along the public highway; and subject to the following suggested conditions:-

Condition 1: The development hereby permitted shall not be brought into use until a refuse collection strategy has been submitted to and approved in writing by the Local Planning Authority. The approved strategy shall then be implemented and retained for the lifetime of the development.

Condition 2: No gates shall be erected at the access to the development from the public highway.

Condition 3: No part of the development hereby permitted shall be brought into use until the parking and servicing areas are provided, and are surfaced in a sealed material with the parking bays clearly delineated in accordance with plans to be first submitted to and approved in writing by the Local Planning Authority. The parking and servicing areas shall be maintained in the sealed material for the life of the development and shall not be used for any purpose other than the parking and servicing of vehicles.

Condition 4: No part of the development hereby permitted shall be brought into use until a dropped vehicular footway crossing is available for use and constructed with a minimum dropped crossing width of 9.2m (10 kerbs), in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.

Condition 5: No part of the development hereby permitted shall be brought into use until the existing site access that has been made redundant as a consequence of this consent and as shown on plan (40730/021D) is permanently closed and the access crossing reinstated as footway, in accordance with details to be first submitted to, and approved in writing by, the Local Planning Authority.

Condition 6: No part of the development hereby permitted shall be brought into use until the development is constructed with provision to prevent the discharge of surface water from the site to the public highway in accordance with details first submitted to and approved in writing by the Local Planning Authority. The provision to prevent the discharge of surface water to the public highway shall then be retained for the life of the development.

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Condition 7: Unless otherwise agreed in writing by the Local Planning Authority, precise details of an on-site scheme to provide for electric vehicle charging shall be submitted and agreed in writing by the Local Planning Authority before the development is hereby permitted is brought into use. The agreed details shall be implemented and retained as such for the life of the development

Condition 8: No part of the development hereby permitted shall be brought into use until the cycle parking layout as indicated on drawing "40730/021D" has been provided. That area shall not thereafter be used for any purpose other than the parking of cycles.

Condition 9: No part of the development hereby permitted shall be occupied until a Travel Plan has been submitted to and approved in writing by the local planning authority. The Travel Plan shall set out proposals (including targets, a timetable and enforcement mechanism) to promote travel by sustainable modes which are acceptable to the local planning authority, proposals to prevent and control disruption due to students arriving at the development during times of maximum demand (student intake periods), and shall include arrangements for monitoring of progress of the proposals. The Travel Plan shall be implemented in accordance with the timetable set out in that plan unless otherwise agreed in writing by the local planning authority.

### **Notes to Applicant**

- N1. The development makes it necessary to construct a vehicular crossing over a footway of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact StreetPride at Derby City Council to apply for a vehicle access under Section 184 of the Highways Act 1980 (as amended) to arrange for these works to be carried out. Contact [maintenance.highways@derby.gov.uk](mailto:maintenance.highways@derby.gov.uk) tel 03332 006981
- N2. The minor access reinstatement works referred to in Condition 5 above, involve work on the highway and as such require the consent of the City Council. Please contact [maintenance.highways@derby.gov.uk](mailto:maintenance.highways@derby.gov.uk)
- N3. No part of the proposed wall or its foundations, fixtures and fittings shall project forward of the highway boundary.
- N4. It is an offence under S148 and S151 of the Highways Act 1980 to deposit mud on the public highway and as such you should undertake every effort to prevent it occurring.
- N5. Advice regarding travel plans can be obtained from the Travel Plans Officer: Kerrie Jarvis; [kerrie.jarvis@derby.gov.uk](mailto:kerrie.jarvis@derby.gov.uk)
- N6. It is possible that the implications of a planning application point towards the need to introduce or revoke traffic regulation orders on the grounds of road safety or traffic management. Whilst it is a separate legal process, including public consultation, you need to identify these issues at the planning application stage and the associated costs for these changes need to be met by the developer.

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N7. Notwithstanding any Planning Permission please note that the proposed flats will not qualify for residents parking permits.

N8. The consent granted will result in the construction of a new building which needs naming and numbering. To ensure that the new address is allocated in plenty of time, it is important that the developer or owner should contact [traffic.management@derby.gov.uk](mailto:traffic.management@derby.gov.uk) with the number of the approved planning application and plans clearly showing plot, location in relation to existing land and property, and the placement of front doors or primary access.

### **5.7. DCC - Environmental Services (Health – Pollution):**

#### **Comments on Revised Air Quality Report:**

The submitted assessment is robust and is based on appropriate methodology.

The assessment demonstrates that significant increases in NO<sub>2</sub> are predicted at existing residential dwellings opposite the proposed development due to the development creating enhanced street canyon effects compared with the current situation. Relevant guidance describes these impacts as ‘moderate’.

It is noted that no exceedances of any air quality objectives or limits are predicted at either future or current dwellings along Agard Street, albeit NO<sub>2</sub> concentrations at Centro West are predicted to be close to the annual average objectives for NO<sub>2</sub> at around 36µgm<sup>-3</sup> compared with the objective level of 40µgm<sup>-3</sup>.

Whilst the current scheme is demonstrably an improvement over the earlier proposed scheme under application 11/17/01446 in strict air quality terms, the Environmental Protection Team still has concerns over the level of impact that the development could have on NO<sub>2</sub> concentrations along Agard Street and subsequently, the ability of the Council to reduce NO<sub>2</sub> in order to comply with the National Air Quality Objectives and the EU Limit Values.

Whilst a refusal of planning permission based solely on air quality grounds may not be justified in this instance, air quality concerns could add notable weight to the material considerations made in respect of this application.

Should planning permission be granted in spite of these concerns, then the Environmental Protection Team would strongly recommend the submission and approval of a detailed air quality mitigation strategy in order to offset the predicted increases in NO<sub>2</sub> caused as a direct result of the development. We would recommend that the Strategy is secured via an appropriate planning condition.

The Air Quality Strategy should include detailed proposals for an appropriate ventilation scheme based on the principles set out in Section 6.2.1 of the submitted air quality assessment.

The submitted air quality strategy should also include additional measures based on the following air quality mitigation principles and be designed to complement the Council’s Air Quality Action Plan:

- Promoting Low Emission Transport;
- Transport Planning and Infrastructure;

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- Promoting Travel Alternatives;
- Traffic Management;
- Public Information;
- Policy Guidance and Development Control; and
- Vehicle Fleet Efficiency.

The measures should be able to bring about reductions in NO<sub>2</sub> commensurate with the predicted increases caused by the development, such that the development can be considered 'air quality neutral or positive'.

As mentioned previously, I would also strongly recommend that a condition requiring a construction dust management plan to be implemented throughout the construction period is secured by condition, should consent be granted.

### **5.8. DCC - Environmental Services (Land Contamination):**

The below relevant reports have been submitted in support of the application:

- Geo-Environmental Report, by Rodgers Leask Environmental, Ref: P16-551 Rev 0 dated 14th July 2017

#### Summary – Geo-Environmental Report

The submitted report includes both a preliminary assessment (Phase I) and subsequent ground investigation (Phase II). This report is the same as that submitted for 11/17/01446 | Erection of an 8 storey building of 77 flats and associated car parking | Site Of 36 Agard Street Derby (Refused). This is considered acceptable in principle given that the land subject to the application remains the same and the proposed end use is broadly similar (residential – now specifically student accommodation and with a greater number of units).

#### Conclusion / Recommendations

As previously highlighted, whilst the report provides a good indication of contamination on site it is not sufficiently comprehensive to constitute a detailed Phase II site investigation as a result of the limited soil sampling coverage. For example, the risks of contamination from the historical tanks identified close to the site boundary have not been explored fully.

In addition, the ground gas risk assessment needs to be updated to reflect the complete set of results recorded in Appendix J of the report. Additionally, it is recommended that commentary upon the depleted oxygen identified in BH2 is included.

On balance, the principle of the proposed development is considered to have been demonstrated in terms of the suitability of the site for the proposed end use (when considering potential land contamination risks). However, given the above highlighted issues, should consent be granted it is strongly recommend that conditions are attached as detailed below.

Informative: Please note that the requirement for risk assessment (1) can be read as applying specifically to the provision of a 'Supplementary Phase II Land Contamination Site Investigation' (given the information already submitted to date).

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This is necessary to address the outstanding risks highlighted above, namely those associated with the historical nearby storage tanks and completion of the ground gas risk assessment. Reference to the current site layout plans should also be included.

### **Contaminated Land – Risk Assessment**

No development, other than demolition of any buildings or structures, shall commence on each relevant phase of the development until an assessment of the risks posed by any contamination on that phase of the development has been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:

- a) a survey of the extent, scale and nature of contamination;
- b) the potential risks to:
  - human health;
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
  - adjoining land;
  - ground waters and surface waters;
  - ecological systems; and
  - archaeological sites and ancient monuments.

Reason: To ensure that the health risks from land contamination to the future users of the land and neighbouring land are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with the aims and intentions of the National Planning Policy Framework 2018 with specific reference to paragraphs 170 and 180 and Policies GD5; E12 and E13 of the City of Derby Local Plan Review

A pre-commencement condition is required in this case because it is essential to establish before any works takes place the nature and extent of any ground contamination in order to safeguard the health of workers taking part in the development of the site and to ensure the appropriate design and subsequent safe occupation of the development.

### **Contaminated Land – Remediation Scheme**

No development shall take place on each relevant phase of the development where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including

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the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use.

Reason: To ensure that the health risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with the aims and intentions of the National Planning Policy Framework 2018 with specific reference to paragraphs 170 and 180 and Policies GD5; E12 and E13 of the City of Derby Local Plan Review.

A pre-commencement condition is required in this case because it is essential to establish before any works takes place the nature and extent of any ground contamination in order to safeguard the health of workers taking part in the development of the site and to ensure the appropriate design and subsequent safe occupation of the development.

### **Contaminated Land – Verification Report following Remediation Scheme**

The approved remediation scheme in condition(1) shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development, or relevant phase of the development, is occupied.

Reason: To ensure that the health risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with the aims and intentions of the National Planning Policy Framework 2018 with specific reference to paragraphs 170 and 180 and Policies GD5; E12 and E13 of the City of Derby Local Plan Review.

### **Contaminated Land – Reporting of Unexpected Contamination**

Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported in writing immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development, or relevant phase of the development, is resumed or continued.

Reason: To ensure that the health risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with the aims and intentions of the National Planning Policy Framework 2018 with specific reference to paragraphs 170 and 180 and Policies GD5; E12 and E13 of the City of Derby Local Plan Review.

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### **5.9. DCC – Housing Standards**

As a matter of course housing standards must contact the Developer/Architect and make comments if necessary. The reason is to make sure, and to make you aware, that the proposed development adheres to legislation under the Housing Act 2004.

All relevant fire safety standards, to include protected escape routes where necessary, must be applied in the installation.

Sufficient and adequate amenities must be provided within each studio flat.

LACORS provide a comprehensive guide on fire safety in buildings and this can be downloaded for guidance although I am sure you are already aware of what is required.

Each flat is between 20 and 25 square metres which allows for adequate liveable space between the kitchen, bedroom and dining areas.

The main issues are, therefore, the installation of compliant fire detection to include adequately protected routes, sufficient space within each flat, sufficient bathroom and sufficient kitchen amenities. Looking at the proposed plans, the proposed bathroom and kitchen facilities are sufficient but the positioning of the kitchen area must be commented on as below.

There is therefore one issue which is the positioning of the kitchen area which is located close to the entrance/exit door to each flat. The most likely place a fire will start will invariably be the kitchen. Therefore the means of escape from the bedroom/lounge area of the flat will have to be directly past the most likely source of the fire in order to reach the exit door. I would strongly recommend that the kitchen facilities are re-located so that they are not on the direct escape route should a fire occur. Also closer proximity to the windows will aid ventilating any condensation arising from cooking.

### **5.10. Derbyshire Fire & Rescue Service:**

We do share the concerns about the positioning of the kitchen/kitchenette and agree a layout change would be beneficial and expected if built to ADB. After reflecting on our conversation, I apologise as I believe that this isn't the full consultation from Building Control or an Approved Building Inspector where we are expected to consult on Means of Escape, Water Supplies and Access from either - Approved Document B, BS9999 or BS9991. LACoRS guidance and scope is for existing buildings.

The provisional plans shown in the document don't indicate the fire strategy and are not fully annotated with the fire provisions so it would be difficult to comment on them at the moment, suffice to say there seems to be some extended travel distances (Not to scale) for a building with a single stair.

### **5.11. Derbyshire County Council Archaeologist:**

Comments on previous application:

The proposal site is within the Friar Gate Conservation Area and within the close setting of numerous Listed Buildings along Friar Gate and Bridge Street. With regard to the setting of these designated heritage assets the local planning authority should be advised by its conservation officer and by Historic England.

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In relation to below-ground archaeological remains the site is 250m west of the boundary of the City Council's Archaeological Alert Area (Local Plan Policies) relating to the medieval city centre, although medieval remains have been identified rather close to the site on the line of Ford Street. The evidence suggests that Friar Gate "as the principal medieval route west from the town" experienced some ribbon development during the late medieval and early post-medieval periods, an observation that is supported by Speed's map of 1610 and Burdett's of 1767. There is consequently some potential for medieval back plot archaeology on the site, although it should be noted that none was identified during evaluation of the site at 8-14 Agard Street, 100m to the east.

There is also a high level of potential for 19th century archaeology on the site. The 1852 Board of Health map shows the site frontage already developed, and it is likely that this housing developed during the first half of the 19th century around the time of Derby's 'railway boom' in the 1840s. This was a critically important period in Derby's development and the associated archaeology can help us capture the stories and social and cultural conditions of the time.

Although the applicant has submitted an 'archaeological desk-based assessment' document, this has been prepared in-house by Lathams without professional archaeological input. Although the Derbyshire HER has been consulted and historic maps have been identified and reproduced, the level of professional judgement and overview with regard to archaeological potential and significance is lacking. Nonetheless, the document perhaps provides 'just enough' sensu NPPF para 128, for the application to be determined.

Given the potential for medieval and later archaeology on the site, there is a requirement, should the proposals gain consent, for a scheme of post-consent archaeological investigation and recording secured by planning conditions in line with NPPF para 141.

This should comprise trial trenching evaluation in the first instance, followed by further excavation and recording to fully document any significant archaeological remains thus identified.

The following conditions should therefore be attached to any planning consent:

- a) No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the local planning authority in writing, and until any pre-commencement element of the approved scheme has been completed to the written satisfaction of the local planning authority. The scheme shall include an assessment of significance and research questions; and
  1. The programme and methodology of site investigation and recording
  2. The programme for post investigation assessment
  3. Provision to be made for analysis of the site investigation and recording
  4. Provision to be made for publication and dissemination of the analysis and records of the site investigation

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5. Provision to be made for archive deposition of the analysis and records of the site Investigation.
  6. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.
- b) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition (a).
  - c) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under condition (a) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

### **5.12. Cadent Gas Network**

#### Affected Apparatus

Low or Medium pressure (below 2 bar) gas pipes and associated equipment has been identified as being in the vicinity of the proposed works. As a result it is highly likely that there are gas services and associated apparatus in the vicinity. Guidance from the Cadent Plant Protection team is recommended.

## **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 Housing
- CP20 Historic Environment
- CP22 Higher and Further Education
- CP23 Delivering a Sustainable Transport Network
- MH1 Making it Happen

#### Saved CDLPR Policies

- GD5 Amenity
- H13 Residential Development – General Criteria
- E18 Conservation Areas
- E19 Listed Buildings and Buildings of Local Importance
- E24 Community Safety

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T10 Access for Disabled People  
E30 Safeguarded Areas Around Aerodromes

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](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.

#### **7.1. Over-arching Policy and Housing Supply**

#### **7.2. The Principle of the Development**

#### **7.3. Impact on Heritage Assets**

#### **7.4. Design and Visual Amenity**

#### **7.5. Impact on Amenity of Surrounding Uses**

#### **7.6. Access, Parking and Highway Safety**

#### **7.7. Prematurity**

#### **7.8. Other Issues**

#### **7.9. Section 106 Agreement**

### **7.1 Over-arching Policy and Housing Supply**

There have been some changes to planning policy since the refusal of the previous scheme in July 2018. The key policy change is the publication of the new NPPF. Although the new Framework is generally consistent with the previous 2012 version and promotes a plan led system to deliver sustainable development, it gives an increased emphasis to the re-use of brownfield land and the need to use land effectively and efficiently, especially for residential uses and to meet housing needs.

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Proposals for high density development and taller buildings are therefore consistent with the principles of the revised Framework. However, the Framework still gives great importance to the other relevant matters which remain a crucial part of the balance in considering this application. These include design and place making matters and the need to protect and enhance the historic environment and heritage assets.

The need to maintain a 5 year housing supply remains in the Framework but the revision also adds a further Housing Delivery Test (HDT). The revised application is for student accommodation where the previous one was for C3 dwellings and that will affect the way that the proposal can contribute to meeting housing needs if granted and delivered. The Planning Practice Guidance continues to set out that student accommodation can be counted towards meeting housing needs based on the number of people/homes that would be released in the wider housing market. The Council can count a greater proportion of student accommodation towards meeting our housing requirement than it could previously. In this case for the 142 student flats 59 units could be counted towards the Council's housing requirement if the scheme was to be approved and implemented. The housing requirement for the city remains 11,000 new homes over the plan period and is set out in Core Strategy Policy CP6. Currently the position is that actual delivery between 2011 and present has created a shortfall.

In the Derby Housing Market Area (HMA), Derby City is unable to meet its housing need within its administrative boundaries and under the Duty to Co-operate the three Local Planning Authorities have agreed that some 5,388 dwellings will need to be met in South Derbyshire and Amber Valley in the plan period to 2028. This approach was found 'sound' by the Inspectors examining the Derby City and South Derbyshire local plans and Amber Valley Borough Council (AVBC) made no representations that this approach was unsound. Amber Valley's contribution to this unmet need, agreed through a signed statement of ongoing co-operation, is 2,375 and was taken into account in terms of the housing 'requirement' in the emerging local plan that AVBC had submitted for examination.

However, AVBC has recently withdrawn its emerging local plan, published an updated 5 year supply calculation claiming a 5.41 year supply based on the governments new 'standard method' which takes no account of the unmet need in Derby which it had agreed to meet by 2028.

Derby City Council has made representations to AVBC that the unmet need in Derby is a material consideration to which significant weight should be given when determining housing planning applications in Amber Valley.

However, given that meeting this unmet need is now unlikely to feature in an adopted local plan for some time, it does not have the benefit of being 'plan led'. There may well be a delay in meeting this need in Amber Valley. This is a material consideration to take into account in determining housing planning applications in Derby and would suggest that additional weight should be given to the benefit of boosting the supply of housing in Derby. This will be weighed up as part of the overall planning balance section, set out later in this report.

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As such, 59 dwellings would be a positive contribution towards meeting housing needs. Together with the fact that this would be a high density development on brownfield land in a highly sustainable location provides substantial support for the proposal.

The change in the proposals will also result in different mitigation requirements and how any appropriate mitigation is identified and delivered through a S106 agreement.

### **7.2 The Principle of the Development**

The principle of developing this underused brownfield site for residential uses is supported and welcomed. It is a highly sustainable location close to the city centre with good access to local facilities and services.

The new apartments could contribute to the Council's short-term land supply and towards meeting the housing target which is set out in the Core Strategy. The site has the potential to contribute 148 residential units, albeit of student accommodation, to the housing land supply and 5 year supply as a deliverable site. It would also be a windfall site and contribute towards the windfall allowance included in the housing trajectory. The proposed development meets the objectives in principle of the latest NPPF and Core Strategy Policies CP3 and CP6, by increasing the supply of residential accommodation and increasing the housing mix.

However, the principles of the proposed development, particularly regarding the creation of a high quality living environment, must be given thorough scrutiny, as set out in Core Strategy Policy CP4 and Local plan policy H13, which expect all proposals for new development to make a positive contribution towards the character, distinctiveness and identity of our neighbourhoods. Furthermore, this is a very sensitive location, within a Conservation Area and in proximity to listed buildings. The height and scale of the proposal has the potential to create adverse impacts on the heritage assets and the statutory test in the Planning (Listed Buildings & Conservation Areas) Act 1990 requires development proposals to preserve or enhance these important features.

In considering this application initial focus should be directed to the impact on heritage assets and, as appropriate, balancing public benefits of the proposal.

### **7.3 Impact on Heritage Assets**

You are directed to the applicant's Integrated Visual/Heritage Assessment as summarised at Section 1.5 of this report and the comments of Historic England, Conservation Area Advisory Committee and the Council's Built Environment Team, provided in Section 5 of this report. In particular, the Council's Conservation officer strongly objects to the amended proposal, stating that there is still much harm to the significance of a number of designated heritage assets and the level of harm (less than substantial) means that para 196 of the NPPF is relevant here and therefore such harm should be weighed against the public benefits of the proposal.

The application site is within the setting of a number of nearby listed buildings including grade II\* listed 47-51 Friar Gate (which to the rear the former chapel building, which is part of the building, is abutting the site) and grade II listed 45, 46, 56-57, 58 and 59-60 Friar Gate, and those listed buildings slightly further away

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including grade II listed 4-6, 18-20 Bridge Street and grade II\* St John the Evangelist and lies within the Friar Gate Conservation Area, which itself is a designated heritage asset.

In considering the application decision makers must therefore have due regard to the duties under Sections 66(1) and 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 which respectively 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.

The proposal must also be considered under the adopted Local Plan – Part 1(DCLP) policies and those saved Local Plan Review (CDLPR) policies which are still relevant.

DCLP policy CP20 seeks the protection and enhancement of the city’s historic environment, including listed buildings and Conservation Areas. 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.

Saved CDLPR policies E18 and E19 for the preservation and enhancement of Conservation Areas and buildings of historic importance continue to complement policy CP20.

Under saved CDLPR policy E19 proposals should not have a detrimental impact on the special architectural and historic interest of listed buildings or their setting.

When 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) paragraphs 193-4 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.

Paragraph 196 states that where proposals “will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.”

Paragraph 197 of the NPPF also requires any impact on the significance of non-designated heritage assets to be taken into account in the planning balance.

A number of judgements in recent years handed down by the courts have upheld the importance that decision makers should attach to the legislative requirements and the NPPF making clear the presumption that arises against granting permission where harm arises and the tests approach that should then follow.

The Integrated Visual/Heritage Assessment (IVHA) submitted with the application suggests that impact on settings of designated heritage assets will be largely neutral

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and whilst identifying some less than substantial harm arising to a limited number of heritage assets from moderate and minor adverse visual effects, it concludes that the proposal will, overall, enhance the conservation area by repairing the fragmented townscape.

Whilst the IVHA accepts that harm (categorised as less than substantial harm) arises to a number of heritage assets, the conclusions reached as to the degree and extent of the impact are somewhat at odds to the views expressed by Historic England, the Conservation Area Advisory Committee and the Built Environment Team, each of which have serious concerns as to the impact and raise strong objections to the proposal.

It is clear from those consultation responses, as set out in Section 5, that there are justifiable concerns over the impact and that the proposal will result in 'less than substantial harm' to the setting of the Friar Gate conservation area and within the setting of numerous listed buildings including the 47-51 Friar Gate (grade II\*) and the Church of St John the Evangelist (grade II\*).

Paragraph 196 of the NPPF states that, "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use". The potential public benefits of the proposal need to be weighed against the less than substantial harm as identified in the consultation responses from the Built Environment Team, Historic England and the Conservation Area Advisory Committee to the setting of the listed buildings and conservation area.

The applicants state that the less than substantial harm to heritage assets can be balanced against the following public benefits, which cumulatively and significantly outweigh the harm.

- Regeneration of a prominent gap site in the city centre
- Removal of a commuter car park
- Employment generation
- Provision of purpose-built student accommodation
- Contribution towards the local economy from students

The benefits will include the replacement of the existing unsightly car park site, potentially encouraging more use of public transport, reducing congestion, and improving noise and air quality. Over 400 construction jobs would be created throughout the construction period, and up to 10 jobs supported by ongoing management and maintenance of the building, once completed. The purpose-built student accommodation will help to free-up existing housing stock and to improve the attractiveness of the University. The 142 students will make a valuable contribution to the local economy and nearby businesses.

These benefits constitute wider socio-economic public benefits that should be attributed appropriate weight in the planning balance. It is recognised that the "less than substantial harm versus public benefits" planning balance is finely balanced in

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favour of the amended proposal and the applicants have stressed that any further reductions in height and scale would make the scheme unviable.

Although Historic England maintain their objections, they do state that the existing surface car-park currently detracts from this part of the conservation area and that the site gives an opportunity for development which would enhance this part of the conservation area and repair the fragmented townscape within this area.

The visual assessment has been updated to take account of the latest amended scheme, which reduces the height of the proposed block by a storey. The submitted images now show that the building will no longer be seen from the majority of views along Friar Gate, with the building shown to be below the ridge level of the Friar Gate properties. Hence, the impact on this important conservation area vista would be significantly mitigated. The potential impact from other views would be similarly moderated, with the proposed roof being less prominent and more easily assimilated within the context of other surrounding modern buildings.

In conclusion, taking into account the amendments to the scheme and the public benefits, it is considered overall that those benefits marginally outweigh the harm to the setting of the Friar Gate Conservation Area and of the nearby listed buildings resulting from the proposed development.

In heritage terms, it is considered that the amended proposal would satisfy the tests in paragraph 196 of the NPPF and that the “less than substantial harm versus public benefits” analysis, including securing the optimum viable use of the site, weighs in favour of the amended proposal.

It is considered that, with regard to heritage considerations, the application has been properly assessed in line with the local planning authority’s statutory duty and the framework of local and national planning policy.

### **7.4 Design and Visual Amenity**

DCLP policies CP2, CP3 and CP4 are relevant and saved policy GD5 and H13 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. Policy CP2 in particular seeks to ensure that development is sustainable in terms of its location, design and construction.

The proposed building has been significantly amended since the earlier refusal. The latest amendments have reduced the height, it now having a maximum of 8 storeys, it is set back from the street frontage and the revised design has a greater amount of articulation to the elevations; the entrance projection being symmetrical and clearly legible; horizontal brick banding and verticality of the columns; differing roof heights, with a step-back of the upper storey and roof glazing; and a more authentic and simpler use of contemporary materials. The amended height of the proposed building, of 25.6m, is comparable with the adjacent Northgate House, the highest part of which measures 24.4m.

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The applicants clarify that the revised design articulates the entrance with a projection in the facade. The portico has been highlighted with a surround in a contrasting material reminiscent of the local vernacular. The new proposal uses a simpler material palette with the use of a single brick type and a complimentary colour for the fenestration. The simpler materials have created visual interest with the use of fluted brick columns and by bringing out the central portion of the facade it allows for a positive frontage that engages with the surrounding architecture. The scale and massing has been varied to create an interesting roof scape and much greater articulation in the facade.

There remains some concern that the proposal is still overbearing in respect of its relationship to Friar Gate to the rear. However, the design has evolved and now includes detailing which attempts to simplify design and mitigate the mass and height. It is considered that the amended palette of materials and the coherent design are now broadly acceptable. The precise choice of bricks and other materials should be carefully considered and conditioned to avoid over-elaborate detailing, using changes in texture and tone instead between the banding and corbelling. Due to the proposed set-back (to overcome air quality concerns), a very high quality of frontage boundary treatment is important.

Overall, the Urban Design Officer considers that the amended design proposal is worthy of support.

### **7.5. Impact on Amenity of Surrounding Uses**

Saved policy GD5 is intended to protect the overall amenity of occupiers of nearby properties from unacceptable harm.

This is a busy edge-of-centre site, with significant disturbance by both passing traffic and existing student accommodation. It is not therefore considered that the proposal would exacerbate any existing harm to residential amenities.

There have been significant objections regarding the potential impact of construction works (particularly noise, dust and vibration nuisance) on the adjacent recording studios. This matter has been previously raised with the applicants but no response, giving possible mitigation, has yet been put forward.

Regarding the potential impact on air quality, the potential “street canyon” effect has been mitigated by setting the frontage of the building back. The Environmental Protection team acknowledge that the revised layout is demonstrably an improvement over the previous scheme, which was refused on air quality grounds. However, there are still concerns raised over the level of impact that the development could have on NO<sub>2</sub> concentrations along Agard Street. Pertinently, the consultation response concludes that a refusal of planning permission based solely on air quality grounds would not be justified in this instance.

A number of recommendations by the Environmental Protection team are made. These include the approval of a detailed air quality mitigation strategy and a construction dust management plan. These matters can be the subject of an appropriate Condition. Overall, taking all matters into account, it is not considered that a refusal reason relating to air quality would be sustained.

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Concerns have been expressed regarding potential overshadowing and overlooking caused by the proposal. It is considered that the set-back of the building frontage from the street would help to mitigate the impact on those residential occupiers on the north side of Agard Street. In any respect, the proposed building would be primarily opposite the junction with Searl Street and the Golden Eagle public house. There would only be a limited number of residents affected, who would have a 26m separation to the proposed building and an intervening busy road. Given the urban context and high density of the surrounding area, it is not considered that a refusal on the grounds of loss of amenity is warranted.

### **7.6. Access, Parking and Highway Safety**

Highways officers advise that the proposed application site is in a sustainable location and well served by local transport links and nearby pay and display parking. Consequently; it is considered that it is unlikely that the proposed development will have a significant impact on the highway. They raise no objections, subject to the imposition of conditions relating to the implementation of the approved Travel plan; the provision of a dropped vehicular crossing and cycle parking, construction of properly drained and delineated parking.

Concerns have been raised regarding the servicing of the proposed building by refuse vehicles. The applicants have now responded that the highway objection is only based on an assumption that a refuse lorry would try and reverse into the site to collect bins. The applicants suggest that a practical response would be to impose a condition to require that the collection method is agreed and enforced. It is considered that, as these will be managed premises, there is a realistic chance that any conditioned method would be implemented. Highways are satisfied with this approach and a suitable condition could be imposed. No other highways objections are raised.

### **7.7. Prematurity**

The construction of the two blocks comprising 'One Friar Gate Square' (Law School and associated accommodation), together with other permissions and undetermined proposals, have established some development pressure at the eastern end of Agard Street.

The Council wishes to encourage the redevelopment of these various sites. However, increasing development pressures have lead the Council, with full support of CAAC, to consider whether some further planning guidance would be beneficial to set some design parameters for the redevelopment of the various sites along Agard Street. Any guidance is likely to be included in the forthcoming DCLP Part 2.

In the current absence of a co-ordinated design approach to the various sites along Agard Street, and the likely time scale until such guidance is adopted, it is considered that any current application must be dealt with on its own merits. Therefore, it is not considered that a refusal on the grounds of prematurity would be justified.

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### **7.8. Other Issues**

No objections have been received relating to flood risk, subject to the approval of a surface water drainage scheme.

Given the potential for medieval and later archaeology on the site, there is a requirement for a scheme of post-consent archaeological investigation and recording.

A land contamination site investigation needs to be completed in order to address outstanding risks at the site. Should the site investigations confirm that contamination exists; a remediation method statement will need to be provided.

Housing Standards and the Derbyshire Fire & Rescue Service raise concerns relating to the internal layout of the student flats. As these relate to internal works that would not be a planning consideration but would be dealt with through the Building Regulations.

Issues relating to legal rights of way across the site are not planning considerations and cannot prejudice the determination of this application.

### **7.9. Developer Contributions**

Should Members be minded to approve this application, then developer contributions will be required to mitigate the impacts of the development. A Section 106 agreement would be required to secure open space, public realm, highways, sports facilities and health contributions.

Heads of Terms have been sent to the applicants who have stated that they want to reserve their position on these, until the Committee has reviewed the recommendation. The applicants wish any Section 106 negotiations and consideration of viability to be delegated.

As part of the overall analysis of this amended proposal the current positive recommendation is weighted on a policy compliant Section 106 package and any debate over viability thereafter would be reported back to Committee. This may impact on the positive side of the planning balance if the Section 106 package is reduced.

### **7.10 Conclusions**

Taking into account the recent amendments to the scheme and the public benefits, it is considered that those benefits would marginally outweigh the less than substantial harm to the setting of the Friar Gate Conservation Area and of the nearby listed buildings resulting from the proposed development. Therefore, in heritage terms, it is considered that the amended proposal would satisfy the tests in paragraph 196 of the NPPF.

It is considered that the amended proposal sufficiently mitigates (or is capable of mitigating, by way of condition) any unacceptable impact relating to the design, highway access, the impact on air quality and on amenities, and that a refusal on those grounds would not be sustainable.

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

#### **8.1. Recommendation:**

- 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.

#### **8.2. Section 106 Agreement Heads of Terms:**

- Amenity Green Space – payment of a financial contribution on or before the commencement date towards the provision of, or improvements to, Markeaton Recreation Ground or Darley Park.
- Major Open Space - payment of a financial contribution on or before the commencement date for the provision of, or improvements to Markeaton Recreation Ground or Darley Park.
- Sports Facilities – payment of a financial contribution or before the commencement date for swimming facilities within the City Centre.
- Health – payment of a financial contribution on or before the commencement date for the provision of, or improvements to, local GP surgeries.
- Student Restriction - The units must only be let to students in perpetuity. Annual reports to be submitted to the Council providing details of ownership of all parts of the development and confirming that the occupier of each unit is a student.
- Legal and Administration Costs – payment of legal costs for preparing and completing the agreement and for administering and monitoring the agreement if there are phased payments. These costs will be payable on the signing of the agreement.

#### **8.3. Conditions:**

##### Standard Conditions

1. Time limit Condition.
2. Approved plans Condition.

##### Pre-Commencement Conditions

3. External Materials to be approved
4. Boundary Treatment to be approved
5. Hard and soft landscaping to be approved and implemented.
6. Construction/Environmental/dust Management Plan to be approved and implemented.
7. Foul and surface water drainage system to be approved and implemented.

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8. Details of any roof level plant to be approved.
9. Implementation of Air Quality Management Strategy
10. Contaminated land risk assessment to be approved and implemented, including a remediation scheme, submission of a verification report
11. Contaminated land reporting of unexpected contamination
12. Archaeological written scheme of investigation to be approved and implemented.

### Pre-Occupation Conditions

13. Refuse Collection Strategy to be approved and implemented.
14. Parking/servicing area to be surfaced
15. Implementation of Dropped Vehicular crossing
16. Scheme for the prevention of surface water discharge to be approved and implemented.
17. Electric vehicle charging scheme to be approved and implemented.
18. Travel Plan to be approved and implemented.

### Management Conditions

19. Definition of permission and restriction of use to student accommodation
20. Restriction on any access gates

#### **8.4. Informatives**

- 8 Highways notes
- Internal layout/means of escape
- Cadent Gas network

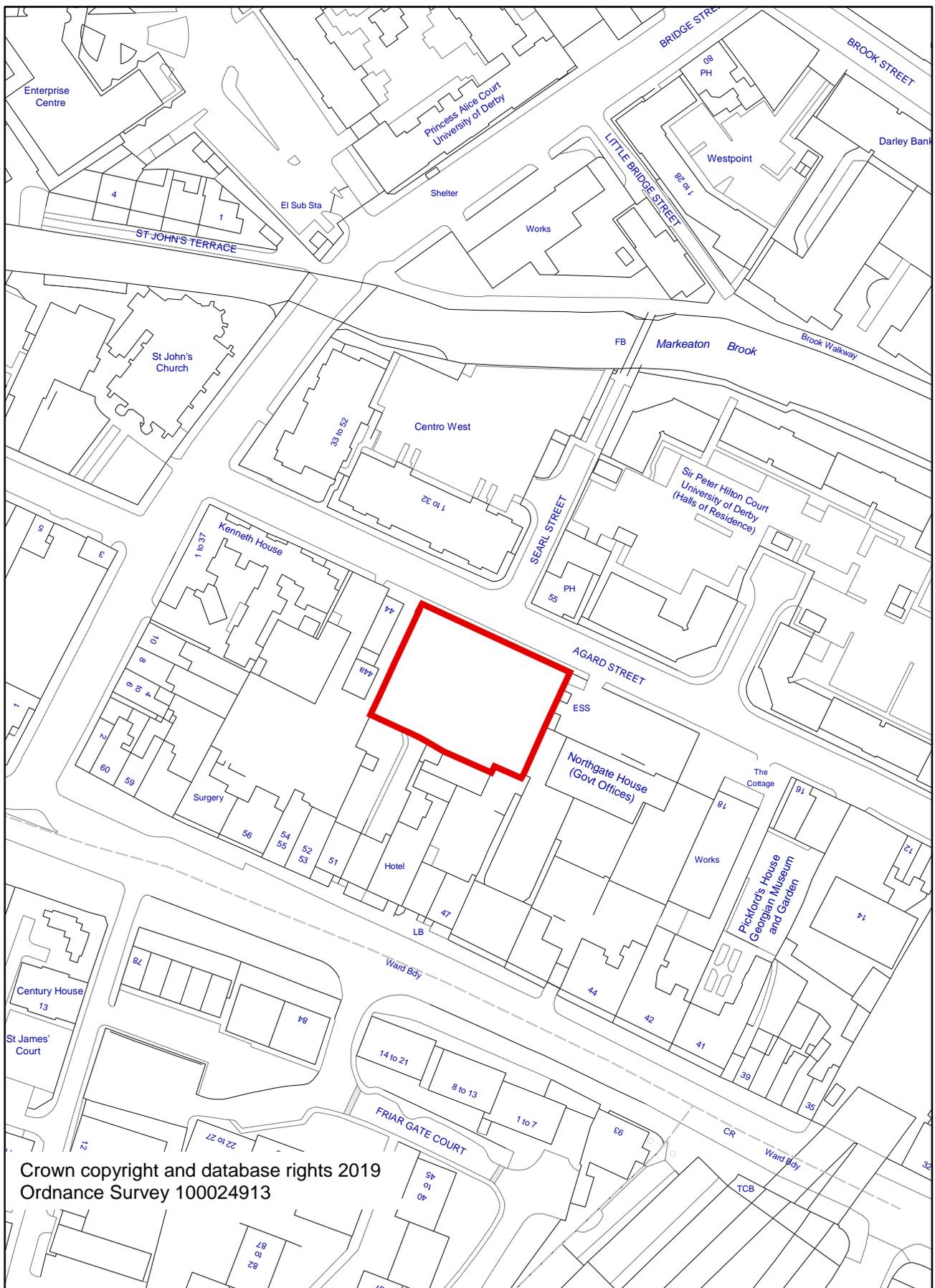
#### **8.5. Application timescale:**

The application determination period expired on 20 March 2019. An extension of time until 30 August 2019 has been agreed with the applicant.

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**Application No: 18/01908/FUL**

**Type: Full Planning Application**



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## **Committee Report Item No: 3**

**Application No: 18/01848/OUT**

**Type: Outline (with access)**

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### **1. Application Details**

**1.1. Address:** Garage Court, Marks Close, Derby.

**1.2. Ward:** Blagreaves

**1.3. Proposal:**

Demolition of garage block. Erection of replacement garages with one apartment above.

**1.4. Further Details:**

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan/18/01848/OUT>

**Brief description**

The application is for demolition of garage block and erection of replacement garages with one apartment above at a garage court off Marks Close, Sunnyhill, Derby.

This application is submitted in Outline with access being the only reserved matter to be considered.

The site is located to the rear of properties along Marks Close, Sundown Avenue and Stenson Road and currently forms a backland parking and garaging area, accessed off Marks Close. The site is currently comprised of a row of garages to the east and a row opposite on the west. The row opposite on the west is not subject to this application.

It is noted that neighbouring 358b Stenson Road can be accessed via the existing private road with access to the north east corner of the site. This arrangement has clearly been in place for a substantial period of time.

This application is submitted further to refusal of previous application DER/11/17/01462 for Demolition of garage block. Erection of replacement garages with two apartments above, which had been refused for the following reason:

*The proposal represents an undesirable form of tandem development, being situated behind existing dwellings at 7 and 9 St. Marks Close and 358b Stenson Road, resulting in an unacceptable level of massing and overbearing impact on those surrounding residential properties, by reason of the proposed two storey scale and siting of the development close to the shared boundary. Accordingly the proposal is contrary to saved policies GD5 and H13 of the City of Derby Local Plan Review and the over-arching guidance in the National Planning Policy Framework.*

The revised proposal would include the demolition of the existing block of 9 garages with the erection of a replacement garage block of 6 garages with one apartment above. Indicative plans have been submitted to show the development with 6 garages at ground floor level and one bed unit above part of the garage block. All details of the design, siting and form of the building would be agreed as part of a reserved matters application.

The revised scheme indicates the reduction of the development from two apartments to one. Although full design details are not to be considered at this outline stage,

## **Committee Report Item No: 3**

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officers acknowledge that the indicative plans which have been submitted, in order to demonstrate a possible layout, which would be 11 metres from the rear elevations of 7 and 9 Marks Close to the south.

In regards to highway arrangements the existing access to the site shall be utilised and would remain unaltered.

An amendment to the indicative plans has been submitted during course of the application by way of shortening of the building length, with a chamfered edge to the corner in order to ease access to 358b Stenson Road in response to neighbour objections. Again, this detail would be agreed as part of a reserved matters application.

Please note that all dimensions are approximate.

This application had been deferred in order for a Committee site visit to take place. This was carried out on the 15/05/2019. All attendees accessed the site and general discussions took place in regards what could be visualised upon the site.

All attendees were then invited upon the adjacent site 358b, by the property owner. Discussions centred around access to the site and in particular, access in respect of fire safety. Further to the Site Visit, the case officer consulted Building Control (DBPC) for comments on fire access which has been documented within the report.

### **2. Relevant Planning History:**

<b>Application No:</b>	DER/11/17/01462	<b>Type:</b>	Outline application
<b>Decision:</b>	Refused	<b>Date:</b>	03/08/2018
<b>Description:</b>	Demolition of garage block. Erection of replacement garages with two apartments above.		

### **3. Publicity:**

Neighbour Notification Letter 11

Site Notice 12/12/2018

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

### **4. Representations:**

**18 third party letters of objection**

**2 Councillor objections**

The following matters are to be addressed within the officer report and consultee comments:

- Restricted manoeuvrability for vehicles, limited access, dispelling vehicles onto the road
- Access inadequate to manoeuvre emergency vehicles

## **Committee Report Item No: 3**

**Application No: 18/01848/OUT**

**Type: Outline (with access)**

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- Increased traffic
- Size of site inadequate for residential development.
- Out of scale and character.
- Overshadowing/massing.
- Bin storage.
- Loss of privacy/overlooking-
- Loss of light.
- Noise and disturbance to neighbours from construction works

The following matters are not material considerations:

- Loss of value to properties.
- Impact on access to business at 358b during construction works.

## **5. Consultations:**

### **5.1. Highways Development Control:**

Comments:

These observations are primarily based upon details shown on outline plan “17-139-08-02 Rev B”. It appears that in highways terms there are no material differences between the previously submitted drawings and those currently considered.

As previously stated, the application is Outline with all matters reserved except for access. The site is served by a private drive which is approximately 3.8m wide, is surfaced in a broken granular material and has an existing dropped footway crossing approximately 3.6m in width. The footway fronting the site is approximately 2.0m in width. Whilst the driveway and dropped footway crossing serving the site of substandard width; as existing they have a shared use in connection with the existing garages and in highway terms; the proposals would not be likely to lead to a significant increase in vehicular movements. It should be noted that the proposed dwelling is in excess of 15m from the adjacent highway and is therefore over the distance where collectors would enter the site in order to collect refuse. It would however be appropriate for the Highway Authority to see improvement of the access by means of a condition requiring the access to be surfaced for a short distance in order to prevent gravel and material being pulled out onto the highway by manoeuvring vehicles.

Mindful of the observations of third parties shown on the Local Planning Authority website; Highway Authority advice is that the LPA may wish to consult further with the Emergency Services, in particular Derbyshire Fire and Rescue in respect of the suitability of the access for their vehicles; however this may also be an issue which would be determined through the Building Regulations process. By plan measure, from the indicative layout plan; it appears that sufficient space exists within the layout for vehicles associated with the site to be able to turn; however the layout is not being determined at this stage, merely the principle of development.

Recommendation:

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The Highway Authority has No Objections to the proposals, subject to the following suggested condition:-

Condition: No part of the development hereby permitted shall be brought into use until the driveway serving the site surfaced in a hard bound material (not loose gravel) for a minimum of 5.5 metres behind the Highway boundary, in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The surfaced drive shall then be maintained in such hard bound material for the life of the development.

Reason: To reduce the possibility of deleterious material being deposited on the public highway (loose stones etc.).

### **5.2. Derbyshire Wildlife Trust:**

The following comments are aimed at providing accurate and up to date information on the nature conservation issues associated with the proposed development. It is understood that there are proposals to demolish an existing garage block and provide replacement garages with apartments above. The planning application is supported by an ecology report produced by Baker Consultants dated 24th April 2018 (ref: 994\_rep\_ca). The report provides details of a daytime bat survey undertaken by a licensed ecologist on 28<sup>th</sup> March 2018. No evidence of bats or nesting birds was identified and the garage block is assessed as having negligible potential to support roosting bats. It is considered that sufficient survey work has been undertaken in support of the application for it to be determined. The Local Planning Authority is able to discharge its duties in respect of the Habitats Regulations 2017 (as amended).

As the report suggests, the development provides the opportunity to incorporate features for nesting birds and roosting bats in order to achieve a biodiversity gain. We support this recommendation. Paragraph 175d of the NPPF states “development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity”. If the Council are minded to grant planning permission for the proposed development then it is recommended that opportunities to enhance biodiversity within the development are incorporated. This could include the installation of integral bat and bird boxes within the new development. A condition should be attached that states

- Prior to the commencement of the development, a scheme of biodiversity enhancement (namely the incorporation of integral bat roosting and bird nesting boxes) shall be submitted to and approved in writing by the Local Planning Authority. Such approved measures should be implemented in full and maintained thereafter”.

I hope that this response is useful. If you have any queries, please do not hesitate to contact me.

**Committee Report Item No: 3**

**Application No: 18/01848/OUT**

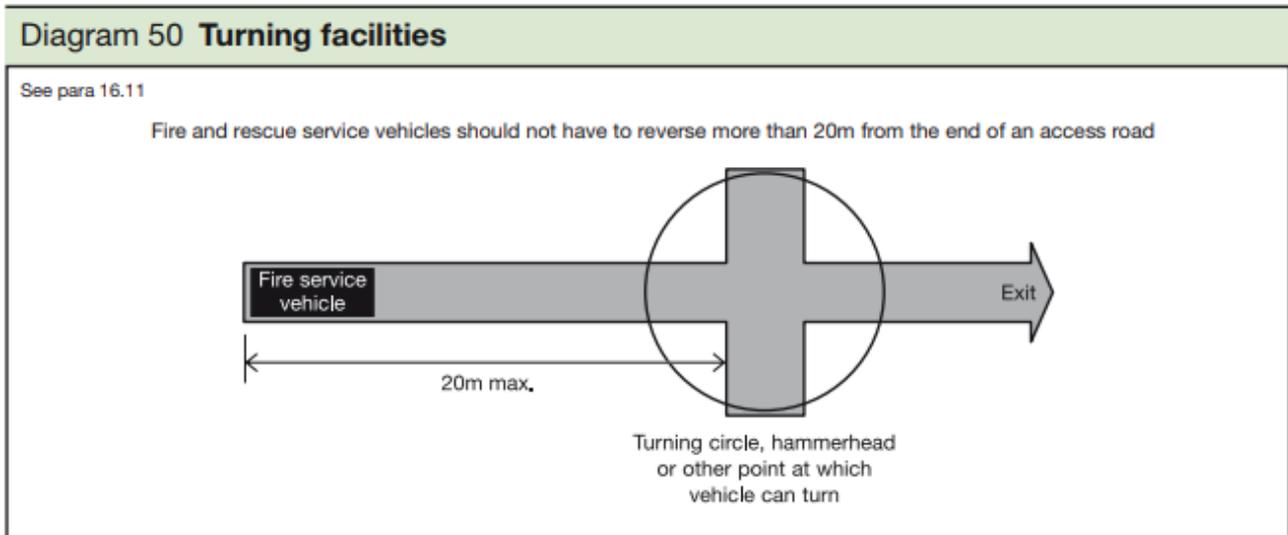
**Type: Outline (with access)**

**5.3. Derbyshire Building Control Partnership (DBCP) –**

When checking an application one of our considerations is fire tender access.

Access must be provided for a fire tender to reach the building within 45m, as this is a flat at first floor then access to its furthest point within the flat must be gained.

A fire tender cannot reverse more than 20m without a turning circle being provided.



In this situation I would say that the fire tender would have to reverse part way up the drive, therefore the construction of the drive must be capable of achieving a load of 12.5 tonnes and be of a width of 3.7m

**Table 20 Typical fire and rescue service vehicle access route specification**

Appliance type	Minimum width of road between kerbs (m)	Minimum width of gateways (m)	Minimum turning circle between kerbs (m)	Minimum turning circle between walls (m)	Minimum clearance height (m)	Minimum carrying capacity (tonnes)
Pump	3.7	3.1	16.8	19.2	3.7	12.5
High reach	3.7	3.1	26.0	29.0	4.0	17.0

**Notes:**

1. Fire appliances are not standardised. Some fire services have appliances of greater weight or different size. In consultation with the Fire and Rescue Service, the Building Control Body may adopt other dimensions in such circumstances.
2. Because the weight of high reach appliances is distributed over a number of axles, it is considered that their infrequent use of a carriageway or route designed to 12.5 tonnes should not cause damage. It would therefore be reasonable to design the roadbase to 12.5 tonnes, although structures such as bridges should have the full 17 tonnes capacity.

If this is unable to be achieved an alternative way of achieving compliance would be to fit sprinklers subject to the fire service approving this and a fire risk assessment being provided.

A further consideration must be taken into account, with the building being close to the boundary B4 of the Building Regulations applies and the provision of unprotected areas must be considered regarding the amount of fire resistance applied to each elevation.

**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
- CP23 Delivering a Sustainable Transport Network

**Saved CDLPR Policies**

- GD5 Amenity
- H13 Residential Development – General Criteria

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](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\\_2017.pdf](http://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/policiesandguidance/planning/CDLPR_2017.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.*

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**Type: Outline (with access)**

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### **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.

#### **7.1 Principle of the proposal**

#### **7.2 Impact on visual amenities**

#### **7.3 Impact on residential amenities**

#### **7.4 Impact on highways**

#### **7.5 Impact on wildlife**

### **7.1. Principle of the proposal**

The site of the proposal is not allocated for any particular use in the Derby City Local Plan – Part 1 (DCLP).

Policy CP6 encourages the regeneration of brownfield sites for residential uses however; this must be viewed in relation to saved policy H13 of the City of Derby Local Plan Review (CDLPR), which requires that a satisfactory relationship to nearby properties should be created, including there being no adverse effects caused by 'backland' or 'tandem' proposals.

### **7.2. Impact on visual amenities**

In regards to visual amenity, details relating to appearance, layout and scale of the proposed development are to be considered at reserved matters stage. The proposal is to be no more than two storeys in height in part and the rest single storey. The site is largely hidden to rear of residential properties and the development is therefore likely to have a limited visual impact on the surrounding area. Given this context and modest scale of the proposed development, Officers raise no objections in respect of compliance with Policies CP3 and CP4 of the Derby City Local Plan: Part 1 and saved policy H13 of the City of Derby Local Plan Review and the over-arching guidance in the National Planning Policy Framework

### **7.3. Impact on residential amenities**

Saved Policy H13 (a) states that planning permission for residential development will only be granted provided the following objectives are met:

- a. A satisfactory form of development and relationship to nearby properties can be created, including there being no adverse effects caused by 'backland' or 'tandem' proposals;

The previous application, which included the erection of two apartments, had been refused due to its two storey scale and siting, likely to result in a detrimental massing and overbearing impact upon neighbouring residential properties, in particular 7 and 9 Marks Close, which are both dormer bungalows. These properties lie to the south and have short garden depths. Although details, relating to the appearance, scale and layout, of this development are not to be determined at this stage, it is acknowledged that drawing no. 17-139-08-10/B, has been submitted, in order to

## **Committee Report Item No: 3**

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**Type: Outline (with access)**

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demonstrate a possible layout, which could position the second storey apartment some 10 metres from the shared boundary with neighbouring properties, 7 and 9 Marks Close, to the south. It is therefore accepted that level of massing and overbearing impact upon those surrounding residential properties would not be significant, subject to careful consideration in respect of siting scale and design of the development, at a future reserved matters stage.

Furthermore, a number of objections have been received in respect of overlooking and positioning of windows. Although the location of window openings is a reserved matter it is considered that the proposed apartment could be orientated such that windows are facing into the site and roof lights are positioned to avoid potential overlooking of neighbouring dwellings. It is however accepted that this application is submitted in Outline form only, therefore this level of detail is not being considered at this stage.

The revised scheme is therefore considered acceptable in respect of impacts on residential amenity as set out in saved policies GD5 and H13 of the City of Derby Local Plan Review and the over-arching guidance in the National Planning Policy Framework.

### **7.4. Impact on highways**

It is noted that a number of residents have raised objection in regards to the ability of emergency vehicles to manoeuvre upon the site however, Highway Officers are satisfied that the existing access meets the minimum requirements, therefore no objections are raised to the use of the existing access from Marks Close in principle for the addition of a single apartment.

Furthermore it is also noted that neighbouring residents have raised objection to the possibility of an increase in vehicles parked upon the highway, as a result of reduced parking facilities on the site. However, the garages are in private use and it is matter for the landowner to determine if some of those garages are no longer required. The precise parking arrangement for the development is not being assessed at this Outline stage and would subject to a reserved matters application. Having said that, the proposed apartment would require only one designated parking space, which can be accommodated within the application site. Relevant levels of detail could be controlled by the use of appropriate conditions at this stage, which shall be included.

Further to discussions having taken place at a Committee Site Visit, Officers have consulted DBCP Building Control in order to clarify future requirements in respect of access for emergency vehicles, in particular fire vehicles to the site. They have provided comments indicating requirements in respect of fire service rescue access route specifications. In this case the access is approx.25 metres in length and 4 metres in width. It could be upgraded in surfacing to take a fire vehicle which could reverse up most of the access as set out in the Building control comments. Suitable hard surfacing can be required under a condition to be agreed under reserved matters application and the information would be included within the Decision Notice, by way of informative note.

In conclusion it is accepted that the existing access would remain unaltered therefore no objections are raised in respect of highway implications at this stage. The highway

## **Committee Report Item No: 3**

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impacts of the development are therefore considered acceptable in respect of Policy CP23 of the Derby City Local Plan: Part 1.

### **7.5 Impact on wildlife**

The planning application is supported by an ecology report produced by Baker Consultants dated 24th April 2018 (ref: 994\_rep\_ca). The report provides details of a daytime bat survey undertaken by a licensed ecologist on 28th March 2018. No evidence of bats or nesting birds were identified and the garage block is assessed as having negligible potential to support roosting bats. It is considered that sufficient survey work has been undertaken in support of the application for it to be determined and Derbyshire Wildlife Trust (DWT) support these conclusions.

As the report suggests, the development provides the opportunity to incorporate features for nesting birds and roosting bats in order to achieve a biodiversity gain. DWT and Officers support this recommendation. The suggested condition, in relation the installation of integral bat and bird boxes within the new development shall be attached as appropriate.

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

### **8.1. Recommendation:**

**To grant** planning permission with conditions.

### **8.2. Summary of reasons:**

The proposed residential development is considered appropriate in principle in terms of its impacts on visual and residential amenity, ecology and highway safety, subject to recommended conditions.

### **8.3. Conditions:**

#### **General Conditions:**

1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 3 years from the date of this permission. The development hereby permitted shall begin not later than the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

**Reason:** As required by Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Approval of the details of the siting, scale appearance and landscaping (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

**Reason:** This is outline permission only and these matters have been reserved for the subsequent approval of the Local Planning Authority.

3. The development shall conform in all aspects with the plans and details shown in the application as listed below, unless variations are agreed by the Local

## **Committee Report Item No: 3**

**Application No: 18/01848/OUT**

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Planning Authority in order to discharge other conditions attached to this decision:

**Reason:** For the avoidance of doubt.

### **Pre Occupation Conditions:**

4. A scheme of biodiversity enhancement (namely the incorporation of integral bird nest and bat roosting boxes) shall be implemented on the building before the development is brought into use, in accordance with details to be submitted to and approved in writing by the Local Planning Authority, before the relevant part of the work is begun.

**Reason:** To preserve and safeguard wildlife upon and surrounding the site and to accord with the adopted policies of the Derby City Local Plan Part 1: (Core Strategy) and the saved policies of the adopted City of Derby Local Plan Review as included in this Decision Notice.

5. No part of the development hereby permitted shall be brought into use until the access serving the site is surfaced in a hard bound material in accordance in with details to be agreed by the Local Planning Authority. The surfaced drive shall then be maintained in such hard bound material for the life of the development.

**Reason:** To allow for emergency vehicles to access the site and reduce the possibility of deleterious material being deposited on the public highway and to accord with the adopted policies of the Derby City Local Plan Part 1: (Core Strategy) and the saved policies of the adopted City of Derby Local Plan Review as included in this Decision Notice.

### **8.4. Informative Notes:**

Access must be provided for a fire tender to reach the building within 45m , has this is a flat at first floor then access to its furthest point within the flat must be gained.

A fire tender cannot reverse more than 20m without a turning circle being provided.

A further consideration must be taken into account, with the building being close to the boundary B4 of the Building Regulations applies and the provision of unprotected areas must be considered regarding the amount of fire resistance applied to each elevation.

### **8.5. Application timescale:**

Extension of time of the application has been requested until 20<sup>th</sup> July, 2019

**Committee Report Item No: 3**

**Application No: 18/01848/OUT**

**Type: Outline (with access)**



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## **Committee Report Item No: 4**

**Application No: 19/00057/FUL**

**Type: Full Planning Application**

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### **1. Application Details**

**1.1. Address:** 74 Burlington Way, Mickleover.

**1.2. Ward:** Mickleover

**1.3. Proposal:**

Two storey side and single storey rear extensions to dwelling house (garage, utility, kitchen/dining/family space, bedroom and en-suite).

**1.4. Further Details:**

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan/19/00057/FUL>

**Brief description**

74 Burlington Way is a residential plot situated on the south side of the street accommodating a detached house with a garden area to the rear and hardstanding for vehicle parking to the front.

The plot is bounded by other residential plots to the east and west. Planning permission is sought for the erection of a two-storey side extension to the house's western elevation and a single storey extension to the rear.

The application is brought back to committee following Members decision to defer the application from the May Committee in order to carry out a site visit. The site visit was carried out 26<sup>th</sup> June 2019.

### **2. Relevant Planning History:**

None.

### **3. Publicity:**

Neighbour Notification Letters

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

### **4. Representations:**

One representation has been received in objection on the following points:

- The submitted plans contain inaccuracies;
- The proposed rear extension would reduce light to the neighbouring kitchen window;
- If built to the boundary, the roof of the side extension would overhang the boundary and oversail the neighbouring plot;
- The proposed extensions would be out of character with the area.

## **Committee Report Item No: 4**

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**Type: Full Planning Application**

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### **5. Consultations:**

None.

### **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  
CP3 Placemaking Principles  
CP4 Character and Context

#### **Saved CDLPR Policies**

GD5 Amenity  
H16 Housing Extensions

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](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.

#### **7.1. Residential Amenity**

#### **7.2. Design and Visual Amenity**

**7.1. Residential Amenity**

Saved policy GD5 Amenity prohibits "unacceptable harm to the amenity of nearby areas" from the effects of loss of privacy or light, massing, emissions, pollution, parking and traffic generation. The policy is reinforced by the provisions of saved policy H16 Housing Extensions which also requires the creation of a "satisfactory living environment" which in turn is supported by the National Planning Policy Framework, which states that "planning policies and decisions should ensure that developments [create] a high standard of amenity for existing and future users" (paragraph 127).

The proposed extension would be visible from surrounding residential plots and so would have some impact on residential amenity, the plot to the west in particular would be affected by some degree of massing and overshadowing by both elements of the proposal. However, this impact could not be convincingly described as constituting "unacceptable harm" in my opinion for the reason that the arrangement of the proposed rear extension relative to the nearest window at the neighbouring house to the west would not result in unacceptable levels of overshadowing or massing. The proposed extensions would be sufficiently distant from other neighbouring plots to limit their impact with regard to overlooking, overshadowing, massing and enclosure to within acceptable levels. The application has been amended during its lifetime to correct discrepancies and to clarify the relationship of the proposed extension with the site's boundary.

It is my overall opinion that the visual impact of the proposed works when viewed from neighbouring residential plots would remain within reasonable limits, that a satisfactory living environment would be maintained for occupants of the application site and neighbouring plots, and that therefore the impact of the proposal on residential amenity would comply with saved policies GD5 and H16 of the City of Derby Local Plan Review.

**7.2. Design and Visual Amenity**

Saved policy H16 Housing Extensions states that permission will be granted for extensions to residential properties provided that "there is no significant adverse effect on the character and appearance of the dwelling or the streetscene" taking into account design, massing, visual prominence and materials. The policy also requires that "the first floor of a two-storey side extension is set back to avoid a terraced or cramped effect in the streetscene". The principle of good design is reinforced by adopted policies CP3 Placemaking Principles and CP4 Character and Context which seek to ensure high quality design and a good relationship between proposed development and existing buildings and the local area, and by section 12 of the National Planning Policy Framework (Achieving well-designed places). Adopted policy CP3 Placemaking Principles in particular requires development proposals to "incorporate high quality architecture which is well integrated into its setting and exhibits locally inspired or distinctive character."

In this case, the proposed works would have a visual presence in the streetscene and would be a significant addition to the host building. The design proposed is not usual for a residential dwelling and my opinion is that the proposed works would be sufficiently sympathetic to the host building. However, the requirement of policy H16

## **Committee Report Item No: 4**

**Application No: 19/00057/FUL**

**Type: Full Planning Application**

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that the first floor of the proposed side extension would be set back is not met. The adjacent house to the west has a comparable extension to the one proposed that was approved in 1991. This extension pre-dates the current development plan and the adoption of a requirement for the first floor of a side extension to be set-back. The fact that it has been built means that the proposed side extension would combine with the neighbouring extension to create a terraced effect, which is specifically prohibited by saved policy H16. Burlington Way is also generally characterised by relatively wide plots with the houses occupying a roughly central position with the areas to either side either clear or accommodating a single storey structure, although I acknowledge there is a degree of variety within the streetscene, notably at the plot immediately adjacent.

It is my overall opinion that the proposed design would be unlikely to result in a significant adverse effect on the dwelling itself. However, it is my opinion that the effect of the proposed side extension on the character of the streetscene would constitute a "significant adverse effect" through the creation of a terraced effect with the adjacent house. The implications of the proposed works for visual amenity are therefore, on balance, acceptable in my opinion and the proposal would comply with saved policy H16 of the City of Derby Local Plan Review and adopted policies CP3 and CP4 of the Core Strategy (Part 1).

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

#### **8.1. Recommendation:**

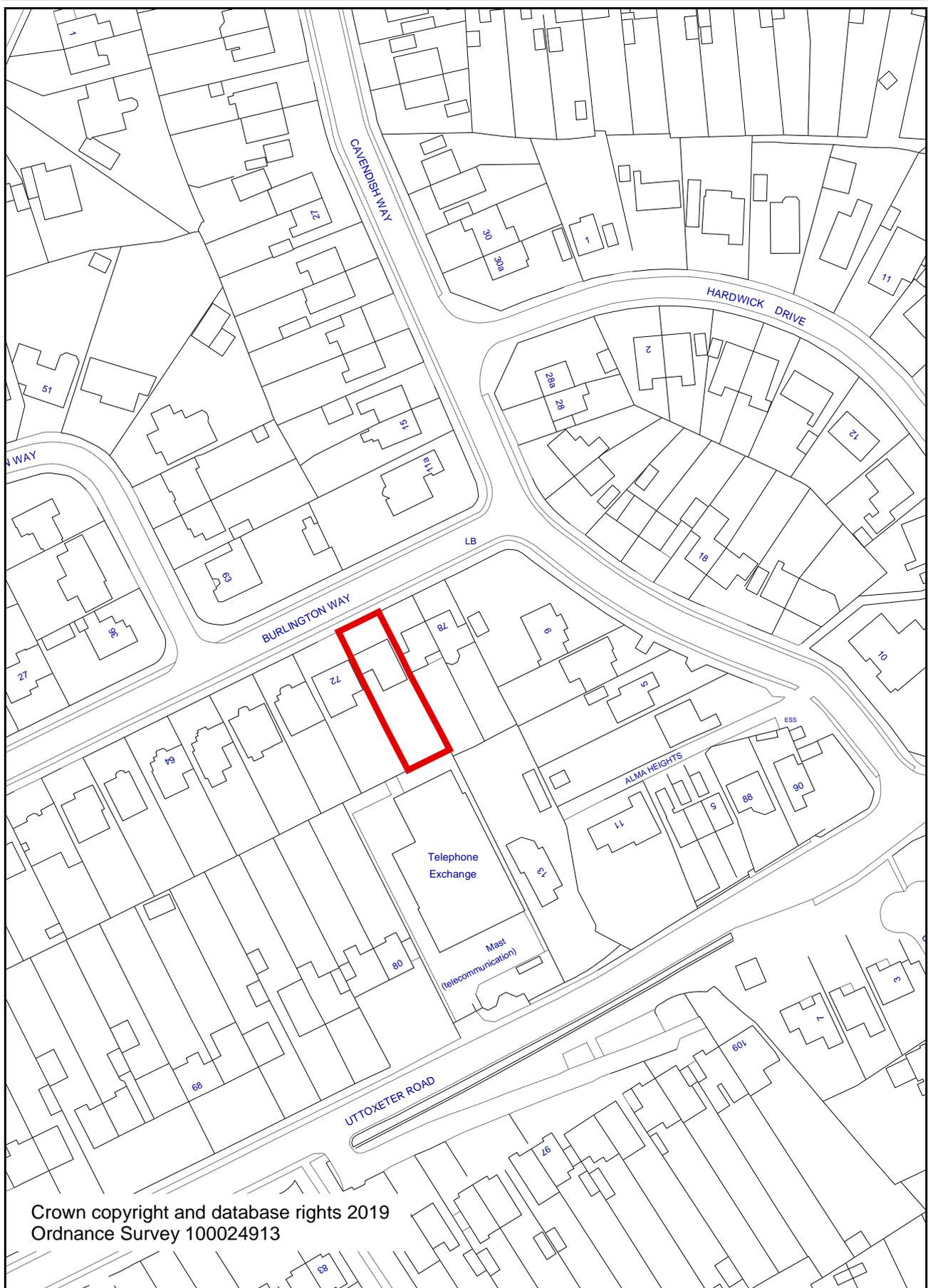
**To refuse** planning permission

#### **8.2. Summary of reasons:**

The proposed side extension would, in conjunction with the existing side extension to the neighbouring house to the west, create a terraced effect in the streetscene and would therefore conflict with saved policy H16 Housing Extensions of the City of Derby Local Plan Review 2017 and section 12 of the National Planning Policy Framework.

#### **8.3. Application timescale:**

The application's determination period expired on 29/03/2019, a committee site visit was undertaken on 26/06/2019 in preparation for the application's consideration at the committee's July meeting.



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## **Committee Report Item No: 5**

**Application No: 19/00662/TPO**

**Type: Works to trees with a TPO**

### **1. Application Details**

**1.1. Address:** 24 Carlton Road and 103 Whitaker Road, Derby

**1.2. Ward:** Abbey

**1.3. Proposal:**

Crown reduction of the western aspect by 1.5m of a Beech tree and re-pollarding of three Lime trees to original pollard points, protected by Tree Preservation Order no. 280. To be carried out every 2-3 years for a period of 10 years

**1.4. Further Details:**

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan/19/00662/TPO>

**Brief description:**

To crown reduce, by 1.5m, the portion of the early mature Copper Beech tree canopy that overhangs the drive of 24 Carlton Road. It is proposed to carry out the reduction once every 2-3 years for a period of ten years. The tree is located to the east of 24 Carlton Road and is growing in the rear garden of 103 Whitaker Road. And to re-pollard the three previously pollarded mature Lime trees growing in the front garden of 24 Carlton Road. It is also proposed to carry out the re-pollarding once every 2-3 years for a period of ten years

### **2. Relevant Planning History:**

<b>Application No:</b>	DER/08/14/01066	<b>Type:</b>	Works to Trees with a TPO
<b>Decision:</b>	Granted Conditionally	<b>Date:</b>	24/10/2014
<b>Description:</b>	Felling Of Pine Tree Protected By Tree Preservation Order No 280		

<b>Application No:</b>	DER/05/14/00682	<b>Type:</b>	Works to Trees with a TPO
<b>Decision:</b>	Granted Conditionally	<b>Date:</b>	04/07/2014
<b>Description:</b>	Cutting Back Of Overhanging Branches Of Copper Beech Tree Protected By Tree Preservation Order.		

<b>Application No:</b>	DER/12/13/01437	<b>Type:</b>	Full Planning Application
<b>Decision:</b>	Granted Conditionally	<b>Date:</b>	10/02/2014
<b>Description:</b>	Extension To Dwelling House (Lobby)		

<b>Application No:</b>	DER/08/12/01004	<b>Type:</b>	Full Planning Application
<b>Decision:</b>	Withdrawn	<b>Date:</b>	
<b>Description:</b>	Single Storey Extension To Dwelling House (Shower Room)		

### **3. Publicity:**

Site Notice displayed on 10/07/2019

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

### **4. Representations:**

One representation has been received and is reproduced in full below...

*'The application states:*

*T1 Beech – To crown reduce the west aspect of the crown by 1.5m to reduce away from the house; help reduce potential for Pigeons to perch. To include cyclic pruning every 2-3yrs over the next 10 years.*

*G8 3 Lime trees – To re pollard back to original pollard points. To include cyclic pruning every 2-3 yrs over the next 10 yrs.*

- 1. Condition of the tree(s) - e.g. it is diseased or you have fears that it might break or fall **No***
- 2. Alleged damage to property - e.g. subsidence or damage to drains or drives. **No***

*Really! 'help reduce potential for Pigeons to perch' unfortunately this is wildlife and trees for you and thankfully there is wildlife otherwise this world would be a very sterile environment which by the ecology of such we are part of. The trees are not diseased, not in danger of falling and are not causing damage to property. I oppose all aspects of this application. The trees are thankfully protected for a reason, part of the street scene and amenity value'.*

### **5. Consultations:**

None

### **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)*

CP16 Green Infrastructure  
CP19 Biodiversity

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.*

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### **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.

#### **7.1. Protected Trees**

#### **7.2. Reason for application to be determined by Committee**

#### **7.3. Pre-application advice**

#### **7.4. Copper Beech Tree**

#### **7.5. Lime Trees**

#### **7.6. Objection**

#### **7.1. Protected Trees**

The trees subject to this application are protected by TPO No. 280. The TPO was made on 9 August 2001 and confirmed on 20 December 2001. The Copper Beech is assigned individual protection and is scheduled as T1 in the order. The three Limes are part of a group consisting of seven Lime trees and are scheduled as G8 in the order. The TPO protects numerous trees in the area.

#### **7.2. Reason for application to be determined by Committee**

Councillor Robin Wood is the owner of the Copper Beech tree. As the tree is owned by an elected member it was felt necessary to report this application to Committee for member's scrutiny.

#### **7.3. Pre-application advice**

The agent sought advice prior to their submission of the application. They wished to know what tree works we would be likely to support. The issues that the applicant has with the trees were discussed. The main issue discussed was that pigeons roost in the portion of the canopy that overhangs the drive of 24 Carlton Road. On occasion there are accumulations of pigeon droppings on the drive. A resident at the property is a wheelchair user and the accumulation of droppings presents issues for that person and their carer when accessing the property.

The previously pollarded Lime trees to the front were also discussed.

#### **7.4. Copper Beech**

The Copper Beech Tree is growing in the rear garden of 103 Whitaker Road. The tree is located on the south boundary of the rear garden with Carlton Road. The tree height is estimated to be 12m and crown spread is in the region of 8m. The condition of the tree is recorded as good. The tree can be clearly seen from the public realm especially when viewed from the east and south.

The south part of the canopy overhangs the public highway (footway and carriage way). Canopy height over the footway is approximately 2.5m and 4m over the carriageway. The west part of the canopy overhangs the drive of 24 Carlton Road.

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The canopy is within 1m of the dwelling at 24 Carlton Road. Canopy clearance over the drive of 24 Carlton Road is in the region of 3-4m. During the site visit pigeon droppings were observed on the drive.

The proposed 1.5m crown reduction of the west aspect of the tree is acceptable to manage the tree canopy in relation to its close proximity to the dwelling at 24 Carlton Road and the impact of roosting pigeons. The proposed reduction would reduce the risk of branches causing direct damage to the dwelling and would also reduce the roosting opportunities for the pigeons.

The relatively minor reduction will not significantly reduce the amenity that the tree provides. It is proposed to carry out the minor reduction once every 2-3 years for a 10 year period to continue to dissuade the pigeons from roosting. This is acceptable and in accordance with government recommendations which advise that where appropriate the Local Planning Authority (LPA) should encourage single applications for regularly repeated operations. This saves time for both the applicant and the LPA.

### **7.5. Lime Trees**

The Lime tree group (G8) is located on the north side of Carlton Road situated along the frontages of 24, 28, and 30 Carlton Road. The Lime trees have been managed as pollards. Due to the trees being under different ownership the pollarding frequency is not consistent. The three Lime trees in the front garden of 24 Carlton Road are on the east end of the group G8. The pollard heads are at 4m above ground level. Regrowth from the previous pollarding is in the region of 2-3m.

It is proposed to re-pollard the trees once every 2-3 years within a 10 year period. The proposed cyclic re-pollarding is acceptable to manage the trees.

### **7.6. Objection**

One objection has been received and has been fully reproduced. The objection is noted. I am satisfied that the proposed works are acceptable and in line with arboricultural best practice. It should be noted that the submission of one objection from a member of the public does not require the application to be determined by the Planning Control Committee. The sole reason for this application to be determined by the Planning Control Committee is that one of the trees is owned by an elected member.

A site visit with Councillor Wood was carried out where he raised no objections to the proposed works.

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

#### **8.1. Recommendation:**

To grant consent with conditions.

#### **8.2. Summary of reasons:**

The proposed works are acceptable and reasonable to manage the trees in their built environment location. Conditions are recommended in the interests of good arboricultural practice to enable long term management of the trees and in the interests of tree health and visual amenity.

#### **8.3. Conditions:**

1. Copper Beech (T1) bough removal - The boughs agreed to be removed or shortened shall be in accordance with details submitted in section 5 of the application form and shall be cut back to a suitable point such as a branch collar or suitably positioned secondary branch and the branch collar shall be left intact. Climbing irons or "spikes" shall not be used.

**Reason:** In the interests of visual amenity and tree health and for the avoidance of doubt and to accord with the adopted policies of the Derby City Local Plan Part 1: (Core Strategy) and the saved policies of the adopted City of Derby Local Plan Review as included in this Decision Notice.

2. Three Lime trees (G8) Pollarding - Pollarding shall comprise the removal of regrowth from the point at which the tree has been previously pollarded. All pruning cuts shall be made so that they do not damage the pollard head. Climbing irons or "spikes" shall not be used.

**Reason:** In the interests of visual amenity and tree health and for the avoidance of doubt and to accord with the adopted policies of the Derby City Local Plan Part 1: (Core Strategy) and the saved policies of the adopted City of Derby Local Plan Review as included in this Decision Notice.

3. Repeat operations – The permitted works of Copper Beech bough removal and the pollarding of the three Lime trees (G8) shall be carried out once every three years for a period of 10 years and shall be started within 2 years of this consent date.

**Reason:** In the interests of good arboricultural practice to enable long term management of the tree and in the interests of tree health and visual amenity. Beyond the period of permitted repeat operations the health and visual appearance of the tree would need to be reassessed and to accord with the adopted policies of the Derby City Local Plan Part 1: (Core Strategy) and the saved policies of the adopted City of Derby Local Plan Review as included in this Decision Notice.

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4. Notification of repeat operations – The Local Planning Authority shall be given at least 2 weeks' notice of the date of the permitted repeat operation. Notice shall be sent to [tpo@derby.gov.uk](mailto:tpo@derby.gov.uk)

**Reason:** In the interests of good arboricultural practice to enable long term management of the tree and in the interests of tree health and visual amenity. Beyond the period of permitted repeat operations the health and visual appearance of the tree would need to be reassessed and to accord with the adopted policies of the Derby City Local Plan Part 1: (Core Strategy) and the saved policies of the adopted City of Derby Local Plan Review as included in this Decision Notice.

- 8.4. Application timescale:** The application expired on 3 July and has been reported to Committee for the reason stated above.





**Delegated decisions made between  
Between 01/05/2019 and 30/06/2019**



Application No:	Application Type	Location	Proposal	Decision	Decision Date
02/18/00161	Full Application	530 Duffield Road Derby	Two Storey Side And Rear And Single Storey Rear Extensions To Dwelling House (Games Area, Utility, Kitchen/Dining Area, Two Bedrooms With En-Suites And Roof Terrace) And Erection Of A Detached Garage	Approval	05/06/2019
03/18/00448	Full Application	4 Radnor Street Derby	Two Storey Side Extension To Dwelling House (Three Bedrooms And Wet Room)	Application Withdrawn	17/06/2019
07/18/01132	Full Application	Land North Of Andrew Close/Pritchett Drive And Allan Avenue Littleover Derby	Erection Of 12 Additional Dwelling Houses In Association With Previously Approved Outline Application Code No. DER/12/14/01678.	Approval	24/06/2019
07/18/01145	Full Application	46 Otter Street Derby	Installation Of Replacement Windows To The Front Elevation	Approval	05/06/2019
08/18/01277	Full Application	Land Exeter Street Derby	Change Of Use From Car Sales To A Coach And Car Park Including Erection Of A Building (Car Park Attendant Office And Welfare Facilities)	Approval	25/06/2019
08/18/01313	Reserved Matters	Land North Of Allan Avenue/Pritchett Drive Littleover Derby	Erection Of A Maximum Of 80 Dwellings And Associated Drainage And Highway Infrastructure- Approval Of Reserved Matters Of Access, Appearance, Landscaping, Layout And Scale Of Previously Approved Outline Permission Code No. DER/12/14/01678	Approval subject to Section 106	21/06/2019
09/17/01158	Full Application	24 Cavendish Avenue Allestree Derby	First Floor Extension To Dwelling (Three Bedrooms, Bathroom, Wardrobe And Shower Room)	Approval	04/06/2019
10/18/01498	Full Application	B A B Motors Elton Road	Partial Demolition/Removal Of Existing Structure And Canopies. Erection Of A Building	Approval	26/06/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
		Derby	For Storage And Distribution.		
10/18/01532	Full Application	135 Brighton Road Alvaston Derby	Change Of Use From A Six Bedroom House In Multiple Occupation (Use Class C4) To A Seven Bedroom House In Multiple Occupation (Sui Generis Use)	Application Withdrawn	19/06/2019
12/17/01628	Compliance/Discharge of Condition	Land North West Of Mansfield Road Breadsall Derby	Residential Development (Up To 230 Dwellings) And Associated Works Including Means Of Access - Discharge Of Conditions 5, 7, 18 And 20 Of Previously Approved Permission DER/12/15/01520	Discharge of Conditions Complete	14/06/2019
12/17/01637	Full Application	Land Between Mohan Court And 43 Warner Street Derby	Erection Of Four Apartments (Use Class C3)	Approval	17/06/2019
18/01641/FUL	Full Application	32 Glenwood Road Derby DE73 6UB	Two storey side extension to dwelling house (covered way, study and bathroom) with rooms in the roof space	Approval	04/06/2019
18/01683/FUL	Full Application	88 Kedleston Road Derby DE22 1FW	Formation of a vehicular access	Approval	28/06/2019
18/01831/FUL	Full Application	17 Green Avenue Derby DE73 6TE	Single storey extension to dwelling house (W.C., kitchen, office, bedroom and en-suite)	Approval	18/06/2019
18/01836/FUL	Full Application	15 Friar Gate Derby DE1 1BU	Erection of single storey rear extension (office space)	Application Withdrawn	26/06/2019
18/01840/FUL	Full Application	Land To North Side Parcel Terrace Derby	Erection of 2 no. units (Use Class B1(c), B2 & B8 (with ancillary Trade Counter Use), formation of car parking area and associated infrastructure	Approval subject to Section 106	11/06/2019
18/01853/FUL	Full Application	Site Of 226A Osmaston Road And	Demolition of youth centre. Two storey and	Approval	26/06/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
		Douglas Court 1 Douglas Street Derby DE23 8LH	single storey extensions to nursing home to provide additional accommodation (30 bedrooms) and alterations to include re-configuration of the car park, changes to land levels and installation of retaining walls		
19/00040/FUL	Full Application	21 Springfield Derby DE23 6EZ	Two storey side and rear and single storey front and rear extensions to dwelling house (porch, garage, w.c., store, utility, kitchen/dining area, two bedrooms and en-suite)	Approval	27/06/2019
19/00060/FUL	Full Application	30 Longford Street Derby DE22 1GH	Single storey rear extension to dwelling house (bedroom and en-suite)	Approval	18/06/2019
19/00097/DISC	Compliance/Discharge of Condition	Highgates Wilmot Street Derby DE1 2LP	Erection of two scooter stores and external alterations including the formation of a new car parking area, installation of new boundary walls and gates - Discharge of conditions 6,7,8,9 of previously approved application code No. 11/17/01521	Discharge of Conditions Complete	10/06/2019
19/00099/FUL	Full Application	3 Windley Crescent Derby DE22 1BZ	Single storey rear extension to dwelling house (enlargement of kitchen and living/dining area)	Approval	10/06/2019
19/00101/FUL	Full Application	Pentagon Service Station Chequers Road Derby DE21 6EN	Removal of diesel tank. Single storey rear extension to petrol station (office, kitchen, store, w.c. and enlargement of retail area)	Approval	12/06/2019
19/00123/FUL	Full Application	29 Lawn Heads Avenue Derby DE23 6DR	Two storey side and rear and single storey front extensions to dwelling house (study, day area, kitchen/dining area, three bedrooms, two en-suites and bathroom) and installation of new first floor windows to the side elevation	Approval	26/06/2019
19/00173/LBA	Listed Building Consent - Alterations	75 Rose Hill Street Derby DE23 8FZ	Installation of a replacement roof covering and rain water goods	Approval	27/06/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
19/00194/FUL	Full Application	Land Adjacent To 15 Babington Lane Derby	Installation of a freestanding structure	Approval	12/06/2019
19/00195/ADV	Advertisement Consent	Land Adjacent To 15 Babington Lane Derby	Display of two LED illuminated display screens	Approval	12/06/2019
19/00212/FUL	Full Application	Land At The Side Of 35 Boulton Lane Derby DE24 0FD	Erection of a dwelling (use class C3)	Approval	10/06/2019
19/00274/VAR	Variation of Condition	Former Rolls Royce Car Park Dunstall Park Road Derby DE24 8HJ	Erection Of 6 Buildings To Form 14 X Mixed B1/B8 Units - variation of condition 1 and removal of condition 19 of previously approved planning permission Code No. DER/05/17/00604 to amend the external appearance and remove the tree protection condition	Approval	24/06/2019
19/00295/FUL	Full Application	Florence House 57 Kedleston Road Derby DE22 1FL	Installation of replacement windows, formation of new window openings and doorway, removal of rear fire escape stair and erection of single storey side extension (kitchen)	Approval	19/06/2019
19/00313/FUL	Full Application	Horse And Groom 48 Elms Street Derby DE1 3HN	Installation of a side dormer, elevation changes to include formation of a new ground floor access to form five flats (use class C3) at first and second floor levels	Approval	13/06/2019
19/00319/FUL	Full Application	77 Moor Street Derby DE21 7EB	Demolition of barn. Erection of an outbuilding (double garage and games room)	Approval	07/06/2019
19/00321/FUL	Full Application	36 Wade Drive Derby	Single storey rear extension to dwelling house (kitchen/family area). Installation of a new	Approval	26/06/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
		DE3 9BS	second floor side elevation window and rear dormer to form rooms in the roof space (bedroom, en-suite and storage)		
19/00325/ADV	Advertisement Consent	Traffic Island On The Junction Of Darley Park Drive And Broadway And Lighting Columns On Duffield Road Derby	Display of three non-illuminated post signs and 49 non-illuminated banner signs	Approval	14/06/2019
19/00338/ADV	Advertisement Consent	Traffic Islands (Junction Of Burton Road/Normanton Road/Lara Croft Way And Babington Lane) And (Junction Of London Road/Traffic Street/Bradshaw Way), Derby	Display of nine non-illuminated post signs	Approval	26/06/2019
19/00339/ADV	Advertisement Consent	Highway Verge Adjacent To Markeaton Park Allotments And Lighting Columns Kedleston Road Derby	Display of 19 non-illuminated banner signs and one non-illuminated freestanding post sign	Approval	24/06/2019
19/00346/ADV	Advertisement Consent	Traffic Island London Road (Junction With Ascot Drive/Harrow Street), Derby	Display of four non-illuminated post signs	Approval	03/06/2019
19/00349/ADV	Advertisement Consent	Highway Verge And Traffic Island Spondon Island, Derby Road And Traffic Island Nottingham Road (Junction With Lodge Lane/Station Road) Spondon Derby	Display of ten non-illuminated post signs	Approval	03/06/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
19/00351/ADV	Advertisement Consent	Highway Verge, Brian Clough Way, The Pentagon Traffic Island And Lighting Columns, Sir Frank Whittle Way Derby	Display of four non-illuminated banner signs and eight non-illuminated post signs	Approval	12/06/2019
19/00354/ADV	Advertisement Consent	Lighting Columns Burton Road Derby	Display of 31 non-illuminated banner signs	Approval	14/06/2019
19/00355/ADV	Advertisement Consent	Traffic Island Infinity Park Way Derby	Display of three non-illuminated post signs	Approval	14/06/2019
19/00365/FUL	Full Application	5 Lime Walk Derby DE23 6BD	Two storey side extensions to dwelling house (kitchen, dining/sitting area, two bedrooms and shower room)	Approval	05/06/2019
19/00384/FUL	Full Application	6 Lingfield Rise Derby DE3 0QS	Two storey side and single storey rear extensions to dwelling house (two bedrooms, wetroom, en-suite and kitchen)	Approval	06/06/2019
19/00395/FUL	Full Application	58 Dewchurch Drive Derby DE23 1XP	Two storey and single storey rear extensions to dwelling house (kitchen/dining area and two bedrooms) and installation of a new window to the first floor side elevation	Approval	10/06/2019
19/00402/ADV	Advertisement Consent	Market Hall Albert Street Derby DE1 2DB	Display of non illuminated banner sign	Approval	11/06/2019
19/00406/LBA	Listed Building Consent - Alterations	45 - 47 St Peters Street Derby DE1 2AB	Store refurbishment to include installation of new signage	Approval	12/06/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
19/00407/FUL	Full Application	13 Swanmore Road Derby DE23 3SD	Two storey side and single storey rear extensions to dwelling house (entrance hall, store, bedroom, en-suite, sun lounge and office/study)	Approval	05/06/2019
19/00430/ADV	Advertisement Consent	Land At Junction Of Cathedral Road Willow Row And Walker Lane Derby	Display of various signage	Approval	05/06/2019
19/00433/FUL	Full Application	82 Chester Green Road Derby DE1 3SF	Installation of replacement windows and door to the front elevation	Approval	06/06/2019
19/00434/FUL	Full Application	107 City Road Derby DE1 3RR	Installation of replacement windows and a door to the front elevation	Approval	20/06/2019
19/00444/FUL	Full Application	125 Stoney Lane Derby DE21 7QF	Single storey front/side extension to dwelling house (porch and shower room)	Approval	18/06/2019
19/00446/FUL	Full Application	11 Sovereign Way Derby DE21 2XU	Installation of two new first floor windows to the side elevation	Approval	06/06/2019
19/00451/VAR	Variation of Condition	Land South Of Mansfield Road Breadsall Hilltop Derby (Between Porters Lane And Lime Lane)	Erection Of 250 Dwellings And Formation Of Highways, Public Open Space, Drainage Attenuation Area And Landscaping - Approval Of Reserved Matters Under Previously Approved Outline Permission Code No. DER/04/15/00449 - variation of condtion 1 of previously approved planning permission Code No. DER/03/17/00283 to amend the location of a turning head and include a retaining wall	Approval	06/06/2019
19/00453/FUL	Full Application	5 Burnside Drive Derby DE21 7QR	Two storey side and single storey rear extensions to dwelling house (garage/store, utility, w.c., study, kitchen, bedroom and bathroom)	Approval	20/06/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
19/00464/FUL	Full Application	14 George Street Derby DE1 1EH	Change of use to yoga studio (use class D2) Including installation of a replacement front door	Approval	04/06/2019
19/00475/FUL	Full Application	219 Porter Road Derby DE23 6RG	Two storey and single storey rear extensions to dwelling house (bedroom and enlargement of kitchen and lounge)	Approval	04/06/2019
19/00476/FUL	Full Application	23 North Street Derby DE1 3AZ	Single storey rear extension to dwelling house (kitchen/dining area), increase in height of the boundary wall and installation of a sliding gate	Approval	21/06/2019
19/00478/FUL	Full Application	7 Edale Drive Derby DE21 7PN	Single storey side/rear extension to dwelling (kitchen/dining area, snug, utility and wet room)	Approval	06/06/2019
19/00481/FUL	Full Application	16 Winslow Green Derby DE21 6US	Single storey rear extension to dwelling house (family space)	Approval	18/06/2019
19/00484/LBA	Listed Building Consent - Alterations	The Old Post Office Victoria Street Derby DE1 1DD	Alterations in association with change of use from assembly and leisure/restaurant (use classes D2/A3) to office (use class B1) and display of two externally illuminated hanging signs. Installation of security cameras. Removal of staircases.	Approval	11/06/2019
19/00489/FUL	Full Application	6 Barnstaple Close Derby DE21 2PQ	Two storey side extension to dwelling house (kitchen/dining area, bedroom and en-suite) and enlargement of raised patio area	Approval	07/06/2019
19/00502/FUL	Full Application	105 Locko Road Derby DE21 7AP	Two storey side and rear extensions to dwelling house (garage, boot room, utility, shower room, bedroom, bathroom, en-suite, enlargement of kitchen/dining area and two bedrooms) to connect to the existing garage, installation of a new window to the first floor side elevation, alterations to the rear raised patio area and installation of a front boundary gate	Approval	07/06/2019
19/00504/ADV	Advertisement Consent	8 Royal Buildings	Display of one non-illuminated fascia sign	Approval	28/06/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
		Victoria Street Derby DE1 1ES			
19/00505/PNRJ	Prior Approval - Offices to Residential	23 - 27 Ashbourne Road Derby DE22 3FQ	Change of use of first floor from offices (Use Class B1) to eight studio apartments (Use Class C3)	Approval	03/06/2019
19/00512/FUL	Full Application	7 Tiller Close Derby DE23 2UX	First floor extension to dwelling house (wet room and enlargement of bedroom)	Approval	04/06/2019
19/00514/TPO	Works to a tree with a TPO	Cavendish Court Derby	Crown reduction by 2m of a Robinia tree protected by Tree Preservation Order no. 547	Approval	14/06/2019
19/00515/ADV	Advertisement Consent	Land At The Junction Of Western Road And Uttoxeter Road Mickleover Derby	Retention of the display of a non-illuminated freestanding sign	Approval	25/06/2019
19/00516/FUL	Full Application	4 Pykestone Close Derby DE21 2JW	Single storey side extension to dwelling house (utility and enlargement of kitchen/dining area)	Approval	06/06/2019
19/00521/VAR	Variation of Condition	Site Of 166 Normanton Road Derby DE23 6UX	Demolition of petrol station. Erection of two retail units (Use Class A1) - Variation of conditions 2 and 3 of previously approved planning permission Code No. 07/18/01152 to allow a single retail unit	Approval	14/06/2019
19/00522/FUL	Full Application	47 Winchester Crescent Derby DE21 4LQ	Single storey front, side and rear extensions to dwelling house (annexe accommodation and enlargement of kitchen)	Approval	19/06/2019
19/00526/FUL	Full Application	25 Back Lane Derby DE73 6TN	Two storey and single store side extensions to dwelling house (hobby room and en-suite) and installation of a pitched roof to the existing single storey side projection	Approval	25/06/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
19/00533/LBA	Listed Building Consent - Alterations	14 George Street Derby DE1 1EH	Alterations in association with the change of use to a yoga studio including removal of an internal staircase, installation of a replacement door and a new sign	Approval	05/06/2019
19/00534/FUL	Full Application	3 Baron Close Derby DE21 2XX	First floor side and single storey rear extensions to dwelling house (bedroom and kitchen/dining area)	Approval	04/06/2019
19/00539/FUL	Full Application	Land At 38 Warwick Street Derby DE24 8WN	Erection of three apartments (use class C3)	Approval	05/06/2019
19/00541/DISC	Compliance/Discharge of Condition	Former Rolls Royce Car Park Dunstall Park Road Derby	Erection Of Three Buildings To Form 16 Units (Use Classes B1 And B8) - Discharge of condtons 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 of previously approved permission DER/07/18/01144	Discharge of Conditions Complete	24/06/2019
19/00543/FUL	Full Application	Site Of 39 Penny Long Lane Derby DE22 1AX	Substitution of house types to all plots	Approval	03/06/2019
19/00544/TPO	Works to a tree with a TPO	4 Longshaw Gardens Derby DE24 0EY	Crown lift to 3 metres and crown reduction by 2 metres of Hornbeam and Purple Hazel trees protected by Tree Preservation order No. 334	Approval	06/06/2019
19/00545/TPO	Works to a tree with a TPO	Grassed Area Fieldsway Drive Derby (Rear Of 12-16 Braintree Close)	Cutting back of branches of a tree protected by Tree Preservation Order no. 149	Approval	05/06/2019
19/00548/LBA	Listed Building Consent - Alterations	3 Vernon Street Derby DE1 1FR	Removal of an internal partition between the dining room and kitchen and re-location of an internal doorway between the kitchen and conservatory	Approval	10/06/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
19/00549/FUL	Full Application	88C Brisbane Road Derby DE3 9JY	Two storey rear extensions to dwelling house (kitchen/dining area, store, bedroom and en-suite)	Approval	26/06/2019
19/00550/CLP	Lawful Development Certificate -Proposed	21 Merchant Avenue Derby DE21 7NB	Two storey rear extension to dwelling house (w.c., bedroom and enlargement of kitchen)	Approval	12/06/2019
19/00552/FUL	Full Application	70 Friar Gate Derby DE1 1FP	Retention of alterations to outbuilding. including re-building of the outer walls and installation of a new roof	Approval	13/06/2019
19/00553/FUL	Full Application	32 Chevin Road Derby DE1 3EX	Single storey side and rear extensions to dwelling house (study, utility and kitchen/dining area)	Approval	14/06/2019
19/00556/FUL	Full Application	15 Nunsfield Drive Derby DE24 0GH	Two storey side extension to dwelling house (covered way, bathroom and bedroom)	Approval	07/06/2019
19/00559/FUL	Full Application	The Jonty Farmer Kedleston Road Derby DE22 1FT	Installation of electric vehicle charging point, ancillary equipment and parking bays	Approval	05/06/2019
19/00560/FUL	Full Application	Rosehill Infant And Nursery School Reginald Street Derby DE23 8FQ	Installation of replacement windows and doors	Approval	12/06/2019
19/00561/FUL	Full Application	11 Shaws Green Derby DE22 3HF	Single storey side extension to dwelling house (bathroom and living room)	Approval	06/06/2019
19/00564/FUL	Full Application	258-268 Abbey Street Derby DE22 3SW	Two/single storey side extension to M.O.T and service centre (secure car storage facilities and enlargement of office)	Approval	12/06/2019
19/00565/FUL	Full Application	7 Hartland Drive	Two storey side and single storey front	Approval	14/06/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
		Derby DE23 1LU	extensions to dwelling house (garage, bedroom and enlargement of hall and lounge) and installation of a dormer to the rear elevation		
19/00571/FUL	Full Application	707 Harvey Road Derby DE24 0EH	Two storey side and rear and single storey front and rear extensions to dwelling house (kitchen/dining area, utility, shower room, two bedrooms, bathroom and enlargement of hall and lounge)	Approval	11/06/2019
19/00573/FUL	Full Application	18 Sale Street Derby DE23 8GD	Single storey rear extension to dwelling house (shower room and enlargement of kitchen)	Approval	12/06/2019
19/00577/FUL	Full Application	Suite 3 4 Osmaston Road Derby DE1 2HR	Retention of change of use of second floor from non-residential institution (Use Class D1) to an escape room (Sui Generis Use)	Approval	20/06/2019
19/00580/FUL	Full Application	17 Overdale Road Derby DE23 6AU	Single storey rear extension to dwelling house (bedroom and wetroom)	Approval	12/06/2019
19/00582/LBA	Listed Building Consent - Alterations	Liversage Almshouses London Road Derby DE1 2QW	Installation of a freestanding non-illuminated sign	Approval	17/06/2019
19/00584/FUL	Full Application	16 Cairns Close Derby DE3 9LW	Single storey extensions to dwelling (garage, shower room, glazed area and enlargement of kitchen/dining area)	Approval	12/06/2019
19/00586/FUL	Full Application	11 Chatsworth Crescent Derby DE22 2AP	Installation of external insulation with a render finish	Approval	21/06/2019
19/00588/FUL	Full Application	3 Hollowood Avenue Derby DE23 6JD	Two storey side and single storey front and rear extensions to dwelling house (two porches, garage, utility, two en-suites and enlargement of kitchen, lounge and bedroom) and installation of a canopy to the front elevation	Approval	18/06/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
19/00591/FUL	Full Application	Land At North Avenue Darley Abbey Derby DE22 1EZ	Installation of replacement 25m high mast, nine equipment cabinets and ancillary works	Application Withdrawn	18/06/2019
19/00594/LBA	Listed Building Consent - Alterations	8 New Road Derby DE22 1DR	Installation of a roof light to an existing flat roof extension	Approval	18/06/2019
19/00602/PNRH	Prior Approval - Householder	14 Chedworth Drive Derby DE24 0TL	Single storey rear extension (projecting beyond the rear wall of the original house by 4m, maximum height 3.35m, height to eaves 2.3m) to dwelling house	Prior Approval Not Required	04/06/2019
19/00603/CAT	Works to Trees in a Conservation Area	20 Etruria Gardens Derby DE1 3RL	Felling of a Cherry tree within the Little Chester Conservation Area	Approval	06/06/2019
19/00604/FUL	Full Application	Derby Moor Academy Moorway Lane Derby DE23 2FS	Erection of a dining/multi-use canopy	Approval	11/06/2019
19/00605/FUL	Full Application	5 Stornoway Close Derby DE24 3LL	Two storey side and single storey rear extensions to dwelling house (garage, living room, kitchen/dining area, bedroom and bathroom) and erection of an outbuilding (play area)	Approval	27/06/2019
19/00607/FUL	Full Application	145 Station Road Mickleover Derby DE3 9FL	Two storey rear extension to dwelling house (office and dressing area) and installation of a new first floor window to the side elevation	Approval	14/06/2019
19/00609/TPO	Works to a tree with a TPO	The Fairholme Club 15 Thornhill Road Littleover Derby DE23 6FZ	Cutting back of branches by up to 1.5m of a Black Pine tree to give clearance of properties on Church Street, deadwooding of a Black Pine tree and crown lift on the road side to give 5m clearance of the carriageway of a Yew tree protected by Tree Preservation Order No 37	Approval	28/06/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
19/00610/FUL	Full Application	106 Sancroft Road Derby DE21 7ES	Two storey side and single storey front and rear extension to dwelling house (porch, garage, utility, family room, kitchen, bedroom en-suite and bathroom)	Approval	19/06/2019
19/00612/CAT	Works to Trees in a Conservation Area	14 Chevin Road Derby DE1 3EX	Felling of a Cherry tree within the Strutts Park Conservation Area (front garden)	Approval	06/06/2019
19/00614/FUL	Full Application	8 Ford Lane Derby DE22 2EW	Single storey rear extension to dwelling house (enlargement of family room/dining area) and installation of a dormer to the rear elevation to form rooms in the roof space (bedroom, en-suite and storage)	Approval	13/06/2019
19/00616/TPO	Works to a tree with a TPO	Derby New Church Horwood Avenue Derby	Felling of a Cedar tree and crown lift to 5m and cutting back of branches to give 3m clearance of the Church building of a Cedar tree protected by Tree Preservation Order No. 280	Approval	21/06/2019
19/00618/TPO	Works to a tree with a TPO	16 West Bank Avenue Derby DE22 1AP	Removal of part of a limb to leave a 1.5m stump. Crown lift to four metres of one Silver Birch tree and cutting back of branches to give two metre clearance of the adjacent dwellings of two Silver Birch trees - to be maintained for a ten year period. Protected by Tree Preservation Order No. 253	Approval	17/06/2019
19/00619/PNRH	Prior Approval - Householder	43 Vincent Street Derby DE23 8BU	Single storey rear extension (projecting beyond the rear wall of the original house by 4m, maximum height 3m, height to eaves 2.75m) to dwelling house	Prior Approval Approved	12/06/2019
19/00620/FUL	Full Application	2 Littleover Crescent Derby DE23 6HU	Single storey rear extension to dwelling (lounge area)	Approval	20/06/2019
19/00622/CLP	Lawful Development Certificate -Proposed	27 Farnway Derby DE22 2BP	Single storey rear extension to dwelling (enlargement of kitchen and dining room)	Approval	20/06/2019
19/00624/CAT	Works to Trees in a	14 Chevin Road	Felling of a Cherry tree within the Strutts Park	Approval	06/06/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
	Conservation Area	Derby DE1 3EX	Conservation Area (rear garden)		
19/00626/FUL	Full Application	8 Chesterford Court Derby DE23 3WY	Single storey rear extension to dwelling house	Approval	20/06/2019
19/00627/PNRH	Prior Approval - Householder	18 Rosyth Crescent Derby DE73 5WY	Single storey rear extension (projecting beyond the rear wall of the original house by 5m, maximum height 4m, height to eaves 3m) to dwelling house	Prior Approval Not Required	06/06/2019
19/00628/FUL	Full Application	The City Bar 12 Albert Street Derby DE1 2DS	Removal of two ground floor windows to create one central opening with bi-fold opening windows and balustrade to the front elevation	Refuse	27/06/2019
19/00629/TPO	Works to a tree with a TPO	12 Grangeover Way Derby DE22 3QD	Crown lift by 2m and removal of branches of two Sycamore trees protected by Tree Preservation Order no. 242	Approval	26/06/2019
19/00630/FUL	Full Application	62 Yates Street Derby DE23 8QZ	Single storey rear extension to dwelling house (wet room)	Approval	25/06/2019
19/00632/FUL	Full Application	Units 4 - 5 Riverside Walk Morledge Derby DE1 2BB	Installation of roof top mechanical plant equipment and external curtain wall glazing	Approval	13/06/2019
19/00633/ADV	Advertisement Consent	Units 4-5 Riverside Walk Morledge Derby DE1 2BB	Display of various signage	Approval	14/06/2019
19/00634/FUL	Full Application	12 Crompton Street	Erection of an annexe building to	Approval	26/06/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
		Derby DE1 1NY	accommodate two additional rooms to the existing house in multiple occupation and felling of a Cherry tree and pollarding of a tree within the Green Lane and St Peter's Conservation Area		
19/00635/FUL	Full Application	9 Morledge Derby DE1 2AW	First floor rear extension (clinic rooms and store)	Approval	13/06/2019
19/00636/ADV	Advertisement Consent	42 Station Road Mickleover Derby DE3 9GH	Display of two externally illuminated fascia signs	Approval	14/06/2019
19/00637/FUL	Full Application	34 Stowmarket Drive Derby DE21 4SN	Two storey side extension to dwelling house (kitchen,dining room, shower room, bedroom and bathroom)	Approval	26/06/2019
19/00638/FUL	Full Application	50 Woodlands Road Derby DE22 2HF	Single storey rear extension to dwelling house (sitting area and enlargement of kitchen)	Approval	13/06/2019
19/00640/FUL	Full Application	13 Gleneagles Close Derby DE3 9YB	Single storey rear extension to dwelling house (conservatory)	Approval	20/06/2019
19/00641/PNRH	Prior Approval - Householder	37 Field Crescent Derby DE24 0HD	Single storey rear extension (projecting beyond the rear wall of the original house by 4.5m, maximum height 3.7m, height to eaves 2.5m) to dwelling house	Prior Approval Not Required	10/06/2019
19/00642/PNRH	Prior Approval - Householder	41 Sunnyhill Avenue Derby DE23 1JQ	Single storey rear extension (projecting beyond the rear wall of the original house by 4m, maximum height 3m, height to eaves 3m) to dwelling house	Prior Approval Not Required	10/06/2019
19/00643/FUL	Full Application	5 Lilley Street Derby DE24 0LA	Single storey side/rear extension to dwelling (kitchen, dining room, family space, bedroom, dressing room, en-suite and enlargement of bathroom)	Approval	26/06/2019
19/00653/FUL	Full Application	392 Burton Road	Two storey side and rear extensions to	Approval	14/06/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
		Derby DE23 6AF	dwelling house (garage, kitchen/dining area, three bedrooms and en-suite) with a cellar/storage area extension at lower ground floor level		
19/00655/FUL	Full Application	30 Pear Tree Crescent Derby DE23 8RN	Two storey side and rear and single storey rear extensions to dwelling house (covered area, kitchen/dining area, bedroom, bathroom and enlargement of bedroom)	Refuse	13/06/2019
19/00658/DISC	Compliance/Discharge of Condition	Derby Youth House Mill Street Derby DE1 1DY	Change of Use from Youth Centre to self contained student accommodation (Sui Generis Use) comprising 23 Self contained units, including two storey extension - discharge of conditions 3, 4, 5, 6 and 7 of previously approved permission DER/08/18/01227	Discharge of Conditions Complete	14/06/2019
19/00666/FUL	Full Application	The Oaklands Oaklands Avenue Derby DE23 2QL	Alterations to the garden area to include erection of a pergola structure with retractable awning, eight timber posts with lighting, installation of decking and associated landscaping	Approval	28/06/2019
19/00672/FUL	Full Application	40 Leopold Street Derby DE1 2HF	Change of use from dwelling house (Use Class C3) to office use at ground floor (Use Class B1a) with one flat above (Use Class C3)	Approval	26/06/2019
19/00678/PNRH	Prior Approval - Householder	27 Links Close Derby DE24 9PF	Single storey rear extension (projecting beyond the rear wall of the original house by 5m, maximum height 2.8m, height to eaves 2.8m) to dwelling house	Prior Approval Not Required	14/06/2019
19/00679/OUT	Outline Application	Land At The Side And Rear Of 42 Lodge Lane Spondon Derby DE21 7GE	Residential development (four dwellings)	Approval	21/06/2019
19/00683/CLP	Lawful Development	17 Sudbury Street	Change of use from dwelling house (Use Class	Approval	26/06/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
	Certificate -Proposed	Derby DE1 1LU	C3) to a house in multiple occupation (Use Class C4)		
19/00695/FUL	Full Application	1 Quarn Drive Derby DE22 2NR	Single storey front extension to dwelling house (porch)	Approval	28/06/2019
19/00696/CAT	Works to Trees in a Conservation Area	24 Kingston Street Derby DE1 3EZ	Felling of a Conifer tree within the Strutts Park Conservation Area	Approval	17/06/2019
19/00702/PNRH	Prior Approval - Householder	911 London Road Derby DE24 8PW	Single storey rear extension (projecting beyond the rear wall of the original house by 6m, maximum height 3.5m, height to eaves 3m) to dwelling house	Prior Approval Approved	21/06/2019
19/00726/NONM	Non-Material Amendment	43 Home Farm Drive Derby DE22 2UP	Single storey side extension to dwelling (study and kitchen/dining area), erection of a 1.8M high boundary fence and landscaping works - non-material amendment to previously approved planning permission 09/18/01354 to change the windows, include an additional door, two sun tubes and revise the internal layout	Approval	11/06/2019
19/00727/PNRH	Prior Approval - Householder	542 Duffield Road Derby DE22 2DL	Single storey rear extension (projecting beyond the rear wall of the original house by 6m, maximum height 3.6m, height to eaves 2.6m) to dwelling house	Prior Approval Not Required	18/06/2019
19/00736/DISC	Compliance/Discharge of Condition	69 Walbrook Road Derby DE23 8SA	Change of use from a dwelling house (use class C3) to a seven bedroom house in multiple occupation (sui generis use) and retention of single storey rear extension - discharge of conditons 3, 4 and 5 of previously approved permission DER/10/18/01497	Discharge of Conditions Complete	03/06/2019
19/00744/ADV	Advertisement Consent	2 - 4 Byron Street Derby DE23 6TT	Retention of the display of an internally illuminated ATM surround	Approval	20/06/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
19/00767/PNRH	Prior Approval - Householder	39 Carlton Avenue Derby DE24 9EJ	Single storey rear extension (projecting beyond the rear wall of the original house by 4.5m, maximum height 4m, height to eaves 3m) to dwelling house	Prior Approval Not Required	20/06/2019
19/00794/DISC	Compliance/Discharge of Condition	Sunglow 11 Chevin Road Derby DE1 3EX	Demolition Of Bungalow. Erection Of Replacement Dwelling House (Use Class C3) - Discharge of conditions 3, 4 and 5 of previously approved application code No. DER/10/17/01366  Please see attached survey.	Discharge of Conditions Complete	11/06/2019
19/00802/DISC	Compliance/Discharge of Condition	Land At Junction Of Cathedral Road Willow Row And Walker Lane	Erection Of Student Accommodation (319 Cluster Flats), associated student support and formation of two parking bays and landscaping - Variation of conditions 1, 3 10 and 15 of previously approved application code No. DER/05/18/00770 - Discharge of condition 7 of Previously approved application No. 19/00356/VAR	Discharge of Conditions Complete	04/06/2019
19/00904/TPO	Works to a tree with a TPO	Land At Edgbaston Court Derby	Various works to nine Ash trees protected by Tree Preservation Order no. 37	Application Withdrawn	25/06/2019