



Derby City Council

**PLANNING CONTROL COMMITTEE**  
**12 September 2019**

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

# ITEM 8

## **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	02/09/2019
<b>Other(s)</b>	Ian Woodhead	02/09/2019

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

**Planning Control Committee 12/09/2019**  
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Item No.	Page No.	Application No.	Location	Proposal	Recommendation
1	1-28	02/18/00286	Vacant land at Uttoxeter New Road/Talbot Street, Derby	Erection of Foodstore (Use Class A1) with Access, Car Parking, Landscaping and Associated Works	<b>To refuse</b> planning permission
2	29-40	19/00997/FUL	Land at the front of 163A Pastures Hill, Littleover	Retention of a dormer bungalow (Use Class C3) and front boundary wall.	<b>To grant</b> planning permission with conditions.
3	41-60	19/00914/FUL	7 Pelham Street, Derby	Change of Use from Dwelling house (Class C3) to 13-bed House in Multiple Occupation (HIMO) for student accommodation (sui generis) and external changes, including insertion of new ground and first floor windows and demolition of part of existing raised patio area.	<b>To grant</b> planning permission with conditions
4	61-101	11/15/01451	Site of 8 – 14 Agard Street, Derby	Erection of student accommodation block containing 71 bedrooms within 60 units and associated works including demolition of existing buildings on site.	<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 to</p>

**Appendix 1**

					grant permission upon conclusion of the above Section 106 Agreement.
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## **Committee Report Item No: 1**

**Application No: DER/02/18/00286**

**Type: Full Planning Application**

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### **1. Application Details**

**1.1. Address:** Vacant land at Uttoxeter New Road/Talbot Street, Derby.

**1.2. Ward:** Abbey Ward

**1.3. Proposal:**

Erection of Foodstore (Use Class A1) with Access, Car Parking, Landscaping and Associated Works.

**1.4. Further Details:**

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan/02/18/00286>

**Brief description**

The application site covers approximately 0.78 hectares of land located at the junction of Uttoxeter New Road and Mercian Way along the inner ring road. The site is currently vacant with all buildings and structures previously demolished. The last use was as a self-storage facility and prior to that as a bus depot. The site is served by an existing vehicular access located along Uttoxeter New Road.

The site has been cleared of all buildings and mainly comprises of bare ground with some areas of rough vegetation, as well as being either fenced or walled along its boundaries. The land levels across the site are generally flat, yet the land is slightly raised compared with the level of Uttoxeter New Road.

Uttoxeter New Road runs along the northern site boundary and Talbot Street runs to the east. To the south and west are residential properties which are accessed from Drewry Court and Drewry Lane. On the opposite side of Uttoxeter New Road there are a number of modern apartment buildings which are accessed from Great Northern Road. Beyond these lies the site of the former Friar Gate Goods Yard which includes a number of statutory listed former railway buildings.

**The proposal**

The application is accompanied by a suite of documents which include: an Ecology Report, Flood and Drainage Report, Land Contamination Report, Noise Assessment, Transport Assessment, Planning Statement and Design and Access Statement.

Full planning permission is sought for the construction of a single storey retail store covering approximately 1,260 square metres, net retail floor space. The proposed retail store would be positioned on the northern part of the site with its main principal elevation fronting onto the car parking area towards the interior of the site. Its rear elevation would abut the boundary running parallel to Uttoxeter New Road, so orientated with the back of the building presenting to the main road frontage.

The scheme has been amended with changes to the design and appearance of the proposed building. The changes include a reformed design to incorporate a shallow hipped roof and a glazed tower structure to the north east corner of the building. The external appearance would consist of a red/brown low brick wall horizontal section upon three of the elevations, with combined aluminium grey and white cladding upon the external fascia of the building. Amongst all elevations are sections of horizontal and vertical glazing – squared and rectangular in shape. The building would measure

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56m in length and 31m in depth, with a maximum height of 7.3m from ground level to ridge height. The loading bay section on the west elevation would measure 6m by 10m which is physically attached to the side flank of the building.

Access and egress would be provided from a new T junction on Uttoxeter New Road, with a secondary egress onto Mercian Way. A total of 124 vehicle parking spaces would be created and the service/delivery area would be to the west of the store. Cycle parking would be sited close to the store entrance. Eight accessible car parking spaces along with 6 parent and child spaces are also located close to the stores entrance.

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

<b>Application No:</b>	DER/12/15/01516	<b>Type:</b>	Full Planning Application
<b>Decision:</b>	Refused	<b>Date:</b>	28/02/2017
<b>Description:</b>	Erection Of Foodstore (Use Class A1) With Access, Car Parking, Landscaping And Associated Works		

*1. The development hereby refused relates to the following plans:*

*Location Plan - Drawing No. 2754/01*

*Site Sections as Existing and Proposed - Drawing No.2754/11*

*Site Plan - Drawing No. 2754/20*

*Floor Plan As Proposed - Drawing No. 2754/21*

*Elevations As Proposed - Drawing No. 2754/22*

*Sections As Proposed - Drawing No. 2754/23*

*Roof Plan As Proposed - Drawing No. 2754/24*

*Site Plan As Proposed External Finished - Drawing No. 2754/25*

*Artists Impression as Proposed - Drawing No.2754/26*

*2. The application site occupies a prominent corner location at the junction of the Inner Ring Road and on one of the main arterial routes into the City Centre in an area which is identified as a 'Primary Gateway' under Policy AC5. In the opinion of the Local Planning Authority the proposed design and form of the proposed food store building, is of an insufficient quality, which would result in a form of development, which fails to respond adequately to the street frontage and would not have a robust presence in the townscape in this prominent 'Gateway' location. In particular it is considered that the position of the retail building set to the rear of the site fails to properly address the street and results in a development that would be dominated by car parking. The proposal is therefore contrary to adopted Policies CP3, CP4 and AC5 of the Derby City Local Plan - Part 1 (Adopted 2017) and the overarching guidance in the National Planning Policy Framework.*

*3. In the opinion of the Local Planning Authority the applicant has not demonstrated that a safe and suitable access onto Uttoxeter New Road can be provided to serve the development and accordingly the development would have a significant detrimental impact upon highway safety on the local road network at the junction of Uttoxeter New Road, Great Northern Road and the Inner Ring Road. The proposal is therefore contrary to adopted Policy CP23 of the Derby City Local Plan - Part 1 (Adopted 2017).*

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**Type: Full Planning Application**

<b>Application No:</b>	DER/07/04/01263	<b>Type:</b>	Full Planning Application
<b>Decision:</b>	Granted Conditionally	<b>Date:</b>	15/12/2004
<b>Description:</b>	Erection of 172 flats and construction of car parking (not implemented)		

<b>Application No:</b>	DER/05/03/00856	<b>Type:</b>	Full Planning Application
<b>Decision:</b>	Granted	<b>Date:</b>	27/06/2003
<b>Description:</b>	Change of Use of 2 <sup>nd</sup> and 3 <sup>rd</sup> floors of Trentham house to 6 flats (not implemented)		

<b>Application No:</b>	DER/09/99/01096	<b>Type:</b>	Full Planning Application
<b>Decision:</b>	Granted Conditionally	<b>Date:</b>	26/11/1999
<b>Description:</b>	Change of use to Use Class B1,B2 & B8 uses and trade sales		

### **3. Publicity:**

Neighbour Notification Letter – sent to 61 neighbouring residents

Site Notice – Yes: on street furniture

Statutory Press Advert – Yes

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

### **4. Representations:**

Three letters of representation have been received, two letters of support and one objection.

The main points raised in the letters of support include:

- the scheme would be good for the area,
- the site has been an eyesore for 15 years,
- it would be the best possible outcome for this blight on the landscape.

The letter of objection on behalf of Clowes Development includes the following points:

- The Aldi Planning Statement, supporting the application, does not undertake a further retail impact assessment. Whilst the proposal is marginally smaller than the NPPF threshold, it is twice that of the local threshold. The current application relies on the retail assessment from the 2015 application which itself relies on the Derby Retail Study from 2015 and 2009
- It is unclear why the Retail Assessment chose to only consider impact on investment on certain parts of the City Centre
- Approval of a new foodstore on Talbot Street will mean that a similar foodstore will not come forward on Friar Gate

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- The proposed access arrangement for the Friar Gate site would be adversely affected by the Aldi proposal. The Aldi proposal will lead to a detrimental effect on highway safety and operation due to an unacceptable access strategy, unacceptable junction onto Uttoxeter New Road; unacceptable changes at the Drewry Court Junction, unacceptable junction onto Mercian Way, unacceptable changes at the Great Northern Road Junction and issues with the appropriateness of the Trip Assumptions within the Transport Assessment.
- The application has not met the sequential test having failed to demonstrate more suitable sites. The application is likely to have a significant adverse impact on committed and planned investment in a centre
- The access strategy and off-site highway improvements scheme is not demonstrated to be safe or appropriate.

### **5. Consultations:**

#### **5.1. Cadent:**

Searches based on your enquiry have identified that there is apparatus in the vicinity of the site which may be affected by the activities identified. The applicant is therefore recommended to contact Cadent Gas.

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

No objections subject to conditions.

#### **5.3. Land Drainage:**

The application is for a food store with associated impermeable paved car park and access road, on a currently vacant yet previously developed site. According to available mapping, a portion of the existing site appears to be a permeable vegetated surface. Application documents indicate that the proposed site is entirely impermeable and therefore the proposals would increase the risk of surface water flooding.

There is no information submitted to demonstrate what surface water drainage provision will be made for the site in order to comply with local and national policy and guidance (Core Policy CP2, the Non-Statutory Technical Standards for SuDS (Defra 2015) and the Planning Practice Guidance). A suitable SuDS scheme for the site should be submitted prior to the granting of permission for this development.

The FRA appropriately demonstrates a manageable level of risk from fluvial sources due to the elevated ground levels on the site in comparison to the Bramble Brook which is culverted nearby. Due to the absence of information to demonstrate that a sustainable surface water drainage scheme has been provided, I can only support the application if the following condition is imposed:

*No development shall take place until a surface water drainage scheme has been submitted and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority. The scheme shall include, as far as reasonably practicable:- A sustainable drainage solution, proposals to comply with the recommendations of the Non-statutory technical standards for sustainable drainage*

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*systems (March 2015) and The SuDS Manual (CIRIA C753), Provision of appropriate levels of surface water treatment defined in Chapter 26 of The SuDS Manual (Ciria C753) or similar approved. Appropriate ability to maintain the system in a safe and practical manner.*

### **5.4. Environmental Protection (Air Quality):**

Since the earlier application was made, there have been significant changes to national and local air quality policy, which has increased the pressure to ensure compliance with National/European Air Quality Limits. Based on national and local modelling, some locations in Derby are predicted to exceed the EU limits for annual average nitrogen dioxide (NO<sub>2</sub>). The most significant exceedance location predicted in the modelling for Derby, is the road link at Stafford Street, which is likely to be directly affected by traffic changes caused by the proposed development should permission be granted. While an updated Traffic Assessment has been submitted, the Air Quality Assessment presented with the current application is merely a re-submission of the 2016 Air Quality Assessment.

You will be aware from previous comments that Environmental Health raised concerns regarding the potential for additional queuing at the Stafford Street/Uttoxeter New Road/Mercian Way roundabout junction, in light of the known existing high levels of NO<sub>2</sub> along these road links.

Given the amendments to the scheme and the subsequent need for revision to the Traffic Assessment with the addition of greater concerns around the Council's ability to comply with National/European AQ limits, particularly along Stafford Street, I would strongly recommend that an updated Air quality Assessment is submitted before a decision is made. The assessment will need to consider the impact of development related additional traffic volumes and associated queuing along Stafford Street, using detailed air quality dispersion modelling, in accordance with local and national modelling.

In the absence of an updated assessment, I would recommend refusal of the application on air quality grounds, based on the application of the precautionary principle recommended under the NPPF and Local Planning Policy. This is largely because of the risk that the development poses to the Council's ability to comply with EU limits for NO<sub>2</sub>, which has the potential to undermine both Local and National Air Quality Policy and also the NPPF.

Should permission be granted irrespective, I would recommend the attachment of a condition to the consent, requiring an air quality mitigation strategy to be agreed by the Local Planning Authority before the development can be occupied. I would also maintain the earlier recommendation for construction dust mitigation measures to be detailed within a Construction Dust Management Plan.

### **5.5. Environmental Services (Health – Pollution):**

#### **Land Contamination**

It is noted that the same 2015 report has been submitted in connection with the current application, without any further consideration or investigation of potential ground contamination on site since that time. The submitted report provides

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insufficient details in order to draw any confident conclusions regarding contamination levels on site. The noted hydrocarbon odours across the site remain a concern, as does the known presence of asbestos within the shallow ground. This is compounded by the potential significant sources of contamination on site from the known historical industrial and commercial uses. It is strongly recommended that additional ground investigation works are undertaken on site in order to properly characterise the site, before the development commences.

### Noise

I note that as part of the planning application a Noise Impact Assessment has been submitted. I would recommend that the following conditions be attached to any planning consent, should it be granted: The submitted Noise Impact Assessment shall be agreed in writing with the Local Planning Authority. Where the submitted acoustic report has indicated that noise mitigation is required, a scheme must be submitted by the developer for approval by Derby City Council before the Development commences. All agreed recommendations for noise mitigation must be incorporated into the Development before it is occupied.

### Demolition/Building Works

I note that the proposal will involve some demolition and building works. Given the proximity of residential properties, I advise that contractors limit noisy works to between 07.30 and 18.00 hours Monday to Friday, 07.30 and 13.00 hours on Saturdays and no noisy work on Sundays and Bank Holidays. This is to prevent nuisance to neighbours. There should also be no bonfires on site at any time. I would suggest an advisory note on any planning consent regarding these matters.

### Construction

Given the scale of the Development and its proximity to sensitive receptors e.g. residential dwellings, I would recommend that the applicant prepares and submits a Construction Management Plan for the control of noise and dust throughout the demolition/construction phase of the Development. The statement will need to provide detailed proposals for the control of dust and other air emissions from the site, having regard to relevant guidance, for example guidance produced by the Greater London Authority (GLA, 2006), or the Institute of Air Quality Management (IAQM, 2012).

Noise management procedures should have regard to the guidelines described in BS5228, or other agreed guidance/standards. I would strongly recommend the inclusion of a condition requiring the above, for submission and approval before construction activities commence. The Plan should be complied with fully throughout the construction/demolition phase of the development.

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

The site is well outside the historic medieval and early post-medieval core of Derby, in an area first developed during rapid 19th century expansion of the city. The majority of the site was used as allotments/gardens until after 1915, and later in the 20th century for industrial premises, and is consequently of no archaeological potential.

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The small eastward extension of the site towards the western side of Talbot Street was associated with terraced housing, pre-dating the Board of Health Map of 1852, and probably built during the 1840s. These houses were demolished in the 20th century; until relatively recently this part of the site has been occupied by self-seeded trees, although recent clearance and establishment of a development platform has taken in this area and may have impacted upon any remains of the 19th century buildings.

Well-preserved remains of early 19th century housing are of archaeological interest because of their potential to contribute to social and cultural narratives of this crucial period in the expansion of the region's industrial towns. However, the remains adjacent to Talbot Street are likely to have been disturbed by subsequent clearance of the site. I also note that the development proposals in this area are for car parking, and will not involve particularly deep impacts.

I therefore advise on balance that the site is unlikely to retain significant archaeological remains, and recommend that there is no requirement for archaeological work under polices at NPPF chapter 12.

### **5.7. Environment Agency:**

The agency has no objections in principle, to the proposed development but recommends that given the site's industrial past a land contamination remediation condition is placed on the decision notice if planning permission is granted.

### **5.8. Derbyshire Wildlife Trust:**

The Turnstone Ecological Assessment dated October 2015, identified the site to be dominated by bare ground with scattered ruderal vegetation which was considered to be ecologically poor. Although, this assessment was carried out over two years ago we are aware that there has been little change in the nature of habitats present at the site which is comprised predominantly of bare compacted ground of little ecological value. We concur with this assessment and evaluation and recommend a condition regarding the perimeter vegetation.

### **5.9. Police Liaison Officer:**

As with the 2016 application, there are no objections to the principle of a retail store on this site. The revised store position, layout and accesses present a different set of challenges from a community safety perspective. As previously stated, the majority of customer parking has no visual supervision from within the store, nor on this occasion significant passive supervision from the surrounding road and pedestrian network.

Because of this I would recommend that approval is conditional upon monitored and recorded CCTV coverage of the entire car park, store exterior elevations and cycle parking. To compliment, a lighting scheme condition for the exterior of the store and car park. The supporting design statement makes reference to boundary treatments, but there is no plan available showing details of these. I'd ask that approval is conditional upon a secure enclosure between the site and surrounding residential land/properties.

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The large open car park has the potential to attract inappropriate use at times when the store is not trading, which would impact on both the store and amenity of neighbours. I note that the vehicular exit onto Mercian Way is provided with a form of security barrier. I would recommend that the same is provided to the Uttoxeter Road entry/exit point to enable the store car park to be secured against vehicle access when not trading. Details of these should to be agreed by condition.

### **5.10. Regeneration**

Planning permission has been previously approved for 172 flats, however no development had been forthcoming. Despite not being a Local Plan priority site, it occupies an important position on a primary gateway into the city and it was considered capable of supporting 172 flats, which is of interest to the strategic housing team. Should the applicant fail to secure permission again for the A1 food store, the strategic housing team would be interested to work with the applicant to bring forward a suitable housing scheme. Although, the fundamental issues of access and safety remains and would be of even greater significance, as a result of residential development.

## **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)**

GD5	Amenity
E12	Pollution
E13	Contaminated Land
E17	Landscaping Schemes
E18	Conservation Areas
E24	Community Safety
T10	Access for Disabled People

### **Saved CDLPR Policies**

- CP1 (a) Presumption in Favour of Sustainable Development
- CP2 Responding to Climate Change
- CP3 Placemaking Principles
- CP4 Character and Context
- CP9 Delivering a Sustainable Economy
- CP10 Employment Locations
- CP12 Centre
- CP13 Retail and Leisure Outside of Defined Centre
- CP19 Biodiversity
- CP20 Historic Environment
- CP23 Delivering a Sustainable Transport Network

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AC2 Delivering a City Centre Renaissance  
AC4 City Centre Transport and Accessibility  
AC5 City Centre Environment

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.*

## **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. Retail Policy Context**

#### **7.2. Access, Parking and Highway Safety Issues**

#### **7.3. Design, Layout and Heritage**

#### **7.4. Residential Amenity Impacts**

#### **7.5. Environmental Impacts**

#### **7.6. Other Issues**

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

The most easterly section of the site is covered by the Central Business District (CBD) allocation as identified within the adopted Derby City Local Plan - Part 1 (DCLP1). The CBD is the sequentially preferable location for main town centre uses, apart from retail (A1). The DCLP1 identifies a much more tightly defined area at the heart of the CBD as the 'Core Area' which is the sequentially preferable location for retail development. The site of the proposal is too far removed from the outer limits of the Core Area to be considered edge-of-centre. On the basis that the proposal is located in an out-of-centre location, the main policy considerations are whether the proposal is compliant with the provisions of the sequential and impact tests, as set out in the NPPF and Policy CP13 (Retail and Leisure Outside Defined Centres).

As the site of the proposal is considered to be out-of-centre the applicant is required to consider all in-centre and edge-of-centre locations falling within the Primary

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Catchment Area (PCA) of the proposal. Therefore, the starting point for considering compliance with the sequential test is to identify the PCA of the proposal.

In submitting this revised application, the applicant has relied heavily on the supporting information that was submitted with the previous application (12/15/01516), to which no objections were raised in relation to compliance with the sequential test. It's therefore necessary to consider whether there have been any material changes in context in the intervening period that would lead to a different conclusion.

Whilst no longer a specific policy test, identification of the PCA fundamentally relates to an understanding of the retail 'need' or 'deficiency' which the proposal intends to satisfy. In justifying the PCA of the previous proposal, the applicant was clear that the 'need' for the proposed floor space is related to the presupposition that the existing Aldi store at Southmead Way is overtrading to a significant degree. This has implications for customer satisfaction, parking etc. No evidence to support this assumption was provided by the applicant and in the intervening period Aldi have opened a new store on Burton Road, which to an extent will have diverted some trade away from the Southmead Way store. However, anecdotal evidence suggests that the Southmead Way store continues to overtrade and the draft findings of the Council's new Retail and Centres study support this assumption.

Whilst there is a logic that a new Aldi store on the site of the proposal would help to divert trade away from Southmead Way, it is important to note that Aldi are no longer involved with this scheme. Permission is simply sought for an A1 unit, with no named operator. Whilst a deep discount operator could occupy the site (if permitted), there's also a chance that the site could be occupied by an operator of a different nature, with a different catchment area and impact dynamics. The extent to which this risk can be mitigated through condition is explored later in this report.

In previously promoting the site for an Aldi store, a 5 minute drive time isochrone (taking account of comparable stores and other factors) was drawn from the site of the proposal in order to define the PCA. Whilst anchoring the extent of the PCA to the identified site is illogical for the purposes of properly applying the sequential test (i.e. PCA should be identified before the site), it is generally an accepted approach. The PCA produced by this approach incorporated the city centre and residential areas within the western extent of the outer ring road.

The applicant was previously advised that for the purposes of the sequential test, it is not necessary to consider Neighbourhood Centres as they are too small to accommodate development of the proposed scale. This remains the case in the determination of this revised application.

Utilising the PCA as previously defined, the applicant was advised to consider alternative sites in the city centre, district centres and retail parks. Whilst retail parks are not specifically identified as centres, it is logically more sustainable to consolidate existing retail locations before creating new ones and is the approach set out in policy CP13. For robustness and to demonstrate flexibility it is also worth applicants considering sites / units within centres that are just outside / on the edge of the PCA – due to the subjective nature of PCA definition.

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Based on the previously identified PCA, the applicant was asked to consider alternative sites within and on the edge of the city centre, Normanton Road Linear Centre, Cavendish District Centre and Kingsway Retail Park.

In terms of the content of the original Planning Statement, previously submitted, the applicant only considered alternative locations in the city centre, which was not considered to be a particularly robust approach. In light of this issue, additional information was requested from the applicant. Additional information was submitted to rule out options within Littleover, Mickleover and Cavendish District Centres as well as Kingsway Retail Park.

The only site previously identified as potentially suitable and available within and on the edge of District Centres in the PCA was the former Mackworth College site on Normanton Road / Burton Road. This site now accommodates an operational Aldi store, with other retail units soon to be commenced to the north. The site is therefore no longer available.

In terms of the new application being considered, the applicant has briefly updated the information relating to a number of opportunity sites located in the city centre and Normanton Road District Centre. Whilst not necessarily agreeing with all of the applicant's reasons for discounting specific sites, I do agree that none of the sites can be considered to be suitable and available for the development as proposed at the current time. However, it should be noted that the emerging findings of the Council's Retail and Centres study has identified a need to improve foodstore provision within the City Centre to serve the increasing residential population, to try and stem the flow of expenditure derived from central areas to more peripheral areas and ultimately to drive footfall in the Core Area. The identification of a sequentially preferable location in the City Centre would help in realising this objective. This issue is considered again in the context of 'impact' below.

Whilst the applicant has not specifically considered alternative options within the other District Centres previously considered, officers are not aware of any sites within these centres that would meet the definitions of being suitable and available for the purposes of applying the sequential test. It could be argued that there is logic to considering a wider PCA to account for some of the uncertainty associated with not knowing the nature of the future operator. Such an approach could incorporate larger parts of Allestree, Mackworth, Littleover and Normanton. However, undertaking such an approach still does not yield sequentially preferable sites that are suitable and available for the development, as proposed. Taking account of the information previously submitted, the limited updates provided with this application and officer's overall knowledge of site availability, it can be concluded that the proposal is not in conflict with the provisions of the sequential test.

An objection has been received which questions the compliance of the proposal with the provisions of the sequential test, on the basis that preference should be given to development of the Friar Gate Goods Yard (FGGY) site before the site of the proposal. Whilst part of the FGGY site is designated within the Central Business District (CBD), the CBD is not the sequentially preferable location for retail development. The FGGY site is not within or considered to be on the edge-of the Core Area (the Primary Shopping Area) and is therefore considered to be

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sequentially equal to the proposal site and should not be given preference from a sequential test perspective.

### Impact:

Paragraph 90 of the NPPF is clear in stating that proposals which would have a significant adverse impact on the factors set out below should be refused:

- existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- town centre vitality and viability, including local consumer choice and trade in the town centre and wider retail catchment;

Regardless of scale, the emphasis is on applicants to demonstrate that their proposal will not have significant adverse impacts, in terms of the factors set out above. Policy CP13 in the DCLP1 specifically requires proposals of in excess of 1,000sqm (gross) to submit a full impact assessment in order to demonstrate compliance with this requirement.

It is important to remember that quantitative impact assessments are merely indicators of potential trade diversion and cannot ever fully represent the complexities of shopper behaviour and retail dynamics. They are generally based on a huge number of assumptions (importantly including the operator) and therefore can only ever provide a guide and are not a decision making tool.

In justifying the newly submitted application, the applicant has once again simply relied on the information submitted alongside the previous application (12/15/01516), which was accepted by officers at the time. Despite requests to update the impact information, the applicant maintains that, '*...the impact assessment undertaken for the original application remains robust and the officer conclusions sound and that there have been no changes in circumstance that would lead to a different conclusion*'.

The Committee Report for the previous application (12/15/01516) provided detailed analysis of potential impacts and concluded that, subject to appropriate conditions, the proposal would be unlikely to result in significant adverse impacts on any centres within the retail hierarchy.

The issue for the determination of this application is to explore whether there have been any material changes in context that would lead to a change in this conclusion.

The most obvious way in which a new retail proposal can have a negative impact upon an existing centre is through diversion of trade.

The starting point for considering trade diversion is to determine the potential turnover of the proposed store. The previous proposal assumed that an Aldi store would have a turnover of in the region of £11.48m (based on company average sales densities – Mintel 2015) at 2020.

£9.6m of the expected turnover is likely to be derived from convenience sales (based on 80% of floorspace) whilst the remaining £1.8m is likely to be derived from comparison sales (based on 20% of floorspace). 85% of the overall turnover is

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expected to be derived from the PCA, with 15% attributed to inflow from outside the PCA.

Turnover figures of this magnitude are in excess of what we have previously accepted for similar store proposals in recent years, but undoubtedly represent a truer reflection of the deep discount sector. Whilst no longer promoted by Aldi, a turnover of this magnitude remains a robust assumption for the purposes of considering impact, assuming that conditions are imposed relating to the proportion of floorspace used for the sale of different goods, discussed below.

As noted in the previous Committee Report, the applicant's assessment of impact is predicated on a number of assumptions. It is worth considering each of these in turn before moving on to consider potential impacts.

- 'Like competes with like', i.e. an Aldi store is expected to primarily compete with other deep discount operations within the city, notably other Aldi stores and those operated by Lidl;
- The existing Aldi store at Southmead Way is overtrading;
- The planned Normanton Road / Burton Road scheme is unlikely to alleviate overtrading at Southmead Way;
- Growth in expenditure within the PCA will create 'headroom' helping to limit potential impacts on existing stores and centres;
- Comparison goods analysis based on 20% of net sales area;

On the basis that Aldi are no longer the named operator, the 'like with like' argument is less relevant as we are simply considering the development of an A1 unit, which could be occupied by a number of different retailers. Therefore there is a risk that the pattern of trade diversion could be different to that set out in the documentation the applicant is relying on. However, I am satisfied that the proposed store design, floorplate and potential range of goods conditions (discussed below) would limit the risk of the store being occupied by operators other than deep discounters such as Aldi or Lidl.

As already noted, the Normanton Road / Burton Road Aldi store is now operational and will have to an extent alleviated some of the overtrading at the Southmead Way store. However, anecdotal evidence suggests that the Southmead Way store continues to overtrade and the draft findings of the Council's new Retail and Centres study support the assumption that the store is heavily overtrading.

In terms of growth in expenditure in the PCA, the emerging findings of the Council's Retail and Centres study suggest that this is likely to be the case, with capacity identified for additional convenience floorspace across the city as a whole. This 'headroom' is likely to help offset potential trade diversion.

We have generally sought to limit 'ancillary' or 'complementary' non-food comparison sales from out-of-centre locations to <15% of the total sales floor space to ensure that the floor space can only function in a genuinely ancillary or complementary role and not challenge the primacy of centres as comparison good shopping destinations. It is generally considered that where such floor space exceeds 15%, it is no longer ancillary or complementary as it performs a more fundamental role within the

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business model. Where figures in excess of 15% have been permitted, it is generally where a specific robust case to allow such sales has been made. It should be noted that restrictions limiting the amount of comparison goods sales to 15% of the total sales floor space have been accepted by Aldi at their Coleman Street store, at their recently opened Normanton Road / Burton Road store and at their recently extended Meteor Centre store.

The applicant previously considered impact in terms of the proposal in isolation (solus) and cumulatively, taking account of the Normanton Road / Burton Road scheme as proposed at the time. The solus considerations can now be disregarded as the Normanton Road / Burton Road store is operational. The cumulative assessment is therefore of most relevance to this application. The applicant was asked to update the impact assessment to take account of the fact that the Normanton Road / Burton Road store is fully operational and its impacts better understood. However, updated information has not been provided.

In terms of cumulative impacts on out-of-centre shops, the previous analysis suggested that the existing Aldi at Southmead Way will take the biggest hit, potentially losing close to a third of its convenience turnover (based on benchmark), whilst the Aldi store at Coleman Street will lose close to 9%. The newly opened edge-of-centre store at Normanton Road / Burton Road is anticipated to lose around 13% of its benchmark turnover. These patterns of trade diversion appear broadly logical based on the new store being occupied by a deep discount operator. Out-of-centre and edge-of-centre stores such as these do not receive policy protection and therefore impacts of this nature do not raise policy concerns.

Policy is concerned with protecting the health of defined centres, such as the City Centre and District Centres. The previous Committee Report raised concerns about potential impacts on both Normanton Road and Chaddesden District, largely due to convenience trade diversion away from Lidl (at Normanton Road) and Lidl and Aldi in Chaddesden. However, analysis of the cumulative impact figures suggest that the more significant impacts on these stores are associated with the Normanton Road / Burton Road scheme which is already operational. The new store being proposed will in essence 'cannibalise' trade from the edge-of-centre Normanton Road / Burton Road store, reducing the level of diversion from Chaddesden and Normanton Road when considered in isolation. The Normanton Road / Burton Road store has theoretically already impacted on these centres and the additional impacts associated with this proposal are not anticipated to be significantly adverse.

The consideration of impact should also be in the context of the overall health of centres that are being considered. In the case of Chaddesden, the emerging Retail and Centres study identifies that the centre is in good health, which logically suggests that it could better absorb potential impacts, compared to a centre that was in poor health.

In terms of the overall level of comparison turnover, officers are not convinced that it will lead to significant adverse impacts on any centres, particularly if comparison sales can be limited to 15% of sales floor space in line with all of the recent Aldi

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applications. Whilst the level of comparison turnover is not insignificant in itself, the nature of such sales from deep discounters means that there is unlikely to be sustained periods of trade diversion from any single in-centre operator. Growth in comparison expenditure will also help to mitigate potential impacts. The main issue in relation to comparison sales is the potential impact on overall retail strategy, if we permit in excess of 15% of net sales area and general compatibility with the provisions of Policy CP13, which seeks to restrict the sale of a range of comparison goods from out of centre locations.

In order to protect the Council's retail strategy, rather than imposing a blanket condition to ensure that comparison floor space equates to no more than 15%, it is instead recommended that a condition that limits the sale of all of the goods listed in Policy CP13 to no more than 15% or 188sqm of the sales floor space is imposed. This provides the applicant with some level of flexibility, whilst protecting the Council's overall strategy.

In the case of the Coleman Street store, a condition was imposed restricting the sale of newspapers, tobacco and magazines in order to try and protect the vitality and viability of a nearby neighbourhood centre. Whilst no impact analysis on the Monk Street centre has been presented, Officers feel there would be justification to impose the same condition in this case, in order to mitigate potential trade diversion from the small newsagent / convenience store located within the Monk Street neighbourhood centre.

The subjective nature of impact consideration means that the bar has been set very high in terms of what has been accepted as 'significant adverse impact'. Generally, refusals have only been upheld in relation to large superstores where impacts are pronounced and demonstrable. Therefore, whilst it has been unhelpful that the applicant has not fully updated their impact analysis and there are potential risks in terms of not knowing the future occupier, it may be difficult to demonstrate a level of certainty that 'significant adverse impacts' will occur, particularly if affected stores are already overtrading.

As already noted, the emerging findings of the Council's Retail and Centres study identifies a need to improve foodstore provision within the City Centre to serve the increasing residential population, to try and stem the flow of expenditure derived from central areas to more peripheral areas and ultimately to drive footfall in the Core Area. There is a risk that allowing this proposal may undermine efforts to secure a more centrally located foodstore with greater benefits. However, in the absence of a specific scheme, it would be difficult to argue that the proposal will undermine investment in the centre.

An objection has been received which suggests that granting this application will undermine planned investment in the FGGY site and that this would constitute a significant adverse impact. The test as set out in the NPPF and CP13 is whether a proposal would have a 'significant adverse impact' on investment in or vitality and viability of centres. As set out above in relation to the sequential test, the extent of the defined centre for the purposes of retail planning is the Core Area – not the CBD. Whilst the objector may or may not be correct in their assertion that the application will undermine development of the FGGY site, the fact that the FGGY site

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is not considered to be in-centre means that it receives no policy protection in relation to retail impact.

Sequential Test – Previous concerns about the proposal potentially undermining the delivery of a similar scheme on the edge-of Normanton Road District Centre are no longer relevant as the scheme has been delivered and is being operated by Aldi. Previous concerns relating to the potential availability of the former DRI site are now also resolved as the site now has planning permission for an alternative scheme, with a much smaller retail element and the landowner intends to implement this permission. In the absence of any alternative sites that would meet the definitions of suitability and availability, the proposal is considered to be consistent with the provisions of the sequential test.

The applicant has relied upon the impact assessment that was submitted with the previous application, to which no policy objections were raised at the time. Whilst a significant period of time has passed since the impact assessment was submitted, the fact that it takes account of the projected impacts of the Normanton Road / Burton Road Aldi means that it remains relevant, although it could have been updated to reflect actual customer behaviour. However, the results of the impact assessment are predicated on the basis that the proposed store will be occupied by Aldi or a similar retailer of a deep discount nature. Aldi are no longer the named operator of the proposed store.

The fact that there is no longer a named operator introduces a degree of risk in terms of predicting impact. I am generally satisfied that the imposition of conditions relating to overall sales floorspace, the proportional split of net sales area given over to the sale of convenience and comparison goods along with the overall layout and design of the scheme will mean that the unit is likely to be occupied by a deep discount food operator.

On the basis of the above, the impact of the comparison sales element of the proposal isn't considered to be significant and any potential future impact upon the nearby Monk Street neighbourhood centre could be limited through the inclusion of a condition restricting the sale of goods such as newspapers, magazines and cigarettes. A condition restricting the subdivision of the proposed unit is also recommended.

The turnover of the new store will be generated from the diversion of trade from a range of stores most notably the existing Aldi store at Southmead Way and the now operational store on the edge-of Normanton Road District Centre. Both of these stores do not receive policy protection.

The most significant impacts on in-centre stores are likely to be felt by the existing Lidl at Southgate Retail Park, which forms part of Normanton Road District Centre and by the Aldi and Lidl at Chaddesden District Centre. Anecdotal evidence suggests that these stores are likely to be overtrading and this is supported by the emerging findings of the Council's Retail and Centres study. On this basis and consideration of the level of impact on these stores in the context of wider in-centre trade and turnover, officers are satisfied that impacts will not meet the policy test of being 'significantly adverse'.

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### 7.2. Access, Parking and Highway Safety Issues

The issue of site accessibility is a very important issue that has been examined very carefully throughout the life of the application. Colleagues, in Highways, have assessed the impact of the proposal in line with industry standard methodologies, particularly in reference to a robust demonstration that a safe and suitable access can be provided to serve the proposed development. The issue of traffic generation and the safe operation of the proposed development in highways terms is a significant factor in the determination process. Following a detailed consultation exercise the concluding comments of colleagues are repeated as follows:

The National Planning Policy Framework (NPPF) states in paragraph 32 that *“all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:*

- *The opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;*
- *Safe and suitable access to the site can be achieved for all people and;*
- *Improvements can be undertaken within the transport network that 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.”*

Paragraph 111 says: ***All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.***

Policy CP23 (Delivering a Sustainable Transport Network) of the adopted City of Derby Local Plan- Part 1 states that new development is not permitted where, amongst other things, it would cause, or exacerbate, severe transport problems, including unacceptable impacts on congestion, road safety, access and air quality. The text notes that support the policy aim to ensure that new development will not generate significant and unacceptable impacts on road safety and that the Council will continue to require on and off-site mitigation and resist development that has an unacceptable impact on road safety, congestion or air quality.

The above application is the permitted ‘free go’ following refusal of 12/15/01516 in 2017. Since the refusal of the original application there have been material changes in circumstances affecting the assessment of the above proposal, see below;

Planning consent No 03/11/00246 for the redevelopment of Friargate Goods Yard has lapsed and consequently is no longer considered to be committed development in respect of assessing the above proposal; In May 2019 the Secretary of State for the Environment issued the Council with a ministerial directive to undertake measures to improve the air quality on Stafford Street between Uttoxeter New Road and Friar Gate. It should be noted that the proposed scheme to achieve compliance

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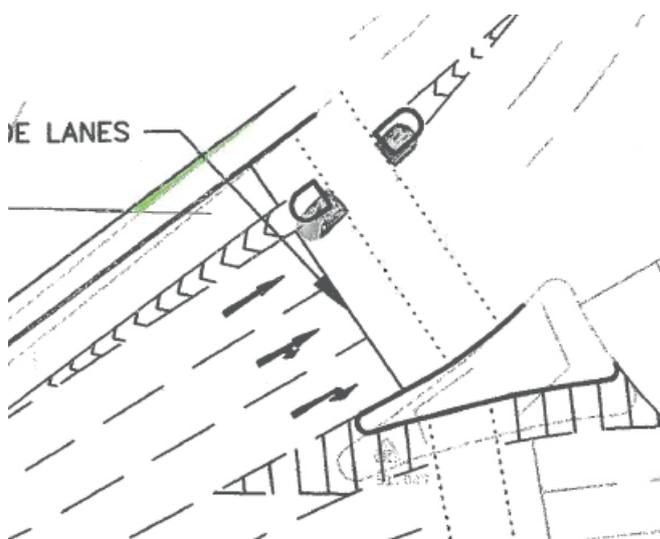
with the directive is likely to significantly reduce the capacity of the highway network adjacent the above application site.

### **Uttoxeter New Road Off-site Works**

As described at Appendix A, the highway authority's concerns predominantly stemmed from the potential danger to drivers turning right into and right out of the site through lanes of queuing traffic.

The applicant has proposed a number of physical changes to the original application to seek to overcome the Highway Authority's concerns. A localised road widening scheme is proposed adjacent the proposed site access on Uttoxeter Road together with an 'exit only' onto Mercian Way, as shown on Drg No ADC 1647-DR-008 P4 and Drg No ADC 1647-DR-009 P3 (Both drawings are generally the same with just small changes to the exit on to Mercian Way). The effect of these changes is that drivers will be able to enter the Uttoxeter New Road access from both directions however those turning right into the site will have a ghost island harbourage in which to wait safely for an opportunity to turn into the site. Also the Uttoxeter New Road site access has been designed to discourage right turns out onto Uttoxeter New Road.

The Council has undertaken significant work developing their proposed Air Quality Improvement Scheme and through this work it has become apparent that Drg No ADC 1647-DR-008 P4 shows the applicant's proposed scheme can only be achieved by narrowing the existing bus lane to an unacceptable level and by the use of 3<sup>rd</sup> party land, see extract below.



The dark refuges show the existing location of the refuges, and consequently the extent to which the bus lane is narrowed. The green triangle shows the extent of 3<sup>rd</sup> party land. To fully understand the likely level of improvement required to provide a suitable RTL scheme the Council commissioned additional work through their consultants. The findings are shown on Drg No A081175-115 35 18 Option 3, which

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confirms that a more significant improvement scheme would be required with the use of 3<sup>rd</sup> party land.

Since the above application was lodged the Council has further developed its Air Quality Improvement Scheme. The applicant has been informed of this material change and that the Council's scheme directly impacts on their proposed off-site works. The applicant has subsequently amended their scheme and produced a revised scheme as shown on Drg No ADC1647-DR-009 Rev P6. The Council's has also considered the minimum scheme which is compatible with the Council's Air Quality Improvement Scheme and this is shown on Drg No A081175-115 35 18 Option 1, it is a scheme based on this drawing which is recommended should be required through any planning consent.

### **Proposed exit only onto Mercian Way**

The new 'exit only' onto Mercian Way has been proposed as an alternative exit to the right turn out onto Uttoxeter New Road. This exit will allow use of the roundabout as a means to travel anti clockwise around the inner ring road and to travel along Stafford Street. To prevent drivers turning right out of the proposed exit the applicant proposes to extend the central refuge on Mercian Way.

In an ideal world the proposed exit onto Mercian Way would not be supported as it is generally good practice to keep access to the Inner Ring Road to a minimum. However in these particular circumstances it is considered there is little alternative due to the difficulties describe in the previous highway comments at Appendix A.

The proposed exit onto Mercian Way is also directly affected by the Council's highway network changes relating to improving air quality on Stafford Street. When the applicant proposed the exit onto Mercian Way drivers were able to go left/ahead from the nearside land and ahead/right from the off-side lane. The changes associated with the Council's Air Quality Improvement Scheme forces all drivers to use the offside lane to go ahead and right as the near side lane is to become left turn only. It could be argued that this potentially makes the 'exit only' less safe as more vehicles will have to move out to the outside lane than would have previously been the case. The applicant has commissioned a safety audit by independent auditors who raised no concern about the proposed exit with the Air Quality Improvement Scheme in place.

### **Right Turn Accidents at Gt Northern Road**

An additional benefit to highway users provided by the developers proposed highway scheme is the provision of a ghost island harbourage for drivers wishing to turn right into Gt North Road. At present drivers have to wait in live carriageway and consequently are likely to feel pressure to turn as soon as possible due to fear of a rear end shunt. The provision of the ghost island may not entirely solve the existing accident problem at this location however it must improve the situation by providing a safe space for drivers to wait. The scheme also provides a ghost island into Dewery Court.

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**Parking and Servicing** – are considered acceptable

*c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree,*

### **Traffic Modelling** –

The transport assessment of the above application is complex because of the material changes mentioned above. The fact that planning consent for a large Tesco on Friargate Goods Yard has lapsed and therefore is no longer committed development in the assessment of the above application significantly reduces the background traffic that has to be considered. However the proposed removal of capacity from Uttoxeter Road approach to the ring road roundabout by the Air Quality Improvement Scheme will increase network congestion in the peak hours.

The proposed assess to Mercian Way also has to be carefully considered because it is likely to increase the number of drivers 'u' turning at the roundabout and the available capacity for this movement is limited.

The assessment of this application has been difficult for the developer because introduction of the Air Quality Improvement Scheme after their application was lodged has meant they have had to do additional work. It is considered that assessment of 'u' turning traffic at the roundabout requires some clarification and the developer has been asked to provide this information. This clarification will be reported to members prior to the above matter being considered by planning committee.

### **Conclusion**

The Council are directed by Central Government to implement an Air Quality Improvement Scheme which directly impacts on the off-site works required to make the above application acceptable in highway safety terms. To ensure these off site works can be delivered it is considered that a scheme based on WYG Drg No A081175-115 35 18 Option 1 would be compatible with the Council's Air Quality Scheme and would provide a suitable right turn harbourage adjacent the proposed Uttoxeter New Road access. It would also provide right turn harbourages into Gt Northern Road and Dewery Court.

It should be noted however that the restoration to the number of lanes on the Uttoxeter New Road approach to the ring road roundabout which exists pre Air Quality Improvement Scheme with the above RTL scheme in place would require significant additional highway works and the likely acquisition of 3<sup>rd</sup> party land. The extent of the improvement likely to be required is shown on WYG Drg No A081175-115 35 18 Option 3.

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*Additional information with respect to the modelling of the likely 'u' turns at the Mercian Way roundabout has been requested and the results of the additional assessment will be reported to prior to planning committee.*

Therefore, there are objections to the development on highway grounds, subject to conditions relating to: A ghost island adjacent the Uttoxeter New Road access as shown for indicative purposes on Drg No A081175-115 35 18 Option 1; An exit only onto Mercian Way including an extension to the roundabout splitter island to prevent right turns out on the exit; The proposed car park and service area are suitability surfaced, lit and drained and is available to customers.

### **7.3. Design, Layout and Heritage** **Heritage**

The proposed development could have impacts on nearby heritage features, although there are no designated historic features on the site itself. Immediately opposite the site, on the northern side of Great Northern Road, is the Grade II Statutory Listed Engine House building which is part of the Friar Gate Goods Yard site.

In considering this application, the decision maker must have due regard for the duties under Sections 66 (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 possess and pay special attention to the desirability of preserving or enhancing the character and appearance of the conservation area. Regard should also be given to policy CP20 (Historic Environment) which seeks to protect and enhance 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. Under policy E19 proposals should not have a detrimental impact on the special architectural and historic interest of listed buildings or their setting.

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, 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.

Given that the proposal effectively moves the retail building from the rear of the application to the front of the site it could be deemed that there would be an impact

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on the setting of the Friar Gate Good Yard Engine House, a designated heritage asset. As such, the applicant is required to submit a heritage impact assessment. Because this information has not been submitted it is not possible for the LPA to fully access the implications of the proposal upon the designated heritage asset.

### **Design and Layout**

In considering the design of the proposal it is necessary to have regard to and give appropriate weight to the provisions of policy CP3 (Placemaking Principles) and CP4 (Character and Context) in the adopted DCLP. The proposed building, as amended by the latest suite of drawings, would accommodate a rectangular footprint and would be positioned on the northern part of the site with its main principal elevation fronting onto the car park area toward the interior of the site. In comparison to the previously refused scheme, the main change has been to relocate the building from the southern to northern end of the site (from the rear of the site to the front of the site). The orientation of the building is such that its rear elevation would abut the boundary running parallel to Uttoxeter New Road, effectively the back of the building presenting itself to the main road frontage and public domain.

The scheme has been amended with changes to the design and appearance of the proposed building, yet the design of the building is still overtly functional and characteristic of a modern food store, more suited to a retail park. The changes include a reformed design to incorporate a shallow hipped roof and a glazed tower structure to the north east corner of the building. The external appearance would consist of a red/brown low brick wall horizontal section upon three of the elevations, with combined aluminium grey and white cladding upon the external fascia of the building. Amongst all elevations are sections of horizontal and vertical glazing – squared and rectangular in shape. The building would measure 56m in length and 31m in depth, with a maximum height of 7.3m from ground level to ridge height. The loading bay section on the west elevation would measure 6m by 10m which is physically attached to the side flank of the building.

Certainly in terms of the footprint, the proposed store, would be substantial when compared to the footprint of other buildings along the southern side of Uttoxeter New Road. There is a sense of this development being shoe-horned into the wrong site resulting in over development of the site. This site is highly prominent, following the completion of Connecting Derby, and was always considered to become a key “gateway” site at the edge of the city centre, with potential for a high quality development which sits just out of the setting of the Friar Gate Goods Yard. There is a “sloop” triangular area of highway land, leftover from Connecting Derby, which makes the street feel disjointed, and this ought to be bought forward as part of the development site – it would otherwise likely become a neglected eyesore.

The previous drawings were of a standard Aldi superstore, large rectangular footprint and with a mono-pitched roof. The recent alterations show a generic but similar retail store model, but with a more articulated elevation fronting Uttoxeter New Road; a pitched roof (still of standard out of town grey UPVC-style cladding) and two square tower features. A tower is assumed to aim towards a focal point/corner feature on the curve of the site, where the buildings’ footprint/form cannot otherwise be modified

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to reflect the road junction setting any better. My view is that although this provides a slight improvement in the design detail, it does not address the fundamental urban design qualities which I would advise on this site:

To be of a certain height in proportion to the mass which would give a strong gateway feature and give an orientation point on the inner ring road – i.e. more like 4-6 storeys. This would also respond better to the urban grain around this junction; to respond to the curved form and ideally to provide built edge right up to the back of footway; to provide some visual interest at a pedestrian and vehicular level to all elevations which should have a relationship with the street; to provide an interesting and varying good quality roof-scape from longer views, particularly further upward along the elevated section of Mercian Way.

The development site sits within the frame of a viewpoint(s) defined by the draft Skyline Analysis work, and therefore should be the subject of further analysis using verified photography and photomontages, to make the case that the proposals would be an enhancement to these views and the skyline of the city. I doubt that the proposed development, in its current form, would be considered to be acceptable under such analysis. In addition the view of the site from higher ground on Mercian Way is highly noticeable, and from the elevated angle the roof will be seen as a whole mass, and is likely to appear, in this standard model, as more akin to an out of town retail shed. The changing land levels around this site coupled with the elevated position of the application site above Uttoxeter New Road would exasperate these concerns.

The boundary treatment is of great importance to the streetscape and there is no strong quality detailing on this aspect. I also have concern that the generic retail store model would evolve with a number of garish brightly coloured and lit signage along with two large “totems” as shown on the drawings. This is not in keeping with a lower tolerance of signage/advertising within the city centre, which can cumulatively be of detriment to good urban design. Furthermore, they would be considered to be incongruous features within the surrounding street scenes.

It is considered that the design, form and elevational treatment of the proposed building would be of insufficient quality for this prominent edge of city centre location. Accordingly, the development fails to comply with paragraphs 56 and 64 of the NPPF and Policies CP3, CP4 and AC5 of the adopted DCLP-Part 1.

### **7.4. Residential Amenity Impacts**

With regard to residential amenity the main impacts would be upon those surrounding properties near to the application site, particularly Talbot Mews, Drewry Lane and Drewry Court. The nearest residential property to the proposed building is the 4 storey apartment block, known as The Milford on Uttoxeter New Road, some 24 metres from the application site. The side aspect of that block contains principle windows which face onto the application site, these are approximately 24 metres. Accordingly, the built relationship between the west elevation of the apartment block and the side aspect of the proposed retail food store would be tolerable in massing and amenity terms. Likewise, those nearest dwellings along Talbot Mews (No's 8, 9

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and 10) would not be unacceptably harmed by the physical presence of the proposed building. Immediately opposite the site is another 4 storey block of apartments on the northern side of Uttoxeter New Road. The distance between the proposed building and the front elevation of the apartments directly opposite is some 35 metres with Uttoxeter New Road intervening between the two.

It is considered that the development is unlikely to have detrimental impacts on residential amenity of nearby dwellings through overlooking, loss of light, or general massing given the distance to neighbouring properties and siting of the proposed building. The main issue with respect to residential amenity is possible noise and disturbance, mainly from deliveries/servicing, mechanical plant and from the public during operating hours. The findings of the submitted Acoustic Impact Assessment have been duly considered by the Environmental Health Officer. The Assessment looked at the noise impact from fixed plant and machinery, delivery vehicles, traffic generated by the development and construction noise. Whilst some concerns have been raised by the Environmental Health in respect of noise from deliveries vehicles and plant on the sides and rear elevations of the building it is considered that these issues could be suitably addressed through restrictive conditions controlling delivery hours together with the precise locations of any plant/machinery on the exterior of the proposed building. The provision of a construction management plan is also recommended and could be controlled through condition.

Overall, whilst the application site is situated in close proximity to the rear and side of residential properties, the relocated position of building and the development would introduce a new commercial noise source into the area, it is considered that the use of restrictive conditions would assist in minimising any impact on nearby residents and as a result the proposed development wouldn't be so harmful to the amenity of nearby residents that a refusal could be substantiated on these grounds. The provisions of saved policy GD5 are therefore satisfactorily met by the proposal. The application has also not attracted any letters of representation or objection on loss of amenity grounds.

### **7.5. Environmental Impacts**

#### **Air Quality**

The site is within the Air Quality Management Area (AQMA) which covers Uttoxeter New Road, 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 retail unit has the potential to increase poor air quality in those areas, where the Council is being required by Central Government to improve air quality. 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.

During the life of the application, 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 on Stafford Street and the roundabout junction and other properties currently exposed to poor air quality

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levels, which exceed exposure levels recommended by the EU Air Quality Directive. 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, effectively reducing capacity of the highway network. The Roadside NO<sub>2</sub> Scheme is scheduled for completion by the end of 2019.

It is important to emphasise that the implementation of the Roadside NO<sub>2</sub> Scheme is a material consideration in the determination of this application, since the proposed retail store would have traffic impacts on the affected roundabout junction as well as Stafford Street. 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.

Again, at present, the Environment Health Officer has outstanding concerns in respect of air quality issues. The current submitted assessment is considered to be insufficiently detailed and he offers caution in the absence of a more detailed assessment. The EHO recommends that the developer puts forward some mitigation measures, in order to address the air quality concerns at this location, particularly in light of traffic generation and air pollution levels where the proposed traffic management scheme is operating. It is recommended that the provision of an air quality mitigation strategy could be controlled through condition to ensure compliance with the requirements of Policy E12 of the CDLPR and Policies CP23 of the adopted DCLP and paragraph 124 of the NPPF.

### **Flood Risk**

The majority of the application site is located within the Environment Agency's Flood Zone 1 and therefore deemed to have a low probability of river flooding. Whilst a small area of the site's north-eastern corner falls within the City Council's SFRA Flood Zone 2 this area will only be used for car parking and is elevated (by approximately 1m) compared with the level of the highway to the north. Furthermore the proposed development is categorised as 'less vulnerable' and therefore is deemed to be appropriate in Flood Zone 2. No objections have been raised by the Environment Agency and the City Council's Land Drainage Officer is satisfied that the submitted Flood Risk Assessment demonstrates a manageable level of risk from fluvial sources. Whilst the submitted drainage information is considered to be lacking the submission of a further detailed surface water drainage scheme for the site, including the provision of sustainable drainage measures, could be controlled through conditions to ensure compliance with Policy CP2 (Responding to Climate Change) and paragraph 103 of the NPPF.

### **Ground Contamination**

At present the City Council's Environmental Health Officer feels the submitted Ground Contamination Report provides insufficient detail to draw any confident conclusions regarding contamination levels at the site. However a suitable condition could be attached to any decision to control the submission and agreement of a further detailed Phase I Desk Study and Site Investigation, together with a

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Remediation Method Statement and subsequent Validation works. Should permission be granted, subject to the inclusion of such a condition, the proposals would accord with the requirements of saved Policy E13 of the Local Plan Review.

### **7.6. Other Issues**

#### **Draft Heads of Terms for the Section 106 Legal Agreement**

The agent and/or applicant have not engaged with officers to discuss or negotiate the draft heads of terms. The policy compliant contribution would be a financial highway sum towards delivering the section of the Mickleover and Mackworth cycle & pedestrian route between Kingsway and Friar Gate.

Members should be aware that Heads of Terms are not agreed and if Members decide to go against officer recommendation, then confirmation is required on how we can finalise a Section 106 Agreement. The options are: (1) to approve with policy compliant contributions; (2) delegate negotiation of Heads of Terms; (3) resolve at October Planning Committee.

#### **Community Safety**

The main issue with regards to crime and disorder is whether the car park would be used outside of opening hours in a way which could cause anti-social behaviour. Although, some minor amendments to the scheme have been recommended by the Police Liaison Officer (PLO) to minimise the opportunity for crime and to create a safe and secure environment, no overriding objections have been raised in respect of crime prevention/community safety and it is considered that these matters could be dealt with through the imposition of suitably worded planning conditions. In this respect the proposed development is considered to reasonably comply with saved Policy E24 of the Local Plan Review and paragraph 109 of the NPPF.

#### **Planning balance**

The proposed development would make use of this brownfield site and is in a highly sustainable location close to nearby residential areas with good public transport links. The proposed foodstore development would also provide benefits in terms of regeneration and job creation. However the benefits are considered to be outweighed by the significant harm which would be caused in terms of the insufficient quality of the proposed design and form of the development in this prominent gateway locale on the edge of the city centre, with the resultant adverse impact upon the character and appearance of the area. As required by paragraph 14 of the NPPF, there is demonstrable harm arising from the development, in terms of design and layout which is outweighed by the limited benefits of the scheme.

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

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

To refuse planning permission

#### **8.2. Reasons:**

1. The application site occupies a prominent corner location at the junction of the Inner Ring Road and on one of the main arterial routes into the City Centre in an area which is identified as a 'Primary Gateway' under Policy AC5. In the opinion of the Local Planning Authority the proposed design, siting, external appearance and form of the proposed food store building, is of an insufficient quality, which would result in a form of development, which fails to respond adequately to the street frontage and would not have a robust presence in the townscape and skyline in this prominent 'Gateway' location. In particular, the large single storey expanse of the proposed development with an uninspiring roof design fails to address the surrounding context and be a missed opportunity for providing a gateway feature at this prominent junction. Furthermore, the orientation of the building would be visually intrusive to the street scene of Uttoxeter New Road, with its rear elevation running parallel to the street scene turning its back on the public domain. The proposal is therefore contrary to adopted Policies CP3, CP4 and AC5 of the Derby City Local Plan – Part 1: Core Strategy (adopted 2017), saved Policy GD5 of the adopted City of Derby Local Plan Review and the National Planning Policy Framework which advocates good design at all levels of the planning process and achieving well designed places.
2. The application fails to provide sufficient information in regards to the proposed developments impact on the setting and significant of nearby designated heritage assets, in particular the Grade II Listed Engine House and Grade II Railway Warehouse, Friar Gate Goods Yards. As such the Local Planning Authority cannot assess the proposal under the National Planning Policy Framework and the application fails to satisfactorily meet the requirements of paragraphs 184, 189, 190, and 192 of the National Planning Policy Framework, as well as saved Policy E19 of the adopted City of Derby Local Plan Review and policy CP20 of the Derby City Local Plan Part 1: Core Strategy.

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

Should planning permission be granted the Local Planning Authority would seek to secure contributions towards the Mickleover/Mackworth pedestrian/cycle footpath.

#### **8.4. Application timescale:**

The application timescale for determination expired on 25<sup>th</sup> May 2018.



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

**Application No: 19/00997/FUL**

**Type: Full Planning Application**

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### **1. Application Details**

**1.1. Address:** Land at the front of 163A Pastures Hill, Littleover.

**1.2. Ward:** Littleover

**1.3. Proposal:**

Retention of a dormer bungalow (Use Class C3) and front boundary wall.

This application seeks permission for the retention of the erection of a dormer bungalow (Use Class C3) and front boundary wall. Planning permission DER/11/16/1437 granted permission for a new dwelling on land to the front of 163 Pastures Hill, Littleover. The building is now complete and now inhabited but has been built with several features differing from the approved drawings. As such, and following enforcement investigations, this full and retrospective application has been submitted to regularise the situation so that the dwelling has permission as built.

Specifically the following changes have been made:

- The garage has been enlarged in width by some 1.2m, adding some 6.7sqm to the footprint of the dwelling, bringing the front-most part of it closer to Pastures Hill.
- The dormer window to bedroom 1 has been enlarged in depth by some 1m.
- There is a new velux window in the roof plane above the en-suite to bedroom 3
- Three windows in the side elevation facing southwards have been omitted, the two at ground floor level now being shown as bricked up insets
- There is a new window on the north east facing side elevation, facing towards 161 Pastures Hill.
- The dwelling is taller than previously approved by 1m (measured at the doorway on the north western elevation)
- Land levels on the site have been changed, an objector suggests that land at part of the site has been raised by about 1m. The City Council accepts this view.
- Landscaping (in the form of a privet hedge) is now proposed along the south western boundary of the site which abuts a private drive.

**1.4. Further Details:**

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan/19/00997/FUL>

**Brief description**

Pastures Hill is a largely residential area which also accommodates the extensive grounds of Littleover Community School. 163 Pastures Hill lies opposite the school area between 161 Pastures Hill and the private access drive that serves 165, 165a, 165b, 167 and 169 Pastures Hill. 165, 165a, 165b and 167 Pastures Hill are backland developments whilst 169 Pastures Hill occupies a position close to Pastures Hill, albeit being orientated sideways on to the road. I understand that the private access road is owned by the occupants of 169 Pastures Hill with access

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rights given to the other properties that need to use it. The street scene on Pastures Hill is composed of a wide variety of house types, scales and designs. Development appears to have been somewhat ad-hoc with dwellings added as the city expands in a southerly direction. More recently dwellings have been remodelled or demolished and rebuilt, whilst these have tended to be one –off designs, in a sense they have been in-keeping with the varied character of ad-hoc development that is typical of Pastures Hill. In terms of layout, continuity is derived from dwellings typically occupying a position close to the road. The original two storey house at 163 Pastures Hill does not comply with this trend, rather it is set back some way behind the rear of 161 Pastures Hill. As such, it has historically been out of kilter with the general pattern of development. The new dwelling on land to the front of 163 Pastures Hill (formerly the front garden of 163 Pastures Hill) sits more in-line with the predominant urban rhythm.

As its name suggests, land levels on Pastures Hill are uneven, sloping sharply upwards in a north easterly direction so that the application site is higher than 169 Pastures Hill and 161 Pastures Hill is higher than the application site. Land levels across the site are also uneven, sloping downwards in a south westerly direction.

The site shares a driveway access with 163 Pastures Hill. Otherwise it is separated from the private driveway by fencing mounted on a gravel board. It is separated from the original dwelling at 163 Pastures Hill and 161 Pastures Hill by a brick wall. Those Members that attended a site visit in November 2018 and those who subsequently attend a site meeting currently being arranged for September 2019 will have noted these characteristics of the area and how the new building sits within the established street scene.

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

<b>Application No:</b>	DER/11/16/01437	<b>Type:</b>	Full Planning Application
<b>Decision:</b>	Granted Conditionally	<b>Date:</b>	21/03/2017
<b>Description:</b>	Erection Of a dormer bungalow (use class C3) and front boundary wall.		

<b>Application No:</b>	DER/08/18/01325	<b>Type:</b>	Variation of Condition – Section 73
<b>Decision:</b>	Withdrawn	<b>Date:</b>	
<b>Description:</b>	Erection of a dormer bungalow (Use Class C3) and front boundary wall – variation of condition 2 of previously approved planning permission 11/16/1437 to amend the approved plans.		

<b>Application No:</b>	19/00492/VAR	<b>Type:</b>	Variation of Condition – Section 73
<b>Decision:</b>	Withdrawn	<b>Date:</b>	3/9/2019
<b>Description:</b>	Erection of a dormer bungalow (Use Class C3) and front boundary wall – variation of condition 2 of previously approved planning permission 11/16/1437 to amend the approved plans.		

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Applications DER/08/18/01325 has been withdrawn and 19/00492/VAR has also been withdrawn. Decisions to withdraw were taken once it became clear that they had been submitted based upon erroneous advice that the work could be considered under S73 which allows variation of conditions relating to approved plans when work has not been started or has been started but not substantially completed.

The current application is a full application which takes a fresh look at the bungalow as built.

### **3. Publicity:**

Neighbour Notification Letter

Site Notice

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

### **4. Representations:**

Cllr. Carr has requested that the application be heard at Planning Control Committee and 1 objector has written expressing concern about land levels and referring back to comments raised in previous applications. These comments can be seen by reviewing the previous application documents which are available at the Council's website and are summarised below;

- Land levels have been substantially changed and the new built up levels can be measured against the topographical plan (and levels reference points existing on the neighbouring drive) submitted under the original application DER/11/16/1437.
- There has been inconsistency in whether the City Council has accepted that the original topography report was correct.
- Due to land levels being raised, the bungalow has increased in height.
- The raised levels are causing run off onto the adjacent private drive which had frozen on the drive causing a hazard over winter. The objector advises that failure to address this point with his legal representatives (Knights) would be taken as Derby City Council accepting liability for any accidents that occur.
- With respect to problems with BT cables and a contention from the agent that Open Reach were unable to carry out remedial work due to being denied access to the necessary area, the objector has advised that Open Reach have never been denied access onto the neighbouring property, rather Open Reach could not bury cables because the trunking had not been installed for them.
- Comments in previous committee reports about safety being enhanced by increased surveillance of the adjacent private drive are not based upon any safety records.

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- The types of trees to be planted would need to be specified before permission be granted.
- Proposed conditions have already been breached
- The increased massing has affected solar panels at a neighbouring property.
- The City Council's procedural approach to the development at this site is inadequate.
- Since this matter was brought to the attention of the enforcement team, it has not been resolved and the house is now complete

Whilst there has been one objector responding to the current application, and there were two objections to the original application for a new bungalow, there were 14 letters received with respect to the DER/08/18/01325. One of these letters was in support and the other 13 raised matters including those outlined above as well as the following:

- The difficulties caused by the roof of the house touching the BT cables could affect a business operating to the rear of the site.
- The bungalow is too big to be a bungalow.
- The new bungalow does not sit well within the street scene.
- A soakaway wouldn't work in clay soil.
- Landscaping is questionable.
- It does not reflect what was approved.
- The house should come down.

Previous applications have also attracted comments from an objector's planning consultants and these comments have centred around the legal process of making the application as well as the visual and residential amenity merits of the proposal. It has been suggested that the roof form could be altered to reduce massing impacts upon 169 Pastures Hill.

## **5. Consultations:**

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

In highway terms, the principle of the development has been established in respect of historic applications.

These observations are made on the basis of Highway Authority comments on the above applications, and submitted application drawing "16/507/L01A".

In highway terms, the plan shows the removal of fence and setting back of the frontage wall (these works have already been carried out); the setting back of a proposed gate and the provision of an 'Aco' drain to prevent water washing out of the site – these can be dealt with by condition.

The plan fails to show the required widening of the dropped crossing arrangement at the highway access – this can be also be dealt with by condition.

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### Recommendation:

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

### Condition 1:

No part of the development hereby permitted shall be brought into use until a dropped vehicular footway crossing serving the site has been widened by an additional 1.8m (2 kerbs) in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

### Reason:

To protect the structural integrity of the highway and to allow for future maintenance.

### Condition 2:

No part of the development hereby permitted shall be brought into use until the access driveway is constructed with provision to prevent the discharge of surface water from the site to the public highway in accordance with the details shown on application plan "16/507/P01 Rev B". The provision to prevent the discharge of surface water to the public highway shall then be retained for the life of the development.

### Reason:

To ensure surface water from the site is not deposited on the public highway causing a danger to highway users

### Note To Applicant

N1. The development makes it necessary to improve 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

Further comments have been received agreeing to the amendments of the wording of conditions 1 and 2.

Further to my historic observations and conditions.

I understand that the dwelling is now in occupation and note my suggested conditions 1 & 2 are "prior to occupation". It would therefore be appropriate to require those conditions with an amended timeframe of (say) 8 weeks from the granting of consent.

## **6. Relevant Policies:**

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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)

GD5     Amenity  
H13     Residential Development  
E17     Landscaping Schemes

### Saved CDLPR Policies

CP1 (a) Presumption in Favour of Sustainable Development  
CP2     Responding to Climate Change  
CP3     Placemaking Principles  
CP4     Character and Context  
CP6     Housing Delivery  
CP16    Green Infrastructure  
CP19    Biodiversity  
CP23    Delivering a Sustainable Transport Network

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.*

## **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. Consideration of material matters**

#### **7.2. Impact upon visual amenities**

#### **7.3. Impact upon residential amenities**

#### **7.4. Impact upon highways**

##### **7.1. Consideration of material matters.**

This application is for approval of the development in its entirety and should be assessed on its own merits.

It is however appropriate to have due regard to the previous approval DER/11/16/1437 granting permission for a dwelling largely similar to the current application. Both the principle and its impacts of that development have been accepted and therefore in considering this application it is appropriate to consider the differences between the approved scheme and the proposed scheme and whether such gives rise to unacceptable impacts that would merit its refusal.

Whilst this application resulted from an enforcement complaint, any matters related to the enforcement process are not relevant to considering this application.

##### **7.2. Impact upon visual amenities**

Pastures Hill contains a mix of dwellings and the resultant street scene is varied, reflecting dwellings having been added over time. The street scene continues to evolve as dwellings are remodelled and rebuilt to suit modern housing needs. The proposed dwelling is situated forward in the site and in my view sits well within the pattern of development found on Pastures Hill. Members will have appreciated this on their site visits. Its individual design is appropriate within the varied street scene. In terms of scale, the dwelling has a large footprint, and is some 7.5m in height (measured at the doorway on the north western elevation), compared to some 6.5m measured at the same point on the previously approved plan. It is described as a dormer bungalow and does indeed contain full height rooms at ground floor level and rooms in the roof space at first floor level. The dwelling is large but in my view its scale is appropriate in this context. In height terms it fits well into the street scene where typically ridge heights step down following changing land levels. In terms of its footprint, the dwelling does not overwhelm the plot. It does not appear to be cramped with respect to the plot or the relationship with neighbouring properties. I note objections relating to the raising of land levels, however this application needs to be assessed as built, considering the impacts within the context of the surrounding area, rather than merely investigating whether land levels have changed. In planning terms I find that the finished levels and building height are appropriate in visual amenity terms.

##### **7.3. Impact upon residential amenities**

The dwelling is positioned more than 10m from the site of 161 Pastures Hill and some 13m from the house (not garage) at 169 Pastures Hill. It sits some 9m from the original house at 163 Pastures Hill. The building approved under DER/11/16/1437 was deemed acceptable in terms of the impact upon residential amenities. This current proposal is similar but includes the changes outlined in paragraph 1.3. In other respects the proposal is as approved. The question to be answered in considering this matter is whether the current proposal unacceptably affects residential amenities at neighbouring properties. Members may conclude that the

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current proposal imposes greater impact upon residential amenities than the previously approved scheme, but this does not necessarily mean that the impact is unacceptable in planning policy terms. It is higher by some 1m having more presence but not so detrimental to be objectionable.

Windows on the south eastern and south western elevations would look towards 163 Pastures Hill and properties accessed from the adjacent private driveway. In terms of the relationship with the original house at 163 Pastures Hill, I consider that overlooking of the garden is acceptable given the distances involved. There would not be any unacceptable overlooking of that dwelling. In terms of properties accessed from the private drive, there would be some views towards neighbouring dwellings particularly 169 and to some extent 167 Pastures Hill. Having viewed the situation from within the new bungalow and the original house at 163 Pastures Hill, I cannot conclude that the new bungalow, as built, provides significant new views that would unacceptably undermine privacy at these neighbouring dwellings. The views from the original 2 storey house are fairly extensive and in my view the new bungalow does not particularly extend the level of overlooking. I have viewed the bungalow from within 169 Pastures Hill and whilst I note that it can be seen from this dwelling, and as such there may be some perceived loss of privacy, in my view it would be indefensible, on planning grounds, to conclude that there would be any unreasonable loss of privacy. The projecting gable roof above bedroom 2 prevents there being any great sideways views from the window in bedroom 1 (upstairs) and there are no windows on the side elevation of this projecting gable. This conclusion takes into account the raised height of the building and the land levels it is built on.

The new dwelling has a patio to the rear and there is little doubt that levels have been raised to create this area. However despite the land level changes in the local area, views from the patio and patio doors leading to the ground floor rooms are not overly intrusive. Planting along the northern boundary of 169 Pastures Hill helps to reduce views and the proposal does include a landscaping scheme (*Ligustum Ovalifolium*, privet hedge, to heights of 150-180cm) along the sites south western boundary would provide an additional visual buffer.

Whilst the side driveway is in private ownership, it would be unreasonable in planning terms to afford it the same weight, in terms of amenity impact, as a private garden or dwelling house. In fact, it is generally accepted in planning policy terms that some additional surveillance of a shared area can add to its safety

In terms of massing, I note that the objectors consultants have suggested that changes to the roof form would reduce massing. Whilst the proposed bungalow is indeed higher than the previously approved scheme, in this context I do not consider that there are any overbearing effects of massing that would unacceptably affect residential amenities and as such do not consider that the proposed arrangement would justify refusal. I am also satisfied that the new dwelling would not cause unacceptable loss of light to neighbouring properties. I note concerns about the impact upon solar panels however I do not consider that the impact upon amenities would warrant refusal of permission.

I note objections to the proposal with respect to run-off onto the adjacent private drive. Highways have raised no objections on this matter, the driveway being private and out of the control of the City Council and landscaping along the south western

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boundary of the site would help to absorb water at this boundary. A precedent for development on this site has been set by the approval of the 2016 application and I do not think that the changes made in this current proposal would exacerbate the run-off to an extent that would warrant refusal of permission. In this context, I do not accept the objector's contention that this matter would result in the City Council accepting liability for any accidents on the driveway.

In considering the impact upon residential amenities, I note that an application to extend 169 Pastures Hill has now been approved (19/00841/FUL). I am satisfied that should this work now be carried out, there would not be a conflict in terms of the current proposal for the bungalow at land to the front of 163 Pastures Hill. I also note that an application has latterly been received to extend 163 Pastures Hill. This application is unlikely to be determined prior to Planning Control Committee and will need to be considered within the context of this proposal.

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

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

**To grant** planning permission with conditions.

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

The Local Planning Authority is satisfied that the development is acceptable in terms of its design and impact upon the character of the street scene and the amenity of neighbouring residents. The development is also considered to be acceptable in terms of off-street parking provision and highway safety issues.

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

1. Approved Plan condition

**Reason:** For the avoidance of doubt

2. Within 2 months of the date of this permission, the dropped vehicular footway crossing serving the site shall be widened by an additional 1.8m (2 kerbs) in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

**Reason:** To protect the structural integrity of the highway and to allow for future maintenance 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.

3. Unless otherwise agreed in writing by the Local Planning Authority, within 2 months of the date of this permission the access driveway shall be constructed with provision to prevent the discharge of surface water from the site to the public highway in accordance with the details shown on application plan

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“16/507/L01 Rev A”. The provision to prevent the discharge of surface water to the public highway shall then be retained for the life of the development.

**Reason:** To ensure surface water from the site is not deposited on the public highway causing a danger to highway users 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.

4. The planting proposals hereby approved (as shown in drawing 16/507/L01A) shall be carried out no later than during the first planting season following the date when the development hereby permitted is ready for occupation or in accordance with a programme agreed in writing with the council. All planted materials shall be maintained for five years and any trees or plants removed, dying, being severely damaged or becoming seriously diseased within 5 years of planting shall be replaced with others of similar size and species to those originally required to be planted.

**Reason:** To ensure that the appearance of the development is satisfactory 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 new windows or other openings shall be inserted into the south western side elevation (facing towards 169 Pastures Hill).

**Reason:** To protect amenities of nearby residential properties 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

6. No gates shall be erected at the access to the development unless they are set back at least 5.5m from the public highway. Such gates shall open inwardly only.

7. **Reason:** To enable a vehicle to stand clear of the highway whilst the gates are opened/closed and to protect the free and safe passage of traffic, including pedestrians, in 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

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

- N1. The development makes it necessary to improve 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

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

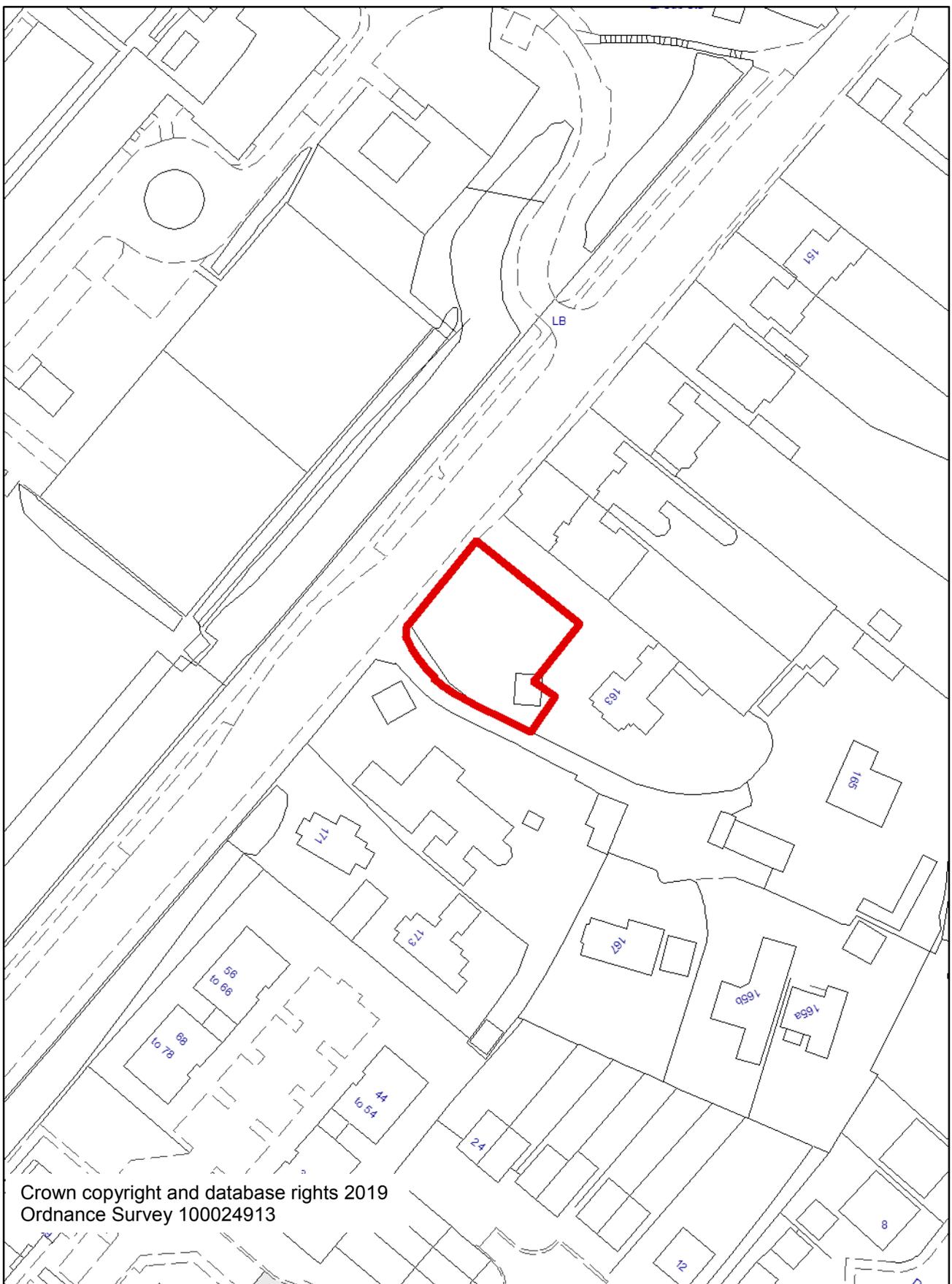
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The 8 week time frame ends on 4<sup>th</sup> September 2019, an extension of time has been sought until 27<sup>th</sup> September 2019.



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

**Application No: 19/00914/FUL**

**Type: Full Planning Application**

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### **1. Application Details**

**1.1. Address:** 7 Pelham Street, Derby.

**1.2. Ward:** Abbey

**1.3. Proposal:**

Change of Use from Dwelling house (Class C3) to 13-bed House in Multiple Occupation (HIMO) for student accommodation (sui generis) and external changes, including insertion of new ground and first floor windows and demolition of part of existing raised patio area.

**1.4. Further Details:**

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan/19/00914/FUL>

**The Site and Surroundings**

The application site was a former Steam Mill, which was converted to a single dwelling in 2001. The building was operating with family accommodation at first floor level. The ground floor was used for the parking of vintage vehicles, as part of the former owner's hobby.

The property has recently been acquired by developers and construction work has commenced on the conversion of the first floor to a 6-bedroom HIMO. These works can be carried out as "permitted development". The building remains unoccupied. The lawful use of the premises remains as a Class C3 dwelling house.

The site comprises a traditional brick, three-storey building, with a single-storey, covered yard extension on its north site. There is a large open, courtyard (used for parking) on the southwest side. This is accessed by way of gates from Pelham Street. In the south east corner of the site is a single-storey element with a flat roof which was used for external open space. This area retains the former mill chimney as an historic feature.

The surrounding area is primarily residential, with a predominance of terraced houses. The Council's Housing office is located on the corner of Pelham Street and Stockbrook Street. Becket School is 100m north of the site. Stockbrook Recreation Ground is 200m to the west. The site is located within 400m of the Inner ring Road and the city Centre is easily accessible.

**The Proposal**

The application seeks a change of use from the lawful dwelling house (Class C3) to a 13-bed HIMO for student accommodation. External changes are proposed, including insertion of new ground and first floor windows and demolition of part of existing raised patio area.

The submitted plans show that the proposal comprises the conversion of the property into letting accommodation, with 13 en-suite bedrooms and shared kitchen/living spaces, over three floors. All proposed bedrooms have natural light from an exterior window. The courtyard would be used for 4 off-street car parking spaces, motorbike parking and covered cycling parking and bin storage. The external terrace area has

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

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been reduced in size, to allow light to ground floor windows. This terrace is proposed to be a fire escape, only.

The submitted Design & Access Statement states;

- *“The existing building is large in scale and is not really suitable or manageable as a single family hence the previous owner’s reasons for selling and why a viable new use is required for the building.*
- *Objections for a previous scheme (ref: 18/01172) were raised about the social impact of the student accommodation and the submission was consequently withdrawn. The applicant has been keen to find a suitable development for the building and find a solution which aims to better address local concerns. We have addressed certain issues in revisions to the scheme.*
- *Given that the NPPF states that Local Authorities should address the needs of all types of housing, promote sustainable transport and make effective use of land, we feel the proposed scheme provides a suitable use for an existing building that might otherwise become vacant in an ideal location for utilising sustainable modes of transport. We believe the proposal also addresses CP22 of the Derby City Local Plan which states the council will support and encourage the development of new student accommodation. We also believe we positively addressed the concerns of local residents which were recently highlighted in the recently withdrawn application and as such feel the proposed application should be earmarked for approval.”*

The applicant has also submitted a further statement in support of the proposal, which responds to the objections made and concludes that the proposal represents, *“a valuable opportunity ... to redevelop an outdated and unviable property in a reasonably sustainable location via considered and well thought-out modern design and construction”.*

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

<b>Application No:</b>	DER/08/18/01172	<b>Type:</b>	Full Planning Application
<b>Decision:</b>	Withdrawn	<b>Date:</b>	
<b>Description:</b>	Change of use from a single dwelling (Use Class C3) to a 15-bed House In Multiple Occupation (HIMO) (sui generis use)		
<b>Application No:</b>	DER/03/01/00398	<b>Type:</b>	Full Planning Application
<b>Decision:</b>	Granted Conditionally	<b>Date:</b>	22/05/2001
<b>Description:</b>	Alterations and additions to mill to form a dwelling house		

### **3. Publicity:**

7 Neighbour Notification Letters sent, dated 25/6/2019

Site Notice posted 26/6/2019

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

**4. Representations:**

37 individual representations have been submitted by local residents along with two petitions (of 114 and 126 signatures, respectively). One is an on-line petition which does not indicate the addresses of the signatories. Cllrs Russell and Ajit Atwal have expressed concerns. The representations object to the proposal on the following grounds:

- Proposal is contrary to policies which seek to promote economic, social and environmental wellbeing and improve the quality of life for people living, working or visiting Derby.
- Proposal would represent overdevelopment and an over-intensive use of the site.
- Proposal would be out of character with the area, which has been described as being quiet, calm, family-orientated, neighbourly and a close-knit community.
- A HIMO will lead to a poorer standard of property maintenance and repair, increased aggression, a lack of community integration and minimal commitment to the local environment.
- Proposal will further disadvantage one of the highest areas of multiple deprivation in the country.
- Concern that the premises will ultimately be used for refugee/homeless accommodation.
- Sufficient student accommodation elsewhere in the City, with recent closures of halls of residence.
- Site is a 45 minute walk from the University and there is no evidence that the developer is an approved University landlord.
- HIMO market is saturated and there is no identified need.
- More suitable locations for HIMOs elsewhere in the City.
- Potential overlooking and unacceptable activity would occur, particularly from the use of the external raised patio area.
- Insufficient parking would exacerbate existing on-street congestion (as the street is close to the City Centre and there are no parking restrictions) and make refuse and emergency vehicle access difficult. Increased difficulties in local residents being able to find parking places.
- Proposal would introduce unacceptable noise, activity, pollution, litter, crime, vandalism and anti-social behaviour, particularly at unsociable hours.
- Unacceptable visual intrusion from additional refuse bins.
- Devaluation of house prices.
- Proposal would discourage occupiers from renting properties.
- No need for extra student accommodation – proposal is outside the University quarter and there is greater demand for family homes.

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The submitted petition sets out the following objections:

- **No Need for Student Homes**

The University of Derby owns at least 8 tenant residences / halls with a further 4 private tenant residences / halls (2 of which market themselves as luxury/high standard of halls with specialist amenities, staff and transport links). Each hall can accommodate 100+ tenants and in total there are more than 2000 halls spaces. The halls have all been built with services and amenities for students, including parking, gardens, social areas, etc. and are not full every year - so there is no demand for student housing, especially in an area out of the University Quarter. In addition, planning has been submitted for more student halls to be built on Agard street - 147 rooms - which is part of the University quarter and will be serviced by free university buses. The University will be closing halls this year as there is not the student demand - it has already sold off Lonsdale hall due to low demand. There is however, a shortage of affordable family homes in Derby. The previous use of 7 Pelham Street as a family home is needed and not tenant residences. The local community rejects the idea the mill is not suitable as a family home when it was such for over ten years. The Design & Access document states it supports the Derby City Local Plan. However, the Derby City Local Plan Part 2 is under review and this will take note of the overwhelming student housing market and the fact that no more student housing is needed in Derby.

- **Reduced Parking Facilities**

Pelham Street is a narrow street with 30 houses - but only enough room for 23 cars (four houses have driveways.).The on road parking fills up quickly, with residents struggling to park close to their own houses. This is due to issues including the street parking being constantly used by city workers who do not want to pay for parking in the town centre, and by school parents at pick up/drop off times for Becket Primary. Whilst the planning proposes four car parking spaces; this is not enough parking for the 13 tenants of the proposed plans. There are no bus stops in the street directly to the town or the university, so it is likely tenants will have cars to travel. It is a minimum of a 45 minute walk to the university campus from our street. This will not only fill the street with cars either side, but will also increase parking issues in Spring Street and Stockbrook Street as residents have to park further away from their homes. If the four parking spaces included on the planning permission must be paid for or are awkward to park in the tenants will use the street parking as it's free and easier to use, (There is also the option of parking in the road to use the parking spaces as a social space). There is no way to manage this parking as there are no parking restrictions in force in the area. The community feels the developer will make no effort to advertise there is no street parking and if 13 residents move in with cars there will be no management of the extra parking needs. Consideration has also not been made for the family, friends and other visitors of the tenants that would need parking. During holidays and moving periods the street and surrounding area will be full of cars. This also extends to space for moving vans, supermarket deliveries and parcels which will not be able to park - especially if the parking spaces inside the property are taken. This is especially important for students who will be on short term lets as they will be moving more frequently.

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- **Traffic Generation**

Pelham Street is sloped between Stockbrook Street - a busy long road which drivers tend to speed along - and Spring Street at the top, which is also full of parked cars either side, leading to further terraced streets. Pelham Street is therefore used as a cut through for the streets beyond, for residents, deliveries, taxis, etc. Cars get stuck during busy periods at the top of Pelham Street, and often larger vehicles cannot turn because of the parking either side. With over parking, visibility will be reduced and this will lead to accidents as vehicles struggle to get through.

- **Reduced Access for Emergency Services - (in a highly populated area)**

As mentioned above, vehicles will struggle to get through the street and this is especially true for emergency vehicles. With an increase in residents, there would be a proportional increase in possible accidents. It is also worth considering the needs of disabled residents who cannot walk to an ambulance; space is then needed in the street for emergency vehicles to clearly pass.

- **Highway Safety**

The road itself is potholed and crumbling, and with more traffic and heavier moving vehicles this will increase the damage to the street. It is difficult for the road to be maintained due to the over parking.

- **Sanitation**

Whilst most refuse may be contained, there is not enough pavement space for more bins and with more parked cars, the refuse vehicles will struggle to get up the road. Refuse collections are fortnightly so the bins will smell and encourage vermin. With four parking spaces, tenants will struggle to get their bins in and out and consideration should be made that there is no guarantee bins will be emptied.

- **History / Overbearing**

The proposed planning will alter the old mill building, which is out of character for the area.

The last buildings on the road have been erected in-keeping with the traditional terraced family homes that have occupied the street since the brick factory on Stockbrook Park.

- **Loss of Privacy**

The windows of the bedrooms will look into other properties - both gardens and houses. Whilst frosting may be put on the glass this can be taken off and doesn't stop residents from opening the window to look out. The balcony also looks into gardens and houses and can be accessed from the stairs.

- **Loss of Light**

If a fence is erected on the balcony as mentioned in the planning application, it will reduce the light and overshadow gardens and homes.

- **Gentrification of local area**

Stockbrook is one of the most deprived areas in the country according to statistics. In recent years, the area has improved and previous short term lets have been replaced with long term family renters and young professionals. Becket Primary School has had an increase in applications and is favoured by local residents, and Stockbrook Park has recently had its community hall revamped. Our area is a 'low income area'

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yet has family centred space with a sense of community. By allowing planning permission for luxury tenant lets, local families are being pushed out - just when the area is improving and becoming somewhere residents want to live.

- **Increased Noise**

13 more tenants in a small street will see noise levels increase - whether this is from late night parties, extra traffic or TV/music. The houses in the street (and no. 7 Pelham Street) are older and do not have noise insulation like modern houses. Consideration should be made that whilst insulation may be put inside the property, this does not account for windows and doors being left open or students using the balcony. This noise will travel and as the building is also overlooking many gardens / houses, the noise will affect many residents.

- **Increase in Crime Rate and Antisocial Behaviour**

As mentioned, the area has improved recently, but is still a low-income working class area. In the recent year, there has been a burglary and day light muggings. Unfortunately students are a well-documented target for crime and this in turn will make the street unsafe for the current residents. Additionally, we have had recent issues with used needles being left on the street and drunken anti-social behaviour.

- **Lack of Health Resources**

The Local GP and Dentist surgeries are full and subject to waiting lists; with any additions this will increase waiting times for current residents, which currently stands at 2-3.

- **Miscellaneous Concerns to the Planning Proposal/ Design & Access Document**

The residents also would like to raise:

- The balcony will be used as a social area as residents can simply access using the staircase. There is no outside space so it will be used in the summer.
- If there is a fire at the front of the building, residents can be trapped in the back as they still have to go through the front gates to escape.
- If there is a fire on the highest floor of the building, residents cannot escape as there are only skylights.
- The project won't create jobs in the local community, contractors already employed by the developer will be used.
- The planning is aimed at students so it does not meet the needs of diverse communities when i) it is not a student area ii) there is no access for disabled students.
- The planning doesn't make the area 'more attractive' to live in. The community has made clear their objections and increasing the residents by 40% impacts current residents.

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### **5. Consultations:**

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

##### Recommendation:

The Highway Authority has No Objection to the proposals, subject to conditions.

##### Observations:

Pelham Street is in an area of high on-street parking demand; due to many residents having no access to off-road parking. The street has no existing waiting restrictions in the vicinity of the site; although its junction with Stockbrook Street is protected with a “no waiting at any time” (double yellow lines) waiting restriction.

The site is in close proximity to local shops, and with bus stops nearby on Boyer Street, Abbey Street and Uttoxeter New Road (according to google no more than a 10 minute walk away at the furthest). The site must therefore be considered to be in a sustainable location.

Stockbrook Street is also subject to waiting restrictions immediately opposite the junction with Pelham Street, the single yellow line is a daytime restriction (Monday - Friday 8am-6pm); so could conceivably be used by nearby residents for parking outside of those times.

The application drawing “203/E” shows the provision of four off-road car parking spaces, together with cycle storage (6 spaces) and motorcycle parking (4 spaces) which is reached via an existing dropped kerb.

The existing gated access and wall are shown to be removed to provide improved access; although this will in part be constrained by an existing BT pole which is not shown on the drawing and which the applicant may find prohibitively expensive to relocate.

The existing dropped kerb is approximately 3.6m wide (4 kerbs); given the parking layout shown it would be appropriate to lengthen this by a further 2 kerbs to ensure that manoeuvring vehicles do not cause damage to the dropper kerbs, this can be dealt with by an appropriate condition.

Within the layout shown, given the proposed use, it would not be possible to utilise parking spaces 3 & 4 if parking space 2 were occupied. In any case, the parking spaces shown are too short for use. Delivering Streets and Places – DES On-Street Car Parking (page 104) shows that such parking spaces should be 6.0m long. Whilst it is appreciated that this refers to on-street parking, the principles in respect of parking space size remain true.

In practice it is likely that only two vehicles could be parked within the site ~ unless the applicant/developer is able to subsequently provide a layout which allows for more parking.

Being mindful of concerns raised by neighbouring residents (available on the LPA’s website) in respect of parking demand, the Highways Authority has carried out the following assessment.

As existing; the building is already in use as a 6 bed house in multiple occupation; it is likely that any vehicles associated with that use will already be accommodated within the existing yard and the adjacent highway; and should therefore be

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discounted from any consideration. It is only the nett increase in vehicles associated with the additional 7 rooms which is of interest.

The 2011 Census Summary Report (published by Policy, Research & Engagement – Derby City Council) suggests that 28.9% of households do not own a car or van.

Taking a coarse assessment that 70% of the occupants will own a vehicle (due to the sustainable location of the site this is by no means a certainty); the development could attract around 5 additional vehicles to the vicinity.

It should also be noted that some of these vehicles could be motorcycles for which the applicant has made additional parking provision.

At the time of the Case Officer visits, there did appear to be some on-street parking capacity in the vicinity of the site; this is to some extent corroborated by images available on “Google Street View”.

Para 109 of the National Planning Framework Policy states that

*“109. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*

The Highway Authority is of the view that the proposals will not lead to an ‘unacceptable impact on highway safety’.

Whilst there is no specific definition of a severe impact given in the NPPF (“severe” normally being considered to be in respect of congestion or the impact on the surrounding network of a large volume of vehicular trips) it is the view of the Highway Authority that, whilst the proposals will undoubtedly have an impact on the number of vehicles attracted to the street in the vicinity of the development; their impact could not convincingly be described as severe in respect of transport problems or congestion. Accordingly the proposals comply with the requirements of adopted policy CP23 and the NPPF

It may be that having to ‘search’ for parking in the vicinity of the site will be an amenity issue for both residents of the site and their neighbours; however residential amenity is not a highway consideration.

However, the NPPF does also state that (para 110 e) developments should “be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.” The LPA may therefore wish to require that the developer make provision for the charging of at least one vehicle associated with the proposed parking spaces (this is not specifically a highways issue).

### **Recommendation:**

Given that the site is within a sustainable location; that measures to mitigate a lack of off-road parking are proposed, and that the proposals cannot be shown to have a material impact upon highway safety or to have a severe impact the Highway Authority can have No Objection to the proposals, subject to the following suggested conditions:

**Condition 1:** No part of the development hereby permitted shall be brought into use until the parking areas are provided with the parking bays clearly delineated, in accordance with further details to be submitted to and approved in writing by the

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Local Planning Authority; the parking bays shall not thereafter be used for any purpose other than the parking of motor vehicles.

Reason: To reduce the possibilities of the proposed development leading to on-street parking in the area.

Condition 2: No part of the development hereby permitted shall be brought into use until the dropped vehicular footway crossing serving the site has been widened by 1.8 (2 kerbs) and is available for use and constructed in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.

Reason: To protect the structural integrity of the highway and to allow for future maintenance.

Condition 3: No part of the development hereby permitted shall be brought into use until the cycle parking layout as indicated on drawing "203/E" has been provided, and that area shall not thereafter be used for any purpose other than the parking of cycles.

Condition 4: No part of the development hereby permitted shall be brought into use until the motor cycle parking layout as indicated on drawing "203/E" has been provided, and that area shall not thereafter be used for any purpose other than the parking of motor cycles.

Condition 5: 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 hereby permitted is brought into use. The agreed details shall be implemented and retained as such for the life of the development

Reason: To promote sustainable travel.

Condition 6: The new door and windows on the street frontage shall open inwards only, in accordance with details shown on approved plan "203/E". The approved doors and gates shall be retained for the life of the development.

Reason: In the interest of highway safety.

### Note To Applicant

The consent granted will result in alterations to a building which will need naming and renumbering. To ensure that any new addresses are 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 the site, its location in relation to existing land and property, and the placement of front doors or primary access.

## **5.2. DCC - Housing Standards:**

Housing Standards have reviewed the application and make the following comments: (the following comments in regards to room sizes and amenities are made with the assumption that all rooms are occupied by a single person only).

1. Comments were provided in regards to a previous planning application for this property (Reference 08/18/01172) and it appears that these comments have been considered and addressed with this current application. All bedrooms

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have now been provided with suitable windows (except room 13, further mentioned below) and the internal configuration has been changed to ensure that the rooms without suitable windows are now the kitchen and living rooms.

2. All bedrooms are in excess of the recommended 8sqm minimum (this recommendation is where there is sufficient living/communal space elsewhere within the HMO, otherwise this minimum requirement is 10sqm for a single person)
3. All bedrooms are provided with en-suites and therefore there is no concern on the number of bathroom facilities proposed.
4. It would appear that there is sufficient space provided for cooking and living areas provided on the plans (this is calculated with consideration to Derby City Council Housing Standards - Standards of Amenity Guidance).
5. It is unclear from the plans, the internal configuration/layout for room 13 (second floor) and whether this consists of inner rooms. Inner rooms (living/bedrooms), particularly on the second floor would not be considered acceptable due to the increased potential harm in the event of a fire and the unsuitability of egress windows from the second floor of a dwelling. Should Letting 13 consist of one large room and bathroom, this may be deemed acceptable.
6. As previously mentioned (in Point 1) there is a concern that the bedroom on the second floor appears to have skylights only and as such there is no suitable view available of the outside. As raised in the comments attached to application 08/18/01172, it should be noted that where the only view of outside is via skylights, this can lead to feelings of isolation and are therefore not an ideal situation in a House in Multiple Occupation (HMO) bedroom setting. As the other living spaces within the HMO do not provide any windows other than skylights, this further compounds the effects of this matter. However; due to a lack of information in regards to the layout of this room and pitch of the roof (which would affect the potential views from these windows) etc., it is unknown whether these would be accepted or not in this case.
7. Should the matters raised above (Points 5 and 6) be clarified and deemed acceptable or remedied, Housing Standards do not have any objections to this application.
8. It is assumed that a correct and sufficient fire detection and alarm system will be installed within the property. The applicant should contact Housing Standards in regards to the numbers of amenities (particularly cooking facilities) required and any further fire safety matters such as fire doors etc. Should this application be approved, the applicant is advised that the property will require a license in accordance with the Housing Act 2004 and should again contact Housing Standards on this matter.

Housing Standards have considered the additional supporting information submitted in respect of Unit 13 and now offer no objections. They also confirmed that there are no licensed Houses in Multiple Occupation in the streets immediately surrounding the application site.

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### **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
- CP6 Housing Delivery
- CP23 Delivering a Sustainable Transport Network

#### **Saved CDLPR Policies**

- GD5 Amenity
- H13 Residential Development – General Criteria
- H14 Re-use of Underused Buildings

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.*

### **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. Core Strategy policy**
- 7.3. The impact on the character of the surrounding area**
- 7.4. The quality of the proposed living environment**
- 7.5. Highway Safety / Parking**

**7.6. Residential amenity**

**7.7. Precedents**

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

There have been some recent changes to planning policy. 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.

Proposals for high density development 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.

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 a proportion of the student accommodation 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.

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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.

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

### **7.2 Core Strategy Policy**

NPPF 2018 states that the Government's objective is to significantly boost the supply of homes, and that a sufficient amount and variety of land should come forward to address the needs of groups with specific housing needs.

The application site is not allocated for any particular use in the Core Strategy. However, Policy CP6 states that the Council will continue to encourage the re-use of under-utilised or vacant properties for residential uses. Saved Local Plan Policy H14 states that the Council will support the re-use of underused buildings, throughout the City, for residential purposes including proposals for Intensifying existing residential uses; and Converting redundant buildings, including large commercial buildings.

The intention to use the development as student accommodation would be in line with the intentions of CP22.

Subject to an assessment of the quality of the proposed living environment (as required by Core Strategy Policy H13) and the effect that the intensification of use may have on the amenity of the surrounding area (Local Plan Policy GD5 applies), the proposal is considered to be acceptable, in principle.

### **7.3 The impact on the character of the surrounding area**

Saved Local Plan Policy H14 states that, although the Council will support the re-use of underused buildings for residential purposes, planning permission will only be granted provided that the scale and intensity of the use is sufficiently similar to the surrounding area so that it would not detract from its general character or amenity.

Core Strategy Policy CP22 supports and encourages the development of new student accommodation, particularly where this could lead to the release of existing accommodation for family / market housing.

It is accepted that the introduction of a student HIMO into this residential area will alter its character, by introducing a different dynamic into a typically terraced street. However, it must be recognised that historically the building was a former steam mill, being an industrial use (as an elastic factory) within the middle of a residential area. The residential use has been operational for only a relatively short period of time.

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Furthermore, as the cumulative floor area of the premises is approx. six times greater than a typical terraced house, the intensity of the proposed accommodation would be very similar to the surrounding houses.

Additionally, it must be recognised that the application building is significantly different from the surrounding, predominantly, terraced houses. The single dwelling use, for such a large building, has been achieved by the unusual requirements of the former occupiers, as the ground floor was wholly used for non-residential purposes (ie. the parking of historic show vehicles). In which respect, the future take-up of the building as a single dwelling may be considered to be very marginal and it is likely to remain vacant and unused. Therefore, alternative uses must be considered, which would maintain the general character of the building and maintain its residential function.

The submitted petition opposes the alleged “gentrification of the local area”. Furthermore, it is argued that there is no demand for student accommodation, (which has been described in the petition as being “luxury tenant lets”) and that family homes are needed. Firstly, the Council must determine the application as submitted. Secondly, the Government’s objective and Core Strategy Policies seek to increase the supply and variety of residential accommodation.

A balanced approach must be taken, by weighing the level of objections against the Government’s objective to boost the supply of residential accommodation; the Council’s policies, which encourage the re-use of under-utilised or vacant properties for residential uses; and the lack of appropriate alternative uses for the building. On balance, it is considered that the perceived impact of the proposed use on the surrounding area would not be so harmful as to justify a refusal. Consequently, it is considered that the scheme is acceptable and complies with Local Plan Policy GD5.

### **7.4 The quality of the proposed living environment**

The proposed conversion utilises the existing windows and the insertion of roof lights to provide the level of accommodation. The fabric of the building would therefore remain generally unaltered. Housing Standards are generally satisfied with the quality of the proposed living environment. The works already carried out for the lawful 6-bed HIMO show a high standard of conversion.

Concerns have however been raised by Housing Standards regarding the layout of the Unit 13 (the second floor room), in terms of fire safety and poor living environment. The applicants have submitted further supporting information, which shows a separate bedroom, bathroom and living room at second floor level. The rooflights will provide adequate outlook for any future occupier, with views over rooftops, not compromising any neighbour’s privacy. Housing Standards have considered the additional supporting information submitted in respect of Unit 13 and now offer no objections. In any respect, it must be recognised that this unit (together with the five units on the first floor) would be one of the six HIMO units that could be lawfully operational under the property’s “permitted development” rights.

In all the circumstances, it is considered that the scheme is acceptable and complies with Core Strategy Policy H13.

### **7.5 Highway Safety / Parking**

It is acknowledged that on-street parking is at a premium in this area. However, the site is located within walking distance of the City Centre. It is to be occupied by students, who would not normally have cars, and in any respect, a number of both car, motorbike and cycle parking spaces are proposed. The site is considered to be in a good, sustainable location.

The applicants have stated that the number of on-site car parking spaces and bike racking has been increased. The applicants claim that the site is 10 minute's walk from the relevant University and Allestree bus services, which would alleviate the need for car travel.

National Planning Policy Framework Paragraph 109 states that development should only be refused on highways grounds if the residual cumulative impacts on the road network would be severe. As the Highway Authority considers that it would be difficult to demonstrate that the proposed development would have a "severe" impact, it is considered that a refusal could not be justified on highway grounds. The Highway Authority recommends a number of appropriate Conditions.

### **7.6 Residential Amenity**

The general layout of the proposed HIMO follows that of the lawful use as a dwelling house. The building has a number of windows and a raised patio, from which there was a previous opportunity for overlooking from the upper floors. However, there would be a 15m window-to-window separation to those properties in Spring Street, which back onto the site. This relationship is considered to be acceptable. The applicant has restricted the use of the raised patio for external amenity space and that the rear first floor doorway would be used as an emergency exit only. These matters can be the subject of a suitable condition. The proposed parking area would be bounded by the side elevation wall of no. 23 Pelham Street, such that any external activity would be enclosed and any direct impact would be mitigated.

The concentration of students within the one building has the capacity to create noise and activity nuisance and potentially anti-social behaviour. Discussions have been held with the applicant regarding the management of the site, who has commented that a Management Plan will be implemented, to deal with matters such as tenancies, CCTV, dialogue with local residents, bin collection and adherence to "house rules". The precise details of the Management Plan can be the subject of a suitable condition.

### **7.7 Precedents**

Committee have recently refused several applications for proposed HIMOs, contrary to the officer recommendation. Particularly, an application (ref: 04/18/00518) at 135 Brighton Road which was refused in July 2018, on the grounds that the proposed change of use to a HIMO would have a detrimental impact on the wider character of the area by virtue of the loss of a family dwelling house and that this would erode the prevailing character of the area, through an unacceptable intensification of the residential use, being injurious to residential amenities and exacerbation of congested on-street parking levels.

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This refusal was allowed on appeal, with the Inspector stating that, *“the loss of a family dwellinghouse ... would alter the character of the area, [but] in this particular circumstance the change of use would not represent substantial change to the character ... it is unclear what elements of neighbouring amenity would be affected by the intensification of use ... Whilst I agree that the scheme would potentially increase demand for parking spaces, I do not feel that the scheme would lead to ‘unacceptable impacts’ to highway safety”*.

In this instance, Housing Standards have confirmed that there are no licensed Houses in Multiple Occupation in the streets immediately surrounding the application site. It must therefore be recognised that the proposal would be the first such change and that, although it would not exacerbate an existing concern, regarding the impact of numerous HIMO's on the character of the surrounding area, it may be argued that it would establish a precedent. However, it is not considered that this application on its own would alter the character of the surrounding area so adversely as to warrant a refusal on those grounds.

### **7.8 Conclusions**

It is acknowledged that the application has generated a significant amount of local objection, primarily concerned that the proposal will unacceptably alter the character of the surrounding area, would represent overdevelopment and an over-intensive use, and would potentially exacerbate existing problems relating to parking and anti-social behaviour. These concerns must carry appropriate weight. However, there are competing strong policy objectives to boost the supply of homes, to address specific housing needs, and to re-use under-utilised residential properties.

Members have recently expressed concerns relating to the conversion and intensification of single dwellings into HIMOs and the perceived detrimental impact on the wider character of the area. The above appeal decision demonstrates that such a refusal needs to be supported by significant evidence to be sustainable. In this instance, the proposal relates to a large, former industrial building. The proposed conversion would be readily achievable within such a large physical space.

The previous single dwelling use was very personalised, to meet the individual needs of the occupiers. It is considered that such a future use would be highly unlikely to be achieved. For example, although the premises could be easily converted to be used as a live-work unit (potentially, a similar use to the previous occupier), this may lead to concerns relating to unacceptable non-domestic activities. It is considered that this proposal would be a rare opportunity to bring this building back into residential use.

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

### **8.1. Recommendation:**

**To grant planning permission with conditions.**

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

The proposed change of use would be in accordance with the strong policy objectives to boost the supply of homes, to address specific housing needs, and to re-use under-utilised residential properties. These policy objectives are considered to

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outweigh the local objections concerning the impact on local character. The site is considered to be in a good, sustainable location. The Highway Authority considers that the proposed development would not have a “severe” impact, and that a refusal could not be justified on highway grounds. The proposed layout achieves a satisfactory living environment. Conditions can be imposed to address issues of parking and amenity.

### **8.3. Conditions:**

1. Standard time limit condition
2. Standard approved plans condition
3. Notwithstanding the provisions of the Use Classes Order 1987 (as amended) or any succeeding legislation, the premises shall be used as a 13-bedroom House in Multiple Occupation only and for no other purpose. The premises shall only be occupied by students in further education and shall not be available for general market rental. Each bedroom shall be for single occupancy only.

**Reason:** To define the permission and to safeguard the amenities of the surrounding area.

4. The first floor external raised patio area shall not be used as external amenity space. The first floor external door shall be used as an emergency exit only and not for general access and egress to the building.

**Reason:** To safeguard the amenities of adjoining residents.

5. No part of the development hereby permitted shall be brought into use until the parking areas are provided with the parking bays clearly delineated, in accordance with further details to be submitted to and approved in writing by the Local Planning Authority; the parking bays shall not thereafter be used for any purpose other than the parking of motor vehicles.

**Reason:** To reduce the possibilities of the proposed development leading to on-street parking in the area.

6. No part of the development hereby permitted shall be brought into use until the dropped vehicular footway crossing serving the site has been widened by 1.8 metres (2 kerb lengths) and is available for use. The crossings shall be constructed in accordance with the Highway Authority specification.

**Reason:** To protect the structural integrity of the highway and to allow for future maintenance.

7. No part of the development hereby permitted shall be brought into use until the cycle parking layout as indicated on drawing “203/E” has been provided, and

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that area shall not thereafter be used for any purpose other than the parking of cycles.

**Reason:** To promote sustainable travel.

8. 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

**Reason:** To promote sustainable travel.

9. The new door and windows on the street frontage shall open inwards only, in accordance with details shown on approved plan "203/E". The approved doors and gates shall be retained for the life of the development.

**Reason:** In the interest of highway safety.

10. No part of the development hereby permitted shall be brought into use until a management plan has been submitted to and approved in writing by the Local Planning Authority. The management plan shall demonstrate how the premises are to be let, the operation of the car park, cycle parking and bin storage and how concerns relating to potential noise and activity nuisance and anti-social behaviour are to be addressed. The premises shall thereafter operate wholly in accordance with the approved management plan.

**Reason:** To safeguard the amenities of neighbouring residents.

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

1. The consent granted will result in alterations to a building which will need naming and numbering/renumbering. To ensure that any new addresses are 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 the site, its location in relation to existing land and property, and the placement of front doors or primary access.
2. The applicant is advised that a correct and sufficient fire detection and alarm system must be installed within the property. The applicant is advised to contact Housing Standards in regards to the numbers of amenities (particularly cooking facilities) required and any further fire safety matters such as fire doors etc. Should this application be approved, the applicant is advised that the property will require a license in accordance with the Housing Act 2004 and should again contact Housing Standards on this matter.

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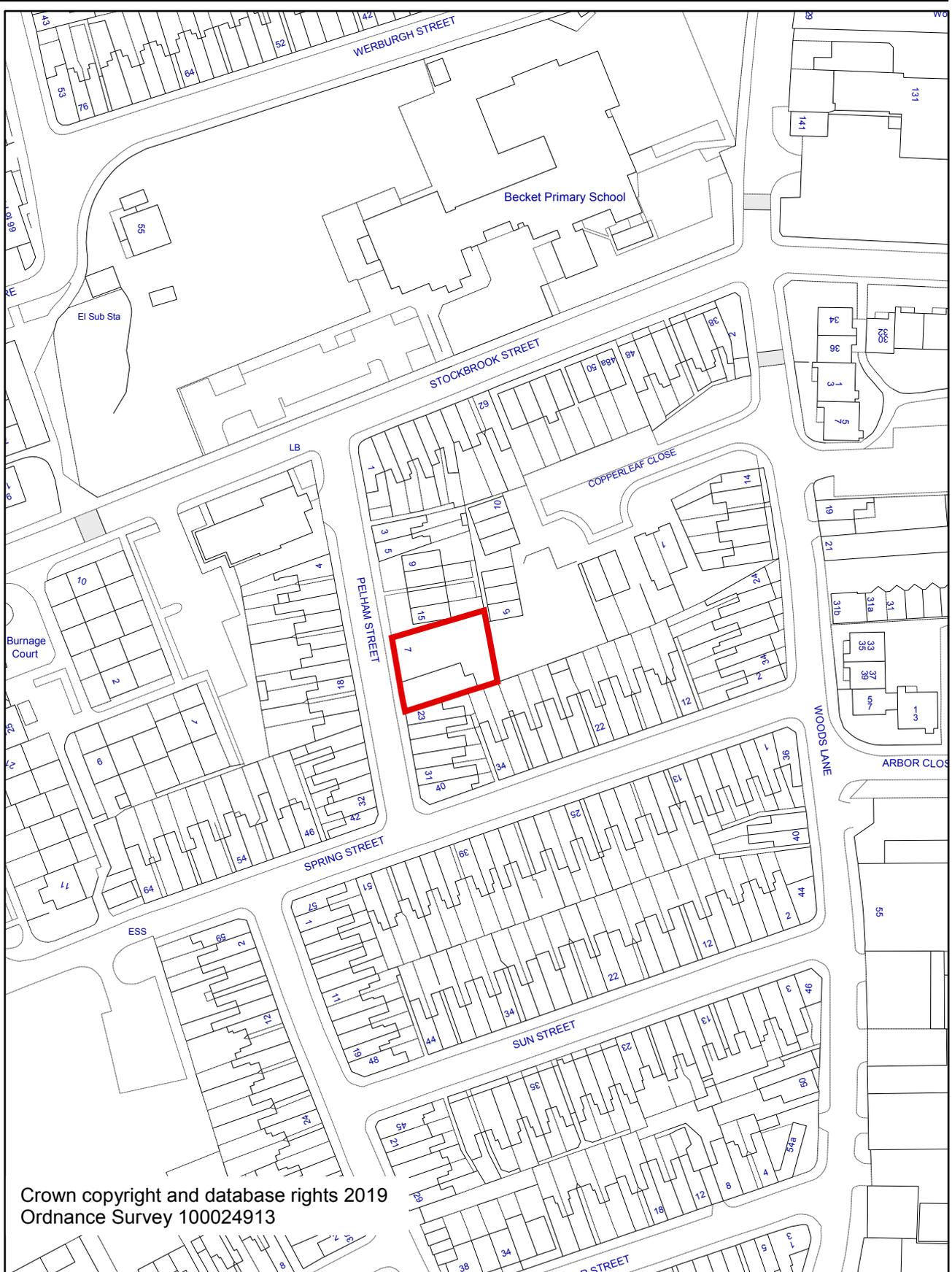
**8.5. Application timescale:**

The statutory expiry date was 17 August 2019. This application was referred to Planning Committee by Ward Councillors and due to the high numbers of objections. An extension of time has been requested.

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

**Application No: DER/11/15/01451**

**Type: Full**

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### **1. Application Details**

**1.1. Address:** Site of 8-14 Agard Street, Derby.

**1.2. Ward:** Darley

**1.3. Proposal:**

Erection of student accommodation block containing 71 bedrooms within 60 units and associated works including demolition of existing buildings on site.

#### **Further Details:**

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan/11/15/01451>

#### **Brief description**

Full planning permission is sought to comprehensively re-develop this site to house student accommodation.

The application site is located on the south side of Agard Street and it covers an area of some 1200 sqm or 0.12 hectares. It sits adjacent to the recently completed block of student accommodation which stands adjacent to the University of Derby Law School housed in Friar Gate Square 1 – namely ‘the Copper Building’. It is located in the Friar Gate Conservation Area and some of the ‘blue edged’ land (land which is also in control of the applicant around the application site) abuts the north-eastern boundary of Pickford’s House at 41 Friar Gate. Members should be aware that this is one of a handful of grade 1 listed buildings in Derby.

Members will note that the application has a 2015 code no. and the proposal has been substantially re-modelled from the original submission. The original scheme sought permission for a large angular development which presented a wide 9 storey block fronting Agard Street with smaller centralised elements on the rear elevation stepping down from 7 to 5 storeys. This original scheme was wholly unacceptable in terms of its overall design quality in this context.

During the life of the application the applicant instructed another local architect to continue with the scheme. The scheme has been substantially altered in terms of its overall design composition and the latest version of the scheme (revision B) includes the following components:

1. Demolition of all existing buildings on site. These include a row of Victorian terraced properties which front onto Agard Street and a commercial premises which is sited in a backland position and presently houses an MoT company – ‘MoT Masters’.
2. The proposed site layout would include a staggered front elevation that would step back into the site, in terms of footprint and height, from 7/6/5 storeys when travelling east - west along the Agard Street frontage.
3. The proposed rear component would run perpendicular to the front block and this would be a continuous height of 4 storeys. This ‘outrigger’ component has been reduced in height from previous iterations of the scheme to address concerns about its overall scale and mass.

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4. The proposed accommodation would comprise:

- External Site = Vehicle access into the site would be achieved adjacent to the east boundary and a small turning element has been built into the footprint of the building to permit manoeuvring a vehicle on-site. 2 car parking spaces are dedicated adjacent to the south boundary and on the other side of the outrigger there are 30 external cycle parking spaces. This is an increase in 8 spaces from the original submission.
- Ground floor = Includes a 4 bed cluster flat (with an accessible room) and 4 self-contained studio flats (with an accessible flat). The studio flats differ slightly in terms of floor area and floorspace arrangement across the floors. The building is served by 2 separate stair cases and a central lift core. The ground floor also accommodates communal and circulation space together with a laundry. The latest revision includes an internal bin storage area in a more accessible position at the front of the building.
- First floor = Includes a 3 bed cluster flat and 11 self-contained studio flats.
- Second floor = Includes a 3 bed cluster flat and 11 self-contained studio flats.
- Third floor = Includes a 3 bed cluster flat and 11 self-contained studio flats.
- Fourth floor = Includes a 3 bed cluster flat and 6 self-contained studio flats.
- Fifth floor = Includes 8 self-contained studio flats.
- Sixth floor = Includes 4 self-contained studio flats.
- Roof = The proposed flat roof on the 7 storey component of the building includes 126 solar panels to serve the accommodation. This arrangement would be accessible via roof hatches.

5. The proposed elevations would have a strong vertical emphasis with recessed windows at all levels. A green wall would be provided on the western part of the rear elevation and the eastern flank of the outrigger to soften those parts of the building and to part screen balconies on the rear elevation. The landscaping on the eastern elevation of the outrigger would also screen views into the neighbouring student accommodation building.

### Applicant's submission:

The applicant's heritage consultant submitted an additional position statement to accompany the amended scheme. This addresses the impact of the development in terms of the demolition of the late Victorian terraces fronting Agard Street and the ability to appreciate the significance of designated heritage assets from within their setting, including the grade 1 listed Pickford's House at 41 Friar Gate.

This is reproduced below.

...In December 2017, Locus Consulting was commissioned to prepare a Heritage Impact Assessment (HIA) to accompany an application for planning permission for the redevelopment of the Site located at Numbers 8-14 Agard Street. The Site lies to the rear of a number of listed buildings along Friar Gate, including the Grade I Pickford House, and within the Friar Gate Conservation Area.

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Subject to comments from the local planning authority and statutory consultees, including Historic England, the initial development scheme submitted was revised on a number of occasions. The latest iteration, and that relevant to this letter of response, was submitted on 23/08/18 with a Design and Access Statement Appendix Amended Scheme’.

The proposed development entailed the demolition of a modern garage workshop and three late-Victorian terraced houses on the site for the construction of a student apartment block of 7 storeys to the east, falling to 5 storeys to the west and 4 to the rear.

As per the ‘Design and access Statement Appendix Amended Scheme’ submitted on 23/08/18 for the amended scheme, a re-evaluation of the impact of the proposed development found that it would bring about:

1. Low to at most moderate levels of harm to the character and appearance of the Conservation Area through the demolition of three terraced houses within the northwest of the Site
2. Low levels of harm to the ability to appreciate the heritage significance of designated heritage assets from within their settings, including the Grade I Pickford House.

### **Concerns Raised**

Further to the redesign of the proposed development, a number of concerns were reiterated by the Derby City Council Conservation Officer and Historic England (24/09/18) and Historic England (17/09/18). These are summarised below:

- The proposal would have an overbearing effect, with a significant negative impact on the setting (and significance) of nearby listed buildings, in particular the setting of grade I Pickford’s House.
- Demolition of the 19th century terrace as is harmful to the significance of this part of the Friar Gate Conservation Area as it erodes the evidential and historic value of this part of the conservation area (this terrace is part of the architectural and historic interest of the area and contributes to the character and appearance of the Conservation Area).
- Harm to the conservation area in terms of the views of the development from Friar Gate alongside the building and its garden.

### **Amended Scheme**

Subject to concerns expressed by Derby City council and Historic England the proposed development has undergone a number of small-scale changes. In respect of concerns regarding the impact of the development on heritage assets, this includes:

1. Reduction of rear outrigger block to 4 storeys in height.

### **Indirect impact on Pickford House**

Further reduction of the scale of the building has reduced the proposed developments indirect (setting) impact on Pickford House and other designated heritage assets. The reduction in height will make the adjacent nine storey adjacent

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marginally more conspicuous, however the proposed development will still perform a key role of rationalising its presence within the townscape, reducing ambient heights to 4-5 storeys.

The findings of the HIA are considered to remain, with the degree of harm brought about by the proposed development to the setting of listed buildings further and marginally diminished. Overall, the harmful impact of the proposed development on the ability to appreciate the architectural and historical interest of Pickford House and other listed buildings from within their settings is found to be low.

### **Demolition of Late Victorian terraces**

The original HIA, and subsequent amendments, find that the proposed development will bring moderate to low levels of harm to the character and appearance of the Conservation Area.

As its eponymous name suggests, the Friar Gate Conservation Area is defined (as per the Conservation Area Appraisal) primarily on the major linear historic gateway of Friar Gate and Ashbourne Road, and those 'high-quality', 'key' and 'outstanding collection' of Georgian and 19th century buildings along the street.

The opening section of the CAA states that the special character and appearance of the Friar Gate Conservation Area derives from a number of features, and it is notable that none of these include explicit mention of terraced workers houses or Agard Street. However, the variety of architectural styles (including Victorian) is mentioned, as is the 'prevalent use of local brick,...with slate... roof covering (amongst other materials)'. Both are of relevance to the terraced houses proposed for demolition.

The statement notes 19th century residential development along Ashbourne Road as of interest, associated with the 19th century industrialisation of the city.

The Site lies within the West Friar Gate character area defined in the CAA, which is noted for its Georgian Town houses and broad street scene. Agard Street is noted in the CAA as having 'a very mixed character with infill development and gap sites within the gardens to the rear which has disrupted the original character'.

Elsewhere within the CAA the architectural styles of buildings, material construction, public realm, quality of open spaces, and often planned aesthetic of the townscape are covered in great detail.

Agard Street is mentioned only four times, twice in discussing the broader historical development of the area and twice in regard to its poor and eroded quality. The architectural and historic interest of small-scale terraced houses are offered little recognition within the CAA, largely considered for the contribution they make to the townscape setting of relatively prominent and higher quality buildings.

Review of the significance of the three terraced houses along Agard Street shows them to be utilitarian, largely devoid of decoration and entirely remarkable from the larger villas and houses characterising Friar Gate, Ashbourne Road and other streets explicitly identified by the CAA as positively contributing to the character and appearance of the Conservation Area. The condition of the short terrace, originally twice its length, is also poor with all windows to the front replaced in uPVC and doors

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substituted. The Spartan aesthetic relates to the former associated within the demolished maltings to the side and rear.

Although not without historical interest in respect of Derby's industrial expansion, and architecturally related to the general 19th century development of the broader area in and around the Friar Gate Conservation Area, the terraces do not form a notable, key or outstanding component of the features which define its special character and appearance. The latter is instead primarily formed by high status residences along the linear route of Friar Gate and Ashbourne Road, as well as roads characterised by housing associated with the emerging industrial middle and upper classes.

Nonetheless, it is accepted that the buildings hold a degree of historical interest in respect of their association with Derby's rapid industrial growth, including the malting industry, and the pressure this put on the city's then established high-status suburbs. The evidential value of the buildings (promoted by Derby Council and Historic England) is likely to be low, with little latent archaeological interest able to be gleaned from their study. Architecturally their interest lies in the utilitarian form and the contrast they make with the high-status buildings to the east and south. In their own right they are largely unremarkable, and far finer examples of their type are found within the city, both within and outside of Conservation Areas.

It is considered that the terraces make a positive, but not a key or fundamental, contribution to the general character and appearance of the conservation area. In light of the above, the findings of the original HIA are considered to stand; that the demolition of the terraced houses would bring low to at most moderate harm to the special character and appearance of the Conservation Area.

As such, their demolition would bring less than substantial harm the Conservation Area. As per Paragraph 196 of the NPPF, the impact of the development should be weighed against the public benefit. Should the evidential value of the buildings be considered to be of high value, a suitable programme of building recording could be specified in accordance with Understanding Historic Buildings - A Guide to Good Recording Practice (Historic England, 2017).

I would also recommend that members refer to the web-pages to peruse the various documents and plans/elevations to see how the scheme has evolved.

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

None of any direct relevance on this site but members will be aware of development activity on the south side of Agard Street and the application at 36 Agard Street that was presented to the recent July meeting. Other permissions have been granted this year to alter and extend the existing linear building at 18 Agard Street and the neighbouring development at Friar Gate Square is now well established as part of the University offer.

### **3. Publicity:**

Neighbour Notification Letters - Yes

Site Notice - Yes

Statutory Press Advert - Yes

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

*The revised schemes have also been re-publicised in line with the Council's own Statement of Community Involvement (SCI).*

### **4. Representations:**

The application has generated a range of objections during its life and these are summarised below. Members should note that the application has been re-publicised to address revisions to the scheme and the dates of the individual comments are included on the web-pages.

- The proposal would adversely affect the character and setting of Pickford's House at 41 Friar Gate which is a grade 1 listed building.
- The proposed development would impact on the wider character and appearance of the Friar Gate Conservation Area.
- Certain objectors, such as those lodged by Derby Civic Society, highlight the legal duties of the Council to determine the application in accordance with the Acts and highlight case law surrounding heritage matters.
- The impact of the development and the piecemeal nature of development along Agard Street.
- The proposal would increase the unacceptable proliferation of tall buildings in this area.
- Concerns are raised surrounding pollution levels and increasing the 'street canyon effect' along Agard Street. The resultant impact on the health and well-being of people in the area is raised.
- Concerns about parking and traffic safety issues are raised.
- Concerns about the overall management of the building are raised.

### **5. Consultations:**

#### **5.1. Historic England:**

The latest comments are as follows...

...The site lies within the Friar Gate conservation area and within the setting of a number of listed buildings including the Grade II listed No.41 Pickford House. We have previously provided advice on the proposals in our letters dated 7 January 2016, 23rd January 2018 and 14th September 2018, including an assessment of significance, which remains relevant to the determination of this application.

The proposal is for the construction of a student accommodation to provide 75 beds within 63 units, including the demolition of the existing buildings on the site. As previously advised we have no objection to the demolition of the

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garage. However, we remain of the view that the demolition of the 19th century terraced housing is harmful to the significance of this part of the Friar Gate conservation area - the loss of the houses erodes the evidential and historic value of this part of the conservation area.

We have been consulted on additional information provided, which includes revised plans. We note from the revised plans provided that the projecting rear section of the building has been reduced in scale to four storeys. This has reduced the overall scale and massing of the building, reducing its overall impact on the surrounding listed buildings and the conservation area.

However, as previously advised, we still consider that the scale and mass of the proposed building, starting from 5 storeys immediately adjacent to Pickford House, would have a dominating and overbearing effect when viewed and experienced from within Pickford House and its garden. The building retains a sizeable footprint and despite the forward positioning of the building within the plot, the proposed scale and mass of the building would loom over Pickford House gardens. The building would be highly prominent in views detracting from the appreciation of the architectural and historic interest in this part of the conservation area and erode the setting of this Grade II listed building. In our view, the proposed building relates poorly to the positive characteristics and scale of the highly graded listed buildings within the conservation area and the scale of buildings on the opposite side of Agard Street. We believe that the proposed building should seek to compliment and reflect the height of the surrounding historic buildings and the buildings on the opposite side of Agard Street.

As previously advised, we acknowledge the adverse visual impact of the adjacent consented scheme in relation to the surrounding heritage assets and conservation area which is regrettable and consider there is scope for some stepping up in height within the design of the proposed scheme in order to help mitigate the adverse visual impact of the adjacent scheme and to better integrate it into the surrounding townscape.

We re-iterate our view that a building which rises from four storeys adjacent to Pickford House to five then six storeys immediately adjacent to consented tall building to the east, thereby reducing its overall scale and massing, would better reflect the scale of the surrounding townscape and significantly reduce its adverse visual impact, in relation to the surrounding highly graded listed buildings, including Pickford House Museum and the character and appearance of the conservation area.

Though we would defer to the local authority on consideration of the proposed detailed design and materials, as previously advised overall we do not believe the design of the scheme and materials as currently proposed complement the positive characteristics of the historic townscape.

### **Policy and Guidance**

As the application affects the setting of listed buildings and the conservation area, the decision-maker must take into account the statutory requirement to have special regard for the desirability of preserving the setting of a listed

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building (s.66 (1), 1990 Act) and to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area (s.72 (1), Listed Buildings and Conservation Areas Act, 1990) -the requirement applies irrespective of the level of harm.

Your authority should also take account of the desirability of sustaining and enhancing the significance of heritage assets (paragraph 192 NPPF). The NPPF also states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to its conservation (paragraph 193). The more important the asset the greater the weight should be given (paragraph 193). The significance of a heritage asset derives not only from its physical presence, but also from its setting. Significance can be harmed or lost through development within a heritage asset's setting and since heritage assets are irreplaceable any harm or loss to significance requires 'clear and convincing' justification (paragraph 194).

The importance attached to setting is therefore recognised by the principal Act, by the NPPF, by the accompanying practice guide and in the sector wide Historic Environment guidance.

### **Historic England Position**

In our view the scheme proposed would result in harm to a number of listed buildings, including the Grade I Pickford House and the Friar Gate conservation area. Whilst we acknowledge the reduction in the scale of the proposed development, we believe that the adverse impact of the proposed building on the surrounding listed buildings and character and appearance of the Friargate Conservation Area could be significantly reduced by stepping the building from four storeys in height to better reflect the surrounding townscape as outlined above.

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.

### **Recommendation**

Historic England has concerns on heritage grounds. We recommend that the application is amended as advised above to address the issues raised and that you seek further advice from your In-house Conservation Officer. We consider the application does not meet the requirements of the NPPF, in particular paragraphs 127, 130, 192, 193,194, 196 and 200.

If, however, you propose to determine the application in its current form, please treat this as a letter of objection, inform us of the date of the committee and send us a copy of your report at the earliest opportunity.

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

At its meeting in March this year the latest revised scheme was presented and the following comments were provided...

...CAAC acknowledges that the applicant has sought to address their previous comments. The committee welcomes the amenity space and recommend this is softly landscaped rather than hard landscaped. They have queried the location of the cycle storage and raised the question as to whether or not this could be relocated to allow planting along the boundary to screen the relationship with Pickford's House and its garden.

In respect of the height CAAC acknowledge that the height has been substantially reduced and this has been a positive impact on the scheme. The building has a strong design and will allow a transition from the taller buildings, Copper Building and Student Accommodation to those proposed Agard Street to the north-west. Four storeys is more appropriate and creates a better relationship with Pickford's House and its garden.

No Objection to the principle of the scheme and the committee acknowledge the substantial reduction to the scheme. A full landscaping scheme should be considered along with how any planting would integrate with Pickford's House and Garden.

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

These observations are primarily based upon revised drawing "17/551/P02 Rev B".

Historically, the Highway Authority has raised concerns in respect of the location of the refuse store; the site layout has been redesigned to remove those concerns.

As has been mentioned in a previous response, pedestrian visibility is restricted in respect of the vehicular access; it will therefore be necessary for the developer to install a suitable 'traffic calming' feature within the site nearby the access in order to ensure that the speed of emerging vehicles is controlled; this will require careful design to ensure that access to the bin store is not compromised for operatives.

The Local Planning Authority and Applicant are reminded that whilst trip generation associated with the development is (on the whole) very limited; there will be occasions when there will likely be a high incidence of vehicle parking on the highway in the vicinity of the site.

Whilst this will be short-term and transient in nature, it will nevertheless be likely (at certain times of the day) to have a disruptive effect upon traffic patterns and queues in the area.

As has been pointed out in respect of a similar application elsewhere in the city, the current waiting restrictions fronting the site do not preclude the activities associated with the dropping off of passengers and their possessions; as these strictly fall within

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the definition of “loading”. There are no restrictions upon loading in respect of the Traffic Regulation Orders (*TRO*'s) covering Agard Street.

Such practices could have an impact upon the capacity of Agard Street during peak times and would place a corresponding enforcement burden upon the councils Parking Services Section.

Accordingly therefore, the Highway Authority will seek for the applicant/developer to fund alterations to the *TRO*'s to restrict loading along a suitable portion of Agard Street to outside of the morning and evening peak times; in tandem with details for a strategy to control influx of students which would be anticipated to be considered in the Travel Plan (which will need to be provided); this should have the effect of negating the impact of the development during those times.

The applicant/developer is reminded also that occupants of the proposed accommodation would not be eligible for the issue of parking permits.

### **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:**

No part of the development hereby permitted shall not be brought into use until the site access has been constructed with a suitable ‘traffic calming’ measure to reduce the manoeuvring speed of vehicles; in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

#### **Reason:**

To enable vehicles to enter and leave the public highway in a slow and controlled manner and in the interests of general Highway safety.

#### **Condition 2:**

No part of the development hereby permitted shall be brought into use until the access driveway has been surfaced in a hard bound material (not loose gravel) for a minimum of 7.5 metres behind the Highway boundary. The surfaced access 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.).

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### **Condition 3:**

No part of the development hereby permitted shall be brought into use until the parking and turning areas are provided in accordance with the approved plan (17/551/P02 Rev B). The parking and turning areas shall not be used for any purpose other than parking and turning of vehicles.

### **Reason**

To ensure that adequate off-street parking provision for the servicing of the site is made to reduce the possibilities of the proposed development leading to on-street parking in the area.

### **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 in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.

### **Reason:**

To protect the structural integrity of the highway and to allow for future maintenance.

### **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 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.

### **Reason:**

To protect the structural integrity of the highway and to allow for future maintenance.

### **Condition 6:**

No part of the development hereby permitted shall be brought into use until the access driveway 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.

### **Reason:**

To ensure surface water from the site is not deposited on the public highway causing a danger to highway users.

### **Condition 7:**

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

### **Reason:**

In the interests of highway safety.

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### **Condition 8:**

No part of the development hereby permitted shall be brought into use until the cycle parking layout as indicated on drawing "17/551/P02 Rev B" has been provided. That area shall not thereafter be used for any purpose other than the parking of cycles.

### **Reason:**

To promote sustainable travel.

### **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, measures to control the arrival and departures of students at the beginning and end of each semester, a timetable and enforcement mechanism) to promote travel by sustainable modes which are acceptable to the local planning authority 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.

### **Reason:**

To promote sustainable travel.

## **NOTES TO APPLICANT**

N1. The development makes it necessary to construct alter 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 building 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

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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.

N7. Notwithstanding any Planning Permission please note that the proposed units will not qualify for the issue of 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 the site, location in relation to existing land and property, and the placement of front doors or primary means of access.

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

The latest comments are as follows...

... Previous comments from Natural Environment (NE) are noted.

Site plan drawing number 17/551/P02 appears to show a better juxtaposition between the tree and proposed building however tree protection plan indicates a different site plan.

Due to the existing constraints (difference in levels and the presence of the boundary wall) it is more than likely that tree roots have not entered the site. This has been addressed by the Arb report and previous comments from NE.

In its present setting the tree contributes to the public amenity and can be clearly seen from Agard Street to the north. If the proposed development is built it would effectively screen a considerable amount of the tree from the public realm resulting in a loss of amenity. A partial view could still be had from the northwest. This loss of visual amenity is particularly important due to the lack of green infrastructure in the immediate vicinity.

Furthermore the proposed plan indicates that there is little scope to replicate the amenity that would be lost.

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

Comments in relation to land contamination are as follows...

#### **Land Contamination**

I note that a Phase I desktop study has been submitted with the application. I would recommend that the following conditions are attached to any consent, should it be granted:

1. Where the Phase I desktop study has identified potential contamination, a Phase II intrusive site investigation shall be carried out to determine the levels of contaminants on site. A risk assessment will then be required to determine the potential risk to end users and other receptors. Consideration should also be given to the possible effects of any contaminants on groundwater. A detailed report of the investigation will be required for submission to the Council for written approval.

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2. In those cases where the detailed investigation report confirms that contamination exists, a remediation method statement will also be required for approval.

3. Finally, all of the respective elements of the agreed remediation proposals will need to be suitably validated and a validation report shall be submitted to and approved by Derby City Council, prior to the development being occupied.

Comments in relation to noise are as follows...

### Noise

1. The proposal involves the introduction of a series of residential flats over a number of floors and within a city centre location.

2. Given the nature of this location, the site is known to suffer a high degree of noise from adjacent road traffic and in addition, noise associated with the night-time economy e.g. pubs and clubs. Consequently, future residents are at risk of being exposed to unacceptable levels of noise, especially late at night.

3. Whilst we recognise that similar developments have been given permission in comparable situations in the city, **we would still highlight the Environmental Protection Team's in principle opposition to the granting of planning permission for dwellings in the city centre due to expected amenity impacts from night-time noise, particularly at weekends.**

4. Should the LPA be minded to grant permission however, we would recommend that a suitable sound insulation scheme is designed to protect proposed habitable rooms i.e. bedrooms and living rooms. The scheme should take into account the risks from low frequency noise elements associated with nightclub/pub entertainment noise and should provide for suitable alternative ventilation to allow windows to be kept closed where possible.

5. Should permission be granted, we would recommend a condition securing the above.

The latest comments in relation to updated air quality information are as follows...

### Air quality

...Further to the re-consultation request for the above application, I note the amended design for the scheme and subsequently, the submission of an updated air quality impact assessment, namely:

*Air Quality Assessment* (Ove Arup & Partners Ltd, Ref: 265303-00, Dated: 14 Dec 2018).

I can comment on the assessment and its implications for air quality as follows.

### Air Quality Assessment

1. The report includes an assessment of construction dust and also long-term air quality impacts arising from the construction of the scheme itself, primarily via the introduction of new receptors and due to an increase in street canyon effects.

### Construction Dust

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2. Construction dust effects have been considered in conjunction with IAQM Guidance methodology.
3. Following consideration of construction effects in accordance with the guidance, mitigation measures are described in Section 8.1.
4. The report concludes that, subject to the proper implementation of those measures, the effects of construction on dust soiling and on human health should be negligible and the impacts not significant.

### **Operational Impacts**

5. The detailed modelling of operational impacts includes assessment of pollutant concentrations in 2017 (with and without the development in place) and also in 2020 (with and without the development in place).
6. The two 'without development' scenarios for 2017 and 2020 include existing street canyon effects, in the absence of the proposed new building. The two 'with development' scenarios in the same years, have been modelled to include an increased street canyon effect, created by the physical structure of the proposed new building. This follows advice from this Department and allows for an appropriate assessment of the impact of the development within the planning context.
7. Traffic generated by the development is expected to be up to 40 AADT and therefore considered insignificant. I would agree with this assertion.
8. The main impacts of the development are the creation of a street canyon and the introduction of new receptors into an area of known poor air quality.
9. An extensive selection of sensitive receptor locations have been modelled in the assessment. These cover existing receptors (in particular the occupants of the student apartment block on the opposite side of Agard Street, Sir Peter Hilton Court) and new receptors created by the development i.e. future occupants of the proposed scheme. Helpfully, a series of heights have also been modelled in order to represent concentrations at ground floor, first floor and so on.
10. Model input parameters and verification all appear to comply with relevant guidance and are considered to be robust.
11. Applying the more conservative 2017 emission factors, the modelling highlights exceedances of the air quality objectives for NO<sub>2</sub> at both existing and proposed new receptors at ground floor level close to Agard Street.
12. The modelling suggests that the creation of additional street canyon effects caused by the construction of the new building could cause highly significant increases in NO<sub>2</sub> at existing receptors (by as much as 9µgm<sup>-3</sup> or 29% at ground floor level at Sir Peter Hilton Court).
13. At ground floor level, the increases caused by the development push concentrations very close to, and in one case in exceedance of, national air quality objectives for NO<sub>2</sub> in instances where the objectives are not currently being exceeded.

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14. At this level, the increases in NO<sub>2</sub> concentrations are described as a 'substantially adverse' impact according to the IAQM/EPUK criteria. Even at first, second and third floor, the increases are described as 'moderately adverse'.

15. When using the more optimistic emission factors for 2020, air quality impacts are described as either 'moderately' or 'slightly' adverse.

16. Increases in PM<sub>10</sub> and PM<sub>2.5</sub> concentrations are also expected to increase, however the impacts are not described as significant due to the overall concentrations being expected to be well under the Objective levels.

17. In terms of new receptors introduced by the proposed scheme (i.e. the occupants of the new apartments), the modelling predicts that they could be exposed to concentrations well above the National Objectives at ground floor level when using 2017 emission factors (up to 44 µg<sub>m</sub><sup>-3</sup> against the National Objective of 40µg<sub>m</sub><sup>-3</sup>).

18. When using 2020 emission factors, no exceedances are predicted, however concentrations at ground floor level are expected to be just below the Objectives (up to 38µg<sub>m</sub><sup>-3</sup>).

19. Based on the results of the assessment, the report makes recommendations for mitigation which is detailed in Section 8.2.

20. The mitigation proposals consist of the following:

- A recommendation to make all Agard Street façade facing windows un-openable on the ground, first and second floors of the development;
- The installation of mechanical ventilation to all rooms with un-openable windows; and
- A recommendation to ensure that the mechanical ventilation draws air from the southern façade of the building, away from Agard Street.

21. No measures are proposed in the report to mitigate the increases in air pollutant concentrations at existing receptors.

### Conclusions and Recommendations

22. The assessment is considered to be robust and adequately demonstrates air quality impacts arising from the development.

23. The results of the assessment clearly demonstrate that the construction of such a development in this location has the potential to cause unacceptable increases in air pollutants, in particular NO<sub>2</sub>, due to enhanced street canyon effects along Agard Street.

24. Whilst the mitigation proposed would provide a degree of protection to future occupants of the new development, **no mitigation is offered to protect existing occupants of the dwellings opposite at Sir Peter Hilton Court.**

25. Based on the modelling, the development would put Derby City Council at increased risk of exceeding both National Objectives and European Limit Values for NO<sub>2</sub> along Agard Street.

26. It is considered that the increases in NO<sub>2</sub> created by the development could undermine the Council's attempts to reduce NO<sub>2</sub> under local air quality plans

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currently being required by Central Government, in connection with the DEFRA Secretary of State's own response to a Supreme Court ruling regarding the UK's non-compliance with EU Limit Values. **Allowing the development to go ahead could therefore be of both local and national legal significance.**

**27. The development is in direct conflict with both local and national planning policy and the Environmental Protection Team therefore recommends refusal of the application on air quality grounds.**

28. Should the committee still be minded to grant permission irrespective of air quality concerns, then I would strongly recommend that the following conditions are attached to the consent:

- A condition requiring the submission of an Air Quality Mitigation Plan, to be agreed by the LPA before the development commences; and
- A separate condition requiring the submission of a detailed Construction Management Plan for the control of noise and dust, before the development commences.

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

The latest comments are as follows...

...We would re-iterate our comments of 10 Jan 2018 below.

Please note the relevant NPPF paragraph which requires developers to record heritage assets which are to be affected by their schemes is now 199 not 141.

Thank you for re-consulting on this application, following submission of amended plans.

Impacts to the setting of designated heritage assets should be addressed in consultation with the local planning authority's conservation officer. In relation to below-ground archaeological remains, the impact of the development is substantial the same as that addressed in previous comments. Archaeological potential is for remains of peripheral medieval/early post-medieval activity, with a high probability of remains associated with the early 19th century expansion of Derby, including terraced housing and malshouses. Depending on the state of preservation, association with material culture etc., such remains have potential to be of county/regional significance, in relation to a crucial period when Derby underwent a transformative expansion powered by industry and the railways.

The archaeological potential on the site should be addressed through planning conditions in line with NPPF para 141, requiring a conditioned scheme of archaeological recording in advance of construction. This should comprise an initial phase of trial trenching, followed by targeted area excavation of significant remains.

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-start element of the approved scheme has been

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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
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." "

### **5.7. DCC - Urban Design Officer:**

I welcome the removal of existing modern garage workshop from this site. The 3 late-Victorian terraced houses, proposed for demolition, whilst of interest in terms of being within the Conservation are, are mainly of little interest in themselves or for their contribution to the street-scene. The site is within the Friar Gate Conservation Area and this proposal will affect the setting of this by its height and mass, particularly to the important curtilage of open spaces/gardens to the rear of many of the (many listed) buildings on Friar Gate.

In urban design terms, there remains some concern that the proposed new accommodation is still overbearing in relation to its context, in height, scale and mass. However, in response to these concerns, further iterations have attempted to reduce the massing by:

a) moving the development away from the student accommodation on the south-west side. In my view, this has allowed further views through to Friar Gate and the bridge and is welcomed;

b) stepping the massing down at the rear to reduce the mass at the corner closest to the Grade I listed Pickford's House: in my urban design view I feel that the mass in relation to the Pickford's House garden within the listed curtilage still feels a little uncomfortable (although improved from previous submissions), but this is a detailed heritage issue in the main.

In terms of the impact upon Agard Street, there is DCC-led emerging interim planning guidance in progress which looks at reducing the *accumulation* of taller buildings along the Agard street – in particular the potential contribution to a "canyon effect"

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(visually and relating to air quality). The recently built Friar Gate Square office and adjacent student accommodation does not form some context to this adjacent proposed site. However, the two existing taller buildings stand at the city centre end of the street and has always been conceived of as an isolated small cluster of “gateway” buildings, which relate as much to Ford street as they do to Agard Street: hence, should not be seen as a firm precedent.

On the other hand, the character of the Conservation Area is “*mixed, with infill development and gap sites within the gardens to the rear and this has disrupted the original character*”, so a new development which gives a strong edge to the streetscape is to be welcomed as an improvement in this respect. This stepped height and mass, it could be argued, would form a fitting transition between the taller “gateway” buildings and a 4/5 storey maximum height northwards, likely to be recommended by the forthcoming planning guidance.

The materials are broadly acceptable and the use of brick to reflect the adjacent student block is acceptable. In terms of design, the fenestration detailing is possibly over-designed and too elaborate.

On balance, and in terms of general urban design, I recommend this proposal for approval, subject to conditions relating to the materials, architectural detailing, elevational fixtures and fittings, signage and lighting.

### **5.8. Derbyshire Wildlife Trust:**

Thank you for re-consulting the Derbyshire Wildlife Trust with regard to the above planning application following the submission of updated ecological information. I am responding as the Biodiversity Planning Officer responsible for work relating to the Service Level Agreement, which Derby City Council and the Trust have signed. The following comments are aimed at providing accurate and up to date information on the nature conservation issues associated with the proposed development.

In our earlier comments we advised that the supporting ecological information was out of date and that up to date bat survey information was required given that the proposal includes the demolition of existing buildings.

We have now reviewed a Bat Activity Report prepared by RammSanderson dated July 2019 which presents the results of a dawn re-entry survey and a dusk emergence survey carried out on 17<sup>th</sup> June and 1<sup>st</sup> July 2019 respectively following the completion of an initial bat building assessment on 15<sup>th</sup> April 2019 which considered the buildings as having moderate potential for roosting bats.

We are satisfied that the surveys have been undertaken in accordance with current best practice guidance and that during the surveys no bats were recorded returning to or emerging from any of the buildings on site.

Overall, we advise that the assessment that has been carried out for bats meets guidance within Circular 06/2005 and, as such, sufficient information regarding these protected species has now been submitted to enable the Local Planning Authority to reach an informed decision in accordance with the guidelines and to discharge its duty in respect of the requirements of The Conservation of Habitats and Species

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Regulations 2017. In summary, no evidence of roosting bats was found and as such, we advise that bats should not present a constraint to the proposed works.

The southern part of the site was identified to be used for foraging by common pipistrelle bats. We therefore fully support the recommendation in section 5.1.1 of the report for the provision of a carefully designed lighting scheme. The provision of a bat friendly lighting scheme should be secured by a planning condition.

We advise that the proposed development provides opportunities to incorporate bat roost features and bird nesting boxes within the development to provide a net gain in biodiversity in line with the objectives of the National Planning Policy Framework and Policy CP19 Biodiversity of the Derby City Local Plan Part 1. This should be secured by a planning condition as follows:

*“Prior to the commencement of the development, a scheme of biodiversity enhancement (namely the incorporation of integrated bat roost and swift nesting features within the development) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented as building progresses and completed prior to the first occupation of the development and retained thereafter.”*

No nesting birds were recorded during the surveys but two of the buildings were considered to support access opportunities for nesting birds. We therefore recommend that a condition to secure the following is attached to any permission:

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

A stand of Japanese Knotweed was recorded on the site. We therefore recommend that a condition to secure the following is attached to any permission.

*“Prior to the commencement of development, an invasive non-native species protocol shall be submitted to and approved by the local planning authority, detailing the containment, control and removal of Japanese Knotweed on site. The measures shall be carried out strictly in accordance with the approved scheme.”*

### **5.9. Police Liaison Officer:**

The latest comments are as follows...

...Thank you for sending notification of amended plans for this application, which are taken to be those dated the 23rd and 24th of August 2018.

These are concerned with the visual impact and massing of the scheme, and don't address our last comments of the 8.1.18 regarding the restriction of access along the western side of the site, and associated matters.

Of the amended plans, site layout revision PO2 still shows open access in this area.

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It's appreciated that enclosure could be resolved by a general boundary condition, but for the sake of clarity I would repeat prior comments of the 8.1.18.

### **5.10. Marketing Derby:**

This letter is written in support of the application above for the site on Agard Street. 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, Rigby & Co, 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 sites such as this, we take it.

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### The proposed scheme

The proposed development represents redevelopment of a brownfield site in a key gateway to the city and would help to increase footfall and activity within its vicinity whilst providing new accommodation for students in close proximity to the University of Derby.

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 Friargate. 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.

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.

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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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.

### **5.11. DCC – Land Drainage:**

Following a review of the Flood Risk and Drainage Strategy submitted as part of the application, I can support the application on flood risk grounds subject to the condition below being imposed.

The proposals are for a block of student flats with an impermeable footprint lower than the existing use and therefore there will be a reduction in rainfall runoff from the site. Additionally the proposal is for a surface water outfall restricted to a rate significantly lower than at present. This will reduce the rate and volume at which surface water presently enters the combined sewer from the site.

According to the FRA and the modelled fluvial flooding data for the Markeaton and Bramble Brooks the finished floor level of the residential and facilities areas of the development will be 450mm and 300mm above the 1 in 1000 year fluvial flood level respectively. The FRA suggests that for this event fluvial flood water is unlikely to enter the site. This is despite the area being sited within Flood Zone 2.

It is noted that the FRA is written to comply with the Technical Guidance for the National Planning Policy Framework which is now superseded by the Planning Practice Guidance for Flood Risk and Coastal Change. However this is not expected to materially affect the content or conclusions of the FRA.

Due to the above information, the development is therefore acceptable on flood risk grounds, subject to the following condition:

1) No development shall take place until detailed proposals for the management of the surface water drainage, in accordance with sustainable drainage principles, have been submitted to and approved in writing by the Local Planning Authority. The agreed details shall be implemented and retained for the life of the development. The drainage scheme shall be in accordance with Planning Practice Guidance and the Non-statutory technical standards for sustainable drainage systems (Defra, March 2015).

### **5.12. DCC – Regeneration:**

The latest comments are as follows...

The Derby City Council Regeneration Projects team fully support proposals for student accommodation on the site of 8-14 Agard Street. The development will provide new accommodation for students in close proximity to Derby University. The proposed development represents redevelopment of a brownfield site in a key gateway to the city and would help to increase footfall and activity within its vicinity.

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The Derby City Council Local Plan Part 1 (the Core Strategy) was adopted in early 2017 and promotes sustainable growth to meet its objectively assessed housing and commercial needs between 2011 and 2028. Over the plan period (2011-2028), provision is made within the City for a minimum of 11,000 new homes. The strategy seeks to deliver regeneration across the City both in terms of specific brownfield sites that need addressing and through the wider initiatives concentrating on older urban areas and outer estates.

Policy CP22 (Higher and Further Education) of the Local Plan outlines the Council's commitment to supporting the continued growth and development of higher and further education establishments within the city including Derby University and Derby College. The policy states that the Council will support and encourage the development of new student accommodation particularly within the University District.

The proposed development is consistent with these elements of the Local Plan given it represents new student accommodation within the University District. Delivery of new homes as part of the proposed development will contribute towards meeting the Local Plan target for new housing. The proposed development also represents re-use of brownfield land, which is consistent with the aims and objectives of the Local Plan. In addition, the proposed development will provide modern accommodation that the University of Derby consider essential to underpinning its continuing contribution to the local and wider economy.

In summary, the Derby City Council Regeneration Projects fully supports the principle of the proposed development, which will contribute towards delivering sustainable growth in line with both the Local Plan and the Derby City Centre Masterplan 2030

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In summary, the Derby City Council Regeneration Projects fully supports the principle of the proposed development, which will contribute towards delivering sustainable growth in line with both the Local Plan and the Derby City Centre Masterplan 2030

### **5.13. DCC – Built Environment:**

The comments for the penultimate set of revisions are as follows. Please note that these contain references to the paragraph numbers in the superseded version of the NPPF...

...These comments are made in the light of the Planning (Listed buildings and conservation

areas) Act 1990, and the relevant National and Local Planning Policies and Guidance (including the National Planning Policy Framework, Historic England guidance, the Derby City Local Plan Part 1 (2017), the saved policies in the Local Plan Review (January 2006) and other relevant guidance.

I have looked at the amended scheme and it is clear that the amendments do not address the very strong concerns that I have about this proposal as it does not, in my view preserve or enhance the character and appearance of the conservation area and has a significant negative impact on the setting (and significance) of nearby listed building, in particular the setting of Pickford's House (see Fig 10 in the heritage statement in particular).

I would refer you to section 66 and 72 of the Planning (Listed building and conservation areas) Act 1990, the NPPF, the Derby Local plan Review policies E18 and E19 as well as the Derby Local plan Core strategy (2017) policy C20 in particular but there are Design policies which are also relevant here.

The impacts on designated heritage assets are negative and harmful. Para 132 'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

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The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification'. I do not believe this has been provided.

Please let me know if you would like me to add further to these comments at this stage as I do not agree with the comments made within the Heritage Statement/Heritage Impact assessment and I strongly feel that the proposal is very harmful to the character of the conservation area along Agard Street and the setting of the highly graded listed buildings nearby.

Para 134 of the NPPF is relevant as the harm would be less than substantial and therefore the harm demonstrated above should be weighed up against the public benefits of the proposal.

Recommendation: - Previous comments are relevant and strongly object to proposals on conservation grounds.

The latest comments are as follows...

...Amendments to this scheme have been made. The proposals now contain 75 bedrooms within 63 units and associated works including the demolition of existing buildings on the site.

I have looked and I note the amendments it is clear that they do not fully address the strong concerns that I have about this proposal as outlined in my previous comments made on 22/03/16, 05/04/16, 31/01/18 and 24/09/18. My views are fully explained in full in my previous comments.

I agree with and support the contents of the most recent letter received from Historic England (08/02/19).

Recommendation: - Previous comments are still relevant and object to the current proposals due to the harm on conservation grounds.

### **5.14. DCC – Housing Strategy:**

I refer to the above application and I can offer the following comments from Housing Standards issues.

#### **Crowding and Space**

1. The proposal involves the introduction of a Student accommodation block containing 70 studios and 23 cluster flats and associated works including demolition of existing buildings on site.

2. The individual units of accommodation are of varying sizes, designated on the plans as types A – F.

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3. Whilst we recognise that similar developments have been given permission in comparable situations in the city, we would still highlight the Housing Standards concerns regarding the size of some of the units of accommodation.

4. With the exception of the cluster flats where there are shared amenities, the remainder have all the facilities behind one door, with the occupier having no access to any other shared amenities, save the hallways leading to the flats front door and laundry room. The studios have en-suite bathrooms within the unit of accommodation housing the WC, shower and a wash basin.

5. Guidance on minimum room sizes for self-contained units does vary and it is recognised that this development is intended solely as student accommodation. Whilst we recognise that these studio units are not within an HMO, our HMO standard guidelines for rooms where the cooking facilities are in the room is a minimum of 14m<sup>2</sup>, so the size of a fully self-contained student studio flat (excluding the bathroom and entrance lobby) should at least meet this standard and have the usable living area of the room as that a minimum.

6. It would appear Type A, D and F studios have practical useable living space (including the kitchen) below 14m<sup>2</sup>. They do also have a small entrance hall off which the bathrooms are situated but that is not really usable living space.

7. Should the LPA be minded to grant planning permission, we would recommend a condition securing that the minimum size of 14m<sup>2</sup> is achieved in all rooms, and that the accommodation is solely for student accommodation.

8. Regard should also be had to the attached kitchen amenity guidance in respect of both the shared facilities in the cluster flats and within the individual studios.

9. Securing planning permission does not preclude the taking of action under Part 1 of the Housing Act 2004, having regard to the HHSRS hazard of Crowding and Space should adequate standards not be achieved.

### **5.15. Environment Agency:**

Thank you for consulting us on the amended plans received for the above planning consultation.

We have reviewed our planning consultation workload to ensure that our time and expertise is focused on those locations and developments that present the following:

- a high risk to the environment
- those that are able to offer significant environmental benefit.

We have reviewed the above application and feel that, as presented, it does not fall under either of the above categories and therefore we do not wish to comment further on these proposals. The proposed development sits within flood zone 2 and therefore

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standing advice for development in flood zone 2 should be used by the LPA to determine this application.

### **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
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\\_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>

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*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**

A recent national policy change is the publication of the new National Planning Policy Framework in July last year with other technical amendments published in February this year. 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.

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 application is for student accommodation and the Planning Practice Guidance (PPG) 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.

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The Council can count a greater proportion of student accommodation towards meeting our housing requirement than it could previously. In this case for the proposed accommodation schedule highlighted at the start of this report 57 units could be counted towards the Council's housing requirement if the scheme was to be approved and implemented. This is based on a 1:1 ratio for the individual self-contained studio flats and a ratio of 1:2.5 for the cluster flats, as outlined in the Planning Practice Guidance (PPG).

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 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.

As such, 57 units 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.

This application is also accompanied by a s106 agreement to secure the necessary mitigation and supporting infrastructure for the development.

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

The principle of developing this brownfield site for residential use is acceptable although it would displace an existing business which has generated objections from the owners of that business. 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 57 residential units 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 highly graded listed buildings – in particular Pickford's House at 41 Friar Gate. 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 latest position statement submitted by the applicant's heritage consultant in part 1.4 of this report and the comments of Historic England 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 harm to the significance of a number of designated heritage assets and the level of harm (less than substantial) means that paragraph 196 of the NPPF is relevant here and, therefore, such harm should be weighed against the public benefits of the proposal.

The summarised position of Historic England (HE) is as follows...

*...In our view the scheme proposed would result in harm to a number of listed buildings, including the Grade I Pickford House and the Friar Gate conservation area. Whilst we acknowledge the reduction in the scale of the proposed development, we believe that the adverse impact of the proposed building on the surrounding listed buildings and character and appearance of the Friar Gate Conservation Area could*

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*be significantly reduced by stepping the building from four storeys in height to better reflect the surrounding townscape.*

In this case the views of the Council's Conservation Officer and HE is not shared by CAAC who state...

*...In respect of the height CAAC acknowledge that the height has been substantially reduced and this has been a positive impact on the scheme. The building has a strong design and will allow a transition from the taller buildings, Copper Building and Student Accommodation to those proposed Agard Street to the north-west. Four storeys is more appropriate and creates a better relationship with Pickford's House and its garden.*

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. In the specialist opinions of both the Council's Conservation Officer and HE there would be a detrimental impact, in relation the setting of Pickford's House and the Friar Gate Conservation Area, and, as such, the proposal would be contrary to saved policy E19 of the adopted CDLPR.

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.

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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 judgments 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 applicant’s heritage consultants considers that, overall, the harmful impact of the proposed development on the ability to appreciate the architectural and historical interest of Pickford’s House and other listed buildings from within their settings is found to be low.

In terms of the demolition of the Victorian terraces on the Agard Street frontage and the resultant impact on the overall character of the Friar Gate Conservation Area the applicant’s heritage consultant concludes...

*...It is considered that the terraces make a positive, but not a key or fundamental, contribution to the general character and appearance of the conservation area. In light of the above, the findings of the original HIA are considered to stand; that the demolition of the terraced houses would bring low to at most moderate harm to the special character and appearance of the Conservation Area.*

*As such, their demolition would bring less than substantial harm the Conservation Area. As per Paragraph 196 of the NPPF, the impact of the development should be weighed against the public benefit. Should the evidential value of the buildings be considered to be of high value, a suitable programme of building recording could be specified in accordance with Understanding Historic Buildings - A Guide to Good Recording Practice (Historic England, 2017).*

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 Conservation Officer and Historic England and to the setting of the listed buildings, including the highly graded Pickford’s House and the Friar Gate Conservation Area.

The applicant states that the less than substantial harm to heritage assets can be balanced against the following public benefits:

- 84 net direct construction jobs;
- 227 total net construction jobs (including direct, indirect and induced);
- A total construction related Gross Value Added (GVA) Net present value of £10.4m
- 16 total on-going net operational jobs; and

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- A total operational net GVA of £3.6m.

The proposal will also result in the following 10-year combined construction and operational benefits:

- 243 net created jobs (direct, indirect and induced); and
- Total NPV GVA of £13.9m.

In addition to these metrics the proposed development would, in my opinion, generally consolidate the presence of the University in this highly sustainable location and the increased profile of the University would benefit the overall vitality of the city centre economy. The purpose-built student accommodation would also help to free-up existing housing stock for others to take advantage of.

These benefits constitute wider socio-economic public benefits that should be attributed appropriate weight in the planning balance and, in my opinion, the “less than substantial harm versus public benefits” planning balance is finely balanced in favour of the amended proposal.

In conclusion, taking into account the various 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 overall design of the proposed building has been significantly amended since the original submission and these reductions in scale and design have prompted positive recommendations from both the Council’s Urban Design Officer and CAAC. The latter are supportive of the revised scheme and have scrutinised previous versions also.

I am satisfied that the proposed development responds to its context and, in particular, the stepped approach to the front elevation assists with the transition into Agard Street from the nearby Friar Gate Square development. I am also satisfied

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that the scale of the outrigger of 4 storeys is now commensurate with the recent planning permission granted for the extension of the existing building at 18 Agard Street.

I agree with the comments of CAAC that the proposed site area on the western side of the outrigger should be soft landscaped with appropriate boundary treatment and this can be dealt with by condition.

As such, the proposal accords with DCLP policies CP3 and CP4 and the wider design aspirations in the NPPF to secure high quality designs at all levels of the planning process.

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

In this case the principal impact of the development on the amenities of neighbouring occupiers is the impact on air quality on Agard Street, as a result of the form of the building contributing to the street canyon effect. Members will be aware that air quality concerns are an important consideration in the city and the government's Direction to carry out work at the Stafford Street/Uttoxeter New Road junction is ongoing to tackle the problem in that area.

The comments of my colleague in our Noise and Pollution Team are provided in part 5.5 of this report and the following are particularly noteworthy...

*...24. Whilst the mitigation proposed would provide a degree of protection to future occupants of the new development, **no mitigation is offered to protect existing occupants of the dwellings opposite at Sir Peter Hilton Court.***

*25. Based on the modelling, the development would put Derby City Council at increased risk of exceeding both National Objectives and European Limit Values for NO2 along Agard Street.*

*26. It is considered that the increases in NO2 created by the development could undermine the Council's attempts to reduce NO2 under local air quality plans currently being required by Central Government, in connection with the DEFRA Secretary of State's own response to a Supreme Court ruling regarding the UK's non-compliance with EU Limit Values. **Allowing the development to go ahead could therefore be of both local and national legal significance.***

*27. **The development is in direct conflict with both local and national planning policy and the Environmental Protection Team therefore recommends refusal of the application on air quality grounds.***

My colleague maintains this position and will be at the meeting to advise as necessary. In the context of these specialist comments the proposal is, therefore, contrary to policy GD5 of the adopted CDLPR and weight should be apportioned to this in the negative side of the planning balance. Any further comments from the agent will be reported orally at the meeting.

Concerns are also raised about the impact of the proposal on future occupants in terms city centre traffic and wider environmental noise. This is clearly an issue to

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consider but it needs to be balanced with the Council's aspirations for delivering city centre living and the role and function of the University in this part of the city. The proposed building would also be constructed to modern standards of noise insulation to protect future occupants and, although my colleague raises concerns in relation to noise impact, I consider that sound insulation details could be reasonably secured by condition. The neighbouring student accommodation as part of the Friar Gate Square development has also been granted and implemented recently and consistency needs to be maintained in our approach.

There are no over-riding land contamination issues to address, subject to safeguarding conditions.

The revised design of the proposed building is generally supported by the Council's Urban Design Officer and CAAC. I am also satisfied that the scale and mass of the building are acceptable in this location in amenity terms given the scale and form of neighbouring buildings – particularly the neighbouring 9 storey student accommodation to the east of the site.

The revised design also accommodates devices to safeguard the privacy of future occupants and neighbouring occupiers. The green wall proposed for the east elevation of the rear outrigger and the rear elevation of the main block would serve to safeguard the privacy of existing and future residents. Outlook from the main front elevation would overlook the existing student accommodation on the opposite side of Agard Street at Sir Peter Hilton Court and there would be some overlooking impact on those occupiers. However, those occupiers are located across a public highway and the relationship would not, in my opinion, be unreasonable in a city centre location. I am therefore satisfied that these elements of the proposal accord with saved policy GD5 of the adopted CDLPR.

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

The application site is located in a highly sustainable location, is well served by local transport links and is within easy reach of the city centre and all its amenities. Consequently it is considered that it is unlikely that the proposed development will have a significant impact on the highway. Colleagues raise no objections, subject to the imposition of conditions relating to the implementation of an approved Travel plan; the provision of a dropped vehicular crossing and cycle parking, construction of properly drained and delineated parking.

However, concerns had been raised by colleagues regarding the servicing of the proposed building by refuse vehicles.

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.

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Members should note that the revised ground floor layout includes internal bin storage at the front of the building for ease of access.

This is reasonable and consistent with the approach adopted for the development at 36 Agard Street which was presented to the July meeting. No other highways issues 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, 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.

### **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 raise some 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.

All protected species issues have been properly addressed in line with the Council's legal duties.

### **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 amenity green space, major open space, sports facilities and health contributions.

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The agent has agreed the Heads of Terms and as part of the overall analysis of this amended proposal the current positive recommendation is weighted on a policy compliant Section 106 package in line with policy MH1 of the adopted DCLP.

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 Overall Conclusions**

The application, as amended during its long life, has been properly considered in accordance with the relevant policies in the Development Plan. The heritage tests in the Development Plan and the NPPF have been duly rehearsed and the comments and concerns of specialist consultees such as the Conservation Officer and Historic England have been balanced against the public benefits of the proposal. In my opinion the public benefits of the proposal outweigh the identified 'less than substantial harm' to the identified heritage assets, albeit it is a *finely balanced* judgment in that regard.

Objections from third parties have been provided in relation to heritage and other matters. Colleagues in our Noise and Pollution Team have also expressed concerns about the impact of the development in terms of noise and air quality issues and the proposal is therefore contrary to saved policy GD5 of the adopted CDLPR in relation to those technical matters.

The proposed development has various positive elements and the amended design of the building responds positively to its context, in line with policies CP3 and CP4 of the adopted DCLP and is supported by both the Council's Urban Design Officer and CAAC. The amended design includes over 120 solar panels on the 7 storey component of the building and in that regard it accords with policy CP2 of the adopted DCLP. I am also satisfied with the scale, mass and impact of the proposal relative to neighbouring occupiers and, in this regard, it accords with saved policy GD5 of the adopted CDLPR. The proposal would support the broader aspirations of the Council to deliver city centre living and to consolidate the University operations in the city centre, in line with policy CP22 of the adopted DCLP. Accordingly, support for the proposal is provided by the Council's Regeneration arm and Marketing Derby. The proposal would deliver 57 units to count towards the housing delivery requirement of the Council up to 2028, in line with CP6 of the adopted DCLP and the amended design solution is acceptable, subject to conditions, in highways terms in line with policy CP23 of the adopted DCLP.

Overall, the proposed development, as amended, is considered to accord with the Development Plan when considered as a whole and subject to conditions and a mitigation package via a s106 Agreement the proposed development is deemed acceptable in this case.

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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. Summary of reasons:**

The proposed development has evolved during the life of this application and the current iteration is, in terms of its scale, mass, style and impact on neighbouring listed buildings and the wider Conservation Area, an acceptable form of development. The application has been considered in accordance with the Development Plan and national guidance and the heritage tests, in terms of considering the 'less than substantial harm versus public benefits exercise', has been duly carried out and presented in the committee report. The comments and concerns of objectors and consultees have been assessed in the planning balance together with the positive comments of supporters. Overall, the proposed development, as amended, is considered to accord with the Development Plan when considered as a whole and subject to conditions and a mitigation package via a s106 Agreement the proposed development is deemed acceptable in its context.

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

The conditions listed below are presented in an abbreviated format and the full wording of the conditions will be fleshed out in the final decision notice.

##### 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.
- 8. Details of any roof level plant to be approved.
- 9. Implementation of Air Quality Management Strategy

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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. Informative Notes:**

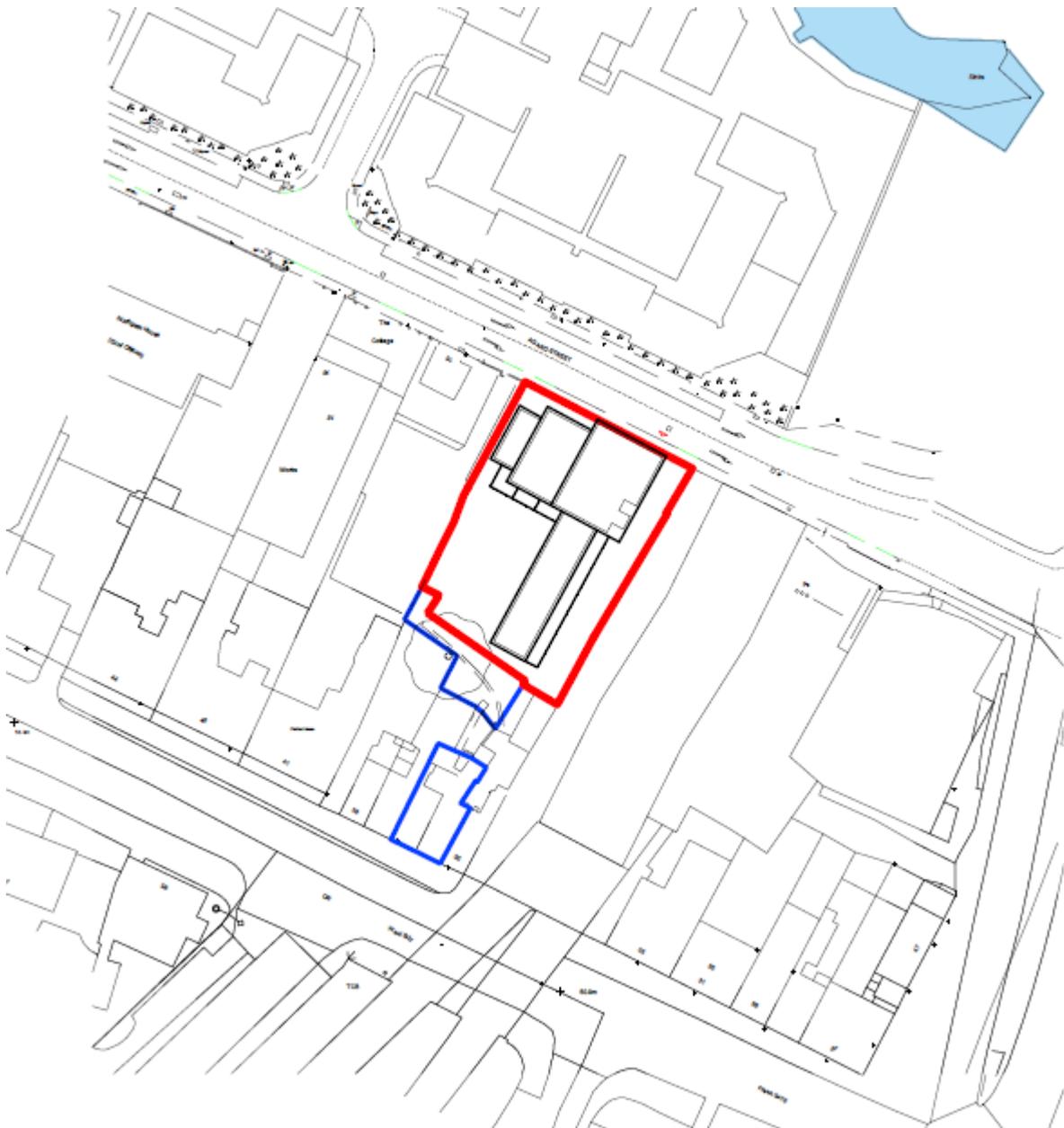
Highways notes as Part 5.3.

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

As Part 7.9.

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

An extension of time until 12 October 2019 has been formally agreed in writing with the agent.





**Delegated decisions made between  
Between 01/07/2019 and 31/07/2019**



Application No:	Application Type	Location	Proposal	Decision	Decision Date
02/18/00293	Full Application	38 Lawnside Spondon Derby	First Floor Side And Single Storey Front Extensions To Dwelling House (Porch, Bedroom And En-Suite)	Finally disposed of	03/07/2019
03/18/00345	Full Application	7 Atlow Road Chaddesden Derby	Single Storey Rear Extension To Dwelling House (Family Room And Dining Area)	Approval	10/07/2019
09/18/01399	Full Application	Highway Verge In Front Of 39 Matlock Road Chaddesden Derby	Formation Of Six Parking Bays With A Vehicular Access	Approval	10/07/2019
18/01775/FUL	Full Application	Land At 1 Springfield Derby DE23 6EZ	Erection of a dwelling house (use class C3)	Approval	22/07/2019
18/01802/FUL	Full Application	Midland Car Parts Parcel Terrace Derby DE1 1LY	Change of use of ground floor from light industry (use class B1) to a health and fitness club (use class D2)	Approval	26/07/2019
18/01926/FUL	Full Application	3 Market Place Derby DE1 3PW	Change of use of the upper floors from offices (use class B1) to eight apartments (use class C3) including installation of a new window to the rear elevation	Approval	19/07/2019
18/01927/LBA	Listed Building Consent - Alterations	3 Market Place Derby DE1 3PW	Change of use of the upper floors from offices (use class B1) to eight apartments (use class C3) including installation of a new window to the rear elevation, removal of stud partitions, internal door openings, chimney stack and a staircase and installation of new stud partitions	Approval	19/07/2019
18/01931/FUL	Full Application	1 Willson Road	Two storey side and single storey rear	Refuse	11/07/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
		Derby DE23 1BY	extensions to dwelling house (garage, office, w.c, enlargement of kitchen/diner, two bedrooms and en-suite)		
19/00024/FUL	Full Application	2 Denstone Drive Derby DE24 0HY	Two storey and single storey rear extensions to dwelling house (kitchen, two bedrooms, en-suite and garage)	Approval	29/07/2019
19/00045/FUL	Full Application	17 Folly Road Derby DE22 1ED	Two storey side and single storey side and rear extensions to dwelling house (utility, w.c., pantry, kitchen, day room, garage/store, two bedrooms and en-suite)	Approval	11/07/2019
19/00057/FUL	Full Application	74 Burlington Way Derby DE3 9BD	Two storey side and single storey rear extensions to dwelling house (garage, utility, kitchen/dining/family space, bedroom and en-suite)	Approval	23/07/2019
19/00141/FUL	Full Application	35 Wade Drive Derby DE3 9BS	Two storey side and rear extensions to dwelling house (utility, two bedrooms, dressing area, balcony and enlargement of hall, kitchen and bedroom), installation of new bay windows to the front elevation and on the side elevation	Approval	26/07/2019
19/00223/FUL	Full Application	36 Moor Street Derby DE21 7EA	Change of use from retail (Use Class A1) to dwelling house (Use Class C3) and external alterations (including rendering the front elevation, re-roofing, the installation of a first floor external door, new windows, and the erection of a first floor balcony).	Approval	24/07/2019
19/00292/LBC	Listed Building Consent	25-26 St Marys Gate Derby DE1 3JR	Alterations and extensions in association with change of use to form 12 Residential units	Approval	31/07/2019
19/00304/ADV	Advertisement Consent	Sterne House Lodge Lane Derby	Display of one internally illuminated fascia sign and one non-illuminated projecting sign	Approval	25/07/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
		DE1 3WD			
19/00340/ADV	Advertisement Consent	Traffic Islands And Highway Verge Pride Parkway Derby	Display of two non-illuminated double sided post signs and thirteen non-illuminated post signs	Approval	04/07/2019
19/00341/ADV	Advertisement Consent	Traffic Islands Uttoxeter Road (Junction With Kipling Drive And Station Road) And Etwall Road (Junction With Ladybank Road/A516 Slip Road) Derby	Display of eight non-illuminated post signs	Approval	04/07/2019
19/00342/ADV	Advertisement Consent	Highway Verge Adjacent To Fields Farm Duffield Road Derby	Display of one non-illuminated double sided freestanding post sign	Approval	04/07/2019
19/00343/ADV	Advertisement Consent	Traffic Island, Morley Road (Junction With Acorn Way/Oakwood Drive) And Traffic Island, Bishops Drive (Junction With Wayfaring Road/Springwood Drive) Derby	Display of eight non-illuminated post signs	Approval	25/07/2019
19/00344/ADV	Advertisement Consent	Highway Verge, Lighting Columns And Traffic Islands, Sir Frank Whittle Road And Highway Verge, Hampshire Road Derby	Display of 14 non-illuminated post signs	Approval	25/07/2019
19/00345/ADV	Advertisement Consent	Traffic Island Uttoxeter Road	Display of 24 non-illuminated banner signs	Approval	26/07/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
		(Junction Of A38 And Manor Park Way And Lighting Columns, Uttoxeter New Road Derby	and four non-illuminated freestanding post signs		
19/00350/ADV	Advertisement Consent	Traffic Island Derby Road Chellaston Derby (Junction With Maple Drive/Parkway)	Display of two non-illuminated post signs	Approval	26/07/2019
19/00357/DISC	Compliance/Discharge of Condition	Sites Of 1 Walton Avenue 1 Spencer Street And 92 To 98 Chellaston Road Allenton Derby	Demolition Of Two Bungalows And Four Flats. Erection Of Nine Bungalows (Use Class C3). Erection Of 3 Feature Walls For Signage. - discharge of condition nos 4, 5, 13 and partial 14 of previously approved permission DER/04/18/00537	Discharge of Conditions Complete	16/07/2019
19/00375/FUL	Full Application	34 Carol Crescent Derby DE21 6PQ	Two storey and single storey extensions to dwelling house (porch, garage, w.c, dog room, utility, kitchen/dining/family space, bedroom, dressing room, lobby areas and en-suite)	Approval	11/07/2019
19/00387/ADV	Advertisement Consent	Traffic Island Derby Road Spondon Derby (Junction With Raynesway/Acorn Way)	Display of four non-illuminated post signs	Approval	25/07/2019
19/00397/ADV	Advertisement Consent	Highway Verge Kingsway Derby	Display of one non-illuminated post sign	Approval	25/07/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
19/00398/FUL	Full Application	Land At Rear Of Army Reserve Centre Windmill Hill Lane Derby DE22 3FJ (Adjacent Kingsway)	Installation of a replacement 20.0m high monopole mast supporting 6 antenna apertures together with the installation of seven equipment cabinets, one meter cabinet and ancillary development	Refuse	11/07/2019
19/00403/TPO	Works to a tree with a TPO	253 Morley Road Derby DE21 4TD	Felling of two Ash trees protected by Tree Preservation Order no. 31	Approval	12/07/2019
19/00416/FUL	Full Application	The George Cross 12 Boyer Street Derby DE22 3TH	Change of use from public house (use class A4) including a two storey extension to form eight additional apartments (use class C3)	Approval	11/07/2019
19/00465/FUL	Full Application	31 Moor Street Derby DE21 7EA	Change of use from office (use class A2) to barbers and hair salon (use class A1) including installation of a door and two windows to the rear elevation	Approval	10/07/2019
19/00482/FUL	Full Application	14 Breedon Hill Road Derby DE23 6TG	Retention of Change of use of three rooms from osteopathic practice (use class D1) to residential (use class C3)	Approval	30/07/2019
19/00483/FUL	Full Application	The Old Post Office Victoria Street Derby DE1 1DD	Change of use from assembly and leisure/restaurant (use classes D2/A3) to office (use class B1)	Approval	04/07/2019
19/00528/FUL	Full Application	17 Walton Road Derby DE21 6QE	Single storey side and rear extensions to dwelling house (kitchen/dining area and storage)	Approval	05/07/2019
19/00551/FUL	Full Application	Ashtree Lodge 105 Uttoxeter New Road Derby DE22 3NL	Creation of an access to Peet Street and formation of a car parking area	Approval	12/07/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
19/00578/TPO	Works to a tree with a TPO	102 Chain Lane Derby DE23 4EB	Crown reduction in height by 4m of two Yew trees and removal of the lowest five branches of a Cedar tree protected by Tree Preservation Order no. 322	Approval	22/07/2019
19/00587/FUL	Full Application	151 Huntley Avenue Derby DE21 7DW	Two storey side and single storey rear extensions to dwelling house (garage, bedroom, en-suite and enlargement of kitchen/dining area)	Approval	26/07/2019
19/00589/FUL	Full Application	325 Uttoxeter Road Derby DE3 9AH	Two storey side and single storey rear extensions to dwelling house (shower room, sitting room, bathroom and enlargement of kitchen and bedroom)	Approval	19/07/2019
19/00592/FUL	Full Application	48 Burnside Drive Derby DE21 7QQ	Single storey side.rear extension to dwelling house (kitchen/family room)	Approval	26/07/2019
19/00595/FUL	Full Application	147 Swarkestone Road Derby DE73 6UD	Erection of a two metre high boundary wall and railings	Approval	16/07/2019
19/00608/FUL	Full Application	37 Drewry Lane Derby DE22 3QS	Single storey rear extension to a House in Multiple Occupation (enlargement of bedroom and en-suite)	Approval	11/07/2019
19/00613/VAR	Variation of Condition	Rolls Royce Plc Wilmore Road Derby	Variation of conditions 1, 4, 6, 8, 10 12 and 13 and removal of condition 9 of previously approved planning permission Code No. 08/17/01112 to amend the approved plans	Approval	12/07/2019
19/00617/FUL	Full Application	38 Carsington Crescent Derby DE22 2QZ	Two storey and single storey front side and rear extensions to dwelling house including formation of a raised patio area and erection of boundary wall and gates	Approval	11/07/2019
19/00625/FUL	Full Application	77 Silverburn Drive	First floor side extension to dwelling house	Approval	19/07/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
		Derby DE21 2JH	(play room)		
19/00639/FUL	Full Application	Aspen House 33 Carlton Road Derby DE23 6HB	First floor side extension to residential care home (five bedrooms, wet room and store room) and alterations to the existing conservatory	Refuse	16/07/2019
19/00648/FUL	Full Application	48 Darley Park Road Derby DE22 1DA	Two storey side extension and single storey front and rear extensions to dwelling house (cloaks, study, garage, kitchen/dining area, bedroom, store, en-suite), raising of the roof height and alterations to form rooms in the roof space (bedroom and en-suite) and installation of new windows to the side elevation - amendments to previously approved planning permission Code No. 01/18/00112	Approval	19/07/2019
19/00649/FUL	Full Application	Curzons 23 - 25 Curzon Street Derby DE1 1LH	Change of use from nightclub (Sui Generis Use) to a flexible use (Use Classes A2/A3/A4/A5 and B1a) at ground floor level and residential - four apartments (Use Class C3) at first/second floor. Installation of a new shop front, entrance doors and additional windows	Approval	11/07/2019
19/00652/FUL	Full Application	26 Thornhill Road Derby DE22 3LX	Two storey and single storey side extensions to dwelling house (garage, wet room, two bedrooms, en-suite and enlargement of kitchen)	Approval	25/07/2019
19/00654/FUL	Full Application	35 Mayfield Road Derby DE21 6FX	Single storey side and rear extensions to dwelling (entrance hall, w.c., coat room, utility room. kitchen and dining area)	Approval	04/07/2019
19/00656/FUL	Full Application	205 Rykneld Road Derby DE23 4DL	Two storey side and single storey rear extensions to dwelling house (study, bathroom, kitchen/dining area, bedroom and	Approval	26/07/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
			en-suite) and installation of a dormer to the rear elevation to form rooms in the roof space (two bedrooms and bathroom)		
19/00657/FUL	Full Application	The Maltings Back Sitwell Street Derby	Installation of replacement cladding	Approval	10/07/2019
19/00670/FUL	Full Application	154 Chellaston Road Derby DE24 9DY	Single storey rear extension to dwelling house (enlargement of kitchen)	Approval	29/07/2019
19/00676/CLP	Lawful Development Certificate -Proposed	59 Moor Street Derby DE21 7EB	Single storey rear extension to dwelling house (kitchen)	Approval	26/07/2019
19/00680/FUL	Full Application	581 Nottingham Road Derby DE21 6RT	Single storey rear extension to dwelling house (enlargement of kitchen)	Approval	05/07/2019
19/00681/FUL	Full Application	Mickleover Sports Club Station Road Mickleover Derby DE3 9FE	Redevelopment of the existing stadia football pitch and surrounds to a 3a artificial football pitch. Moving of the seating stand and 2no. standing terraces, including relocating of floodlighting, new floodlight fittings, ball stop netting, fencing and hard landscaping.	Approval	25/07/2019
19/00684/FUL	Full Application	10 Hollymoor Drive Derby DE73 5QF	Erection of a boundary fence	Approval	31/07/2019
19/00685/TPO	Works to a tree with a TPO	2 Cherry Plum Close Derby DE23 8DW	Various works to five Horse Chestnut trees protected by Tree Preservation Order no. 544	Approval	11/07/2019
19/00686/ADV	Advertisement Consent	Unit 1 Racecourse Industrial Park Mansfield Road	Display of one non-illuminated fascia sign	Approval	26/07/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
		Derby DE21 4SX			
19/00687/TPO	Works to a tree with a TPO	84 Chestnut Avenue Mickleover Derby DE3 9FS	Various works to five Horse Chestnut trees protected by Tree Preservation Order no. 8	Approval	10/07/2019
19/00690/FUL	Full Application	30 Penrhyn Avenue Derby DE23 6LA	Single storey rear extension to dwelling house (lobby, bedroom and wet room) with an external staircase and access ramp	Approval	10/07/2019
19/00691/TPO	Works to a tree with a TPO	7 Whitaker Road Derby DE23 6AR	Crown reduction of two Lime trees using reduction via thinning techniques by 1.5m and crown lift to 5m over gardens on Vicarage Avenue, protected by Tree Preservation Order no. 62	Approval	10/07/2019
19/00692/PNRH	Prior Approval - Householder	88 Wood Road Chaddesden Derby DE21 4LZ	Single storey rear extension (projecting beyond the rear wall of the original house by 5.9m, maximum height 3.34m, height to eaves 2.9m) to dwelling house	Prior Approval Not Required	12/07/2019
19/00693/FUL	Full Application	6 And 6A Edmund Road Derby DE21 7HH	Erection of a boundary wall and gates	Approval	19/07/2019
19/00694/FUL	Full Application	55 Wilson Road Derby DE21 4JA	Single storey side and rear extensions to dwelling house (w.c, utility, enlargement of kitchen, dining room, bedroom and shower room)	Approval	10/07/2019
19/00698/FUL	Full Application	2 Repton Avenue Derby DE23 6JN	Single storey rear extension to dwelling house (kitchen/dining area and lounge and erection of an outbuilding (garden room) - Amendment to previously approved planning permission Code No. DER/06/18/00994 to reduce the size of the garden room and amend the roof	Approval	10/07/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
			design		
19/00700/FUL	Full Application	11 Sycamore Avenue Derby DE22 2HZ	Single storey rear extension to dwelling house (conservatory)	Approval	10/07/2019
19/00703/FUL	Full Application	Land At The Side Of 9 Vicarwood Avenue Derby DE22 1BX	Erection of a dwelling house (use class C3)	Refuse	10/07/2019
19/00705/FUL	Full Application	23 Haven Baulk Lane Derby DE23 4AA	Two storey front and two storey and single storey rear extensions to dwelling house (bathroom, kitchen/dining area, enlargement of hall and two bedrooms)	Approval	11/07/2019
19/00706/FUL	Full Application	22 Highfield Road Derby DE22 1GZ	Single storey rear extension to dwelling house	Approval	24/07/2019
19/00707/FUL	Full Application	2 Camden Street Derby DE22 3NR	Change of use from hot food takeaway (Use Class A5) and apartment (Use Class C3) to a hair and beauty salon (Use Class A1 and Sui Generis Use) including installation of new shop front, new doors and windows	Approval	17/07/2019
19/00715/FUL	Full Application	819 London Road Derby DE24 8UU	Part change of use from tool hire station (Use Class A1) to gymnasium (Use Class D2)	Approval	24/07/2019
19/00716/FUL	Full Application	7 Austen Avenue Derby DE23 3EY	Two storey and single storey rear extensions to dwelling house (living space and bedroom) and installation of a new window to the first floor side elevation	Approval	24/07/2019
19/00718/FUL	Full Application	53A Robincroft Road Derby DE22 2FQ	Single storey side extension to dwelling (utility and W.C.)	Approval	10/07/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
19/00720/FUL	Full Application	4 Willson Road Derby DE23 1BZ	Erection of two outbuildings (garage and motor cycle store) and retention of the erection of a garden shed	Approval	11/07/2019
19/00721/FUL	Full Application	576 Kedleston Road Derby DE22 2NH	Retention of change of use from a dwelling house (Use Class C3) to bed and breakfast (Use Class C1) and the erection of an outbuilding to be used for additional bed and breakfast accommodation	Approval	25/07/2019
19/00724/OUT	Outline Application	78 Thackeray Street Derby DE24 9GZ	Residential development (one dwelling)	Refuse	17/07/2019
19/00725/FUL	Full Application	14 Deincourt Close Derby DE21 7LT	Two storey and single storey side and single storey front extensions to dwelling house (hall, utility, store, en-suite and enlargement of bedroom)	Approval	11/07/2019
19/00730/CAT	Works to Trees in a Conservation Area	6 Church Street Spondon Derby DE21 7LL	Felling of one Pine tree within the Spondon Conservation Area	Approval	01/07/2019
19/00731/FUL	Full Application	11 Rona Close Derby DE24 9LE	Demolition of existing garage. Erection of an outbuilding (garage)	Approval	10/07/2019
19/00738/FUL	Full Application	179 Station Road Mickleover Derby DE3 9FH	Single storey rear extension to dwelling house and erection of an outbuilding (garage)	Approval	26/07/2019
19/00739/CLE	Lawful Development Certificate -Existing	103 Western Road Mickleover Derby DE3 9GQ	Single storey rear extension to dwelling house (kitchen/lounge space) and enlargement of a rear dormer	Approval	22/07/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
19/00741/FUL	Full Application	161 Pear Tree Crescent Derby DE23 8RR	Single storey side and rear extensions to dwelling house (wet room and enlargement of kitchen and sitting room)	Approval	23/07/2019
19/00742/FUL	Full Application	5 Adelaide Close Derby DE3 9JN	Single storey rear extension to dwelling (conservatory)	Approval	17/07/2019
19/00743/FUL	Full Application	2 - 4 Byron Street Derby DE23 6TT	Retention of the installation of an ATM	Approval	16/07/2019
19/00745/DISC	Compliance/Discharge of Condition	Site Of California Works Parliament Street Derby	Residential Development (8 Dwelling Houses, 6 Apartments and formation of car park) - Variation of condition 2 of previously approved planning permissions code no. DER/05/11/00515 and code No. DER/10/15/01283 to amend the approved plans - discharge of conditions 4, 5, 6 and 7 of previously approved permission DER/01/18/00125	Discharge of Conditions Complete	26/07/2019
19/00748/FUL	Full Application	21 Dale Road Spondon Derby DE21 7DG	Formation of a vehicular access	Approval	24/07/2019
19/00750/VAR	Variation of Condition	Chaddesden Quarry Chequers Road West Meadows Industrial Estate Derby	Variation of Condition No.1 of previously approved planning application Code No. DER/05/14/00717 to extend the time period to use the site for the controlled tipping of Non-Toxic waste to fill and raise levels and ancillary development until 30th June 2024	Approval	17/07/2019
19/00754/FUL	Full Application	90 West Bank Road Derby DE22 2FZ	Retention of the installation of first floor window to the north east elevation and installation of a new window to the ground floor north west elevation	Approval	31/07/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
19/00756/FUL	Full Application	396 Kedleston Road Derby DE22 2TF	Single storey rear extension to dwelling house (living space and utility) and installation of a rooflight to the front elevation and side elevation first floor window to form rooms in the roof space (bedroom and en-suite)	Approval	26/07/2019
19/00758/NONM	Non-Material Amendment	17 Hayes Avenue Derby DE23 6JU	Two storey side and two storey and single storey rear extensions to dwelling house (kitchen, utility room, w.c., walk through, bedroom, bathroom, en-suite and enlargement of bedroom) - non-material amendment to previously approved planning permission 18/01744/FUL to include an additional first floor front elevation window	Approval	11/07/2019
19/00759/FUL	Full Application	468 Uttoxeter New Road Derby DE22 3NA	Change of use from dwelling house (Use Class C3) to a seven bedroom house in multiple occupation (Sui Generis use) including a single storey rear extension, hip to gable roof alteration, installation of a rear dormer and formation of a vehicular access	Refuse	25/07/2019
19/00760/FUL	Full Application	1269 London Road Derby DE24 8QN	Single storey side and rear extensions to dry cleaners	Approval	30/07/2019
19/00761/FUL	Full Application	40 Kedleston Road Derby DE22 1GU	Installation of an access ramp	Approval	17/07/2019
19/00764/FUL	Full Application	Zaytouna Primary School 500 London Road Derby DE24 8WH	Erection of a covered multi use games area, toilet block and covered way	Approval	16/07/2019
19/00765/FUL	Full Application	11 St Peters Street Derby DE1 2AA	Change of use from retail (Use Class A1) to crazy golf and restaurant (Sui Generis use) together with installation of a new shop front	Approval	26/07/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
19/00766/ADV	Advertisement Consent	11 St Peters Street Derby DE1 2AA	Display of internally illuminated fascia signs	Approval	26/07/2019
19/00768/FUL	Full Application	23 Victory Road Derby DE24 8EJ	Erection of an outbuilding (garden store)	Approval	26/07/2019
19/00769/FUL	Full Application	4 Oldbury Close Derby DE21 2JS	Two storey and first floor front extensions to dwelling house (enlargement of garage and bedroom) and formation of a new roof gable to the front elevation	Approval	31/07/2019
19/00772/FUL	Full Application	3 Ash Close Derby DE22 2JF	Single storey front and first floor extensions to bungalow to form a dwelling house (porch, three bedrooms, bathroom and en-suite) including the installation of a dormer to the rear elevation	Refuse	23/07/2019
19/00774/FUL	Full Application	34 Aycliffe Gardens Derby DE24 0BX	Single storey rear extension to dwelling house (lounge and shower room)	Approval	30/07/2019
19/00777/FUL	Full Application	86 Moor End Derby DE21 7EE	Alterations and enlargement of the existing garage to form dining and kitchen areas and erection of a boundary fence	Approval	17/07/2019
19/00780/VAR	Variation of Condition	7 Crabtree Close Derby DE22 2SW	Two storey and single storey side and rear extensions to dwelling house (kitchen, utility, en-suite and enlargement of bedroom) and erection of an outbuilding (workshop) - variation of condition 2 of previously approved planning permission Code No. 19/00083/FUL to reduce the size of the kitchen and omit the outbuilding and a side elevation window	Approval	22/07/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
19/00781/FUL	Full Application	58 Madison Avenue Derby DE21 6JA	Erection of an outbuilding (double garage)	Approval	31/07/2019
19/00790/FUL	Full Application	Grove Cottage Vicarage Road Mickleover Derby DE3 0ED	Single storey rear extension to dwelling house (conservatory) and replacement, re-positioned front porch	Approval	24/07/2019
19/00791/FUL	Full Application	20 Weston Park Avenue Derby DE24 9EQ	First floor rear extension to dwelling house (bedroom) and installation of a dormer to the rear elevation	Approval	29/07/2019
19/00795/FUL	Full Application	43 Rykneld Road Derby DE23 4BG	Retention of the erection of an outbuilding (outhouse/garden room) and addition of trellis to increase boundary fence height.	Approval	29/07/2019
19/00798/FUL	Full Application	24 May Street Derby DE22 3UP	Single storey rear extension to dwelling house (sitting area and enlargement of kitchen)	Approval	26/07/2019
19/00799/FUL	Full Application	107 Grasmere Crescent Derby DE24 9HT	Two storey side and rear and single storey front and rear extensions to dwelling house (kitchen, reception room, two bedrooms, bathroom and enlargement of hall)	Approval	26/07/2019
19/00800/TPO	Works to a tree with a TPO	30 Ramblers Drive Derby DE21 2XN	Felling of a Field Maple tree protected by Tree Preservation Order no. 31	Approval	26/07/2019
19/00803/FUL	Full Application	72 Fairfield Road Derby DE23 6PH	Single storey rear extension to dwelling house (wet room, sleeping area, and enlargement of kitchen)	Approval	30/07/2019
19/00804/FUL	Full Application	16 Portland Street Derby DE23 8PZ	Single storey rear extension to dwelling house (kitchen. hallway and wet room)	Approval	30/07/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
19/00808/PNRH	Prior Approval - Householder	54 Field Lane Alvaston Derby DE24 0GQ	Single storey rear extension (projecting beyond the rear wall of the original house by 4m, maximum height 4m, height to eaves 3m) to dwelling house	Prior Approval Not Required	10/07/2019
19/00809/FUL	Full Application	3 Kernel Close Derby DE23 3SA	Single storey front extension to dwelling house (enlargement of hall and cloak room)	Approval	24/07/2019
19/00812/FUL	Full Application	86 The Chase Derby DE24 9PD	Two storey side and rear and single storey rear extensions to dwelling house (covered area, wet room, sitting room, two bedrooms and enlargement of kitchen/dining area)	Approval	29/07/2019
19/00816/TPO	Works to a tree with a TPO	398 Duffield Road Derby DE22 1ES	Cutting back of the lowest branch of a Sycamore tree by 2-3m, a 4-5m reduction of an Ash tree and removal of a South West branch at 5m of a Sycamore tree all overhanging 2 Thatch Close and protected by Tree Preservation Order no. 212	Approval	26/07/2019
19/00817/CAT	Works to Trees in a Conservation Area	Highfield House Highfield Gardens Derby DE22 1HT	Crown reduction by 1-2 metres of a Yew tree within the Strutts Park Conservation Area	Approval	22/07/2019
19/00818/TPO	Works to a tree with a TPO	Land At The Rear Of 24 Kershope Drive Derby DE21 2TQ	Crown raising by 4m of two Oak trees and topping of hawthorns to 1.5m all protected by Tree Preservation Order No. 31	Approval	26/07/2019
19/00819/FUL	Full Application	94 Kedleston Road Derby DE22 1FW	Single storey rear extension to dwelling house (kitchen)	Approval	30/07/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
19/00821/FUL	Full Application	204 Rykneld Road Derby DE23 4AN	Two storey front extension to dwelling house (bedroom and enlargement of garage, entrance hall and bedroom)	Approval	30/07/2019
19/00825/FUL	Full Application	635 Nottingham Road Derby DE21 6RU	Installation of a verandah at first floor level with an external staircase to the rear elevation	Approval	30/07/2019
19/00828/FUL	Full Application	32 Overdale Road Derby DE23 6AT	Single storey rear extension to dwelling (conservatory)	Approval	29/07/2019
19/00835/FUL	Full Application	33 Moorway Lane Derby DE23 2FR	Erection of a detached garage and 1.8m high boundary fence	Approval	30/07/2019
19/00839/FUL	Full Application	20 Rangemore Close Derby DE3 9JU	Single storey front, side and rear extensions to dwelling house (porch, garage, utility and enlargement of lounge and kitchen/dining area)	Approval	30/07/2019
19/00843/PNRH	Prior Approval - Householder	87 Chain Lane Derby DE23 4DY	Single storey rear extension (projecting beyond the rear wall of the original house by 6m, maximum height 3m, height to eaves 3m) to dwelling house	Prior Approval Not Required	10/07/2019
19/00844/FUL	Full Application	52 Haddon Street Derby DE23 6NQ	Single storey rear extension to dwelling house (wet room)	Approval	30/07/2019
19/00845/TPO	Works to a tree with a TPO	48 Swanmore Road Derby DE23 3SY	Crown raise to 4-5m, crown thin by 15% and removal of epicormic growth and dead and damaged branches of an Oak tree protected by Tree Preservation Order no. 30	Approval	29/07/2019
19/00846/TPO	Works to a tree with a TPO	52 Swanmore Road Derby DE23 3SY	Crown raise to 4-5m, crown thin by 15% and removal of epicormic growth and dead and damaged branches of an Oak tree protected by Tree Preservation Order no. 30	Approval	29/07/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
19/00848/TPO	Works to a tree with a TPO	4 Kingswood Place Derby DE23 6DB	Felling of a Hawthorn tree, pollarding of two Lime, Sycamore and Plane trees over a 5 year period and crown lift to 3m of three Limes, Sycamore and Horse Chestnut trees to be carried out every 3 years protected by Tree Preservation Order no's 193 and 284	Approval	29/07/2019
19/00854/FUL	Full Application	76 Brackensdale Avenue Derby DE22 4AE	Single storey side and rear extensions to dwelling house (study utility, w.c. and living space)	Approval	30/07/2019
19/00858/FUL	Full Application	50 Elmwood Drive Derby DE21 4GB	Two storey rear and single storey front, side and rear extensions to dwelling house (store, study, kitchen/dining area, en-suite and enlargement of hall, lounge, bedroom and bathroom)	Approval	30/07/2019
19/00863/FUL	Full Application	1 Windermere Drive Derby DE21 7JX	Single storey side extension to dwelling house (bedroom and wet room) and installation of an access ramp	Approval	30/07/2019
19/00864/FUL	Full Application	3 Lilac Avenue Derby DE22 4AS	Two storey side and single storey rear extensions to dwelling house (two bedrooms, utility, sun lounge and enlargement of kitchen and bedroom)	Approval	30/07/2019
19/00879/CAT	Works to Trees in a Conservation Area	79 Belper Road Derby DE1 3ER	Works to various trees (including the crown lifting of a conifer tree) within the Strutts Park Conservation Area	Approval	25/07/2019
19/00882/FUL	Full Application	151 Dale Road Spondon Derby DE21 7DN	Two storey and single storey side extensions to dwelling house (garage, bedroom, en-suite and enlargement of kitchen/dining area)	Approval	30/07/2019
19/00916/FUL	Full Application	Land At The Rear Of Hillbrooke Guest House 299 - 301 Burton Road Derby DE23 6AG	The erection of four accommodation units for use as emergency housing and formation of a vehicular access	Refuse	30/07/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
		(access Off Whitaker Road)			
19/00919/PNRH	Prior Approval - Householder	15 Marina Drive Allenton Derby DE24 9DS	Single storey rear extension (projecting beyond the rear wall of the original house by 3.8m, maximum height 3.8m, height to eaves 2.4m) to dwelling house	Prior Approval Not Required	22/07/2019
19/00936/FUL	Full Application	Sainsburys Wyvern Retail Park Wyvern Way Derby DE21 6NZ	Construction of canopy and alterations to the service yard to accommodate one additional grocery and online parking bay	Approval	30/07/2019
19/00937/PNRH	Prior Approval - Householder	4 Maple Drive Alvaston Derby DE24 0FT	Single storey rear extension (projecting beyond the rear wall of the original house by 6m, maximum height 3.38m, height to eaves 2.95m) to dwelling house	Prior Approval Not Required	22/07/2019
19/00956/NONM	Non-Material Amendment	Site Of Former Derbyshire Royal Infirmary London Road Derby DE1 2QY	Erection of 796 dwellings comprising 773 dwellings and apartments, conversion of Wilderslowe House into 10 apartments conversion of nos 123-129A Osmaston Road into 12 apartments, alteration and refurbishment of The Lodge together with conversion and extension of the 'Pepper pot' buildings into a cafe, exhibition/meeting space, and gym/fitness facilities. Relocation of the listed Queen Victoria statue, together with formation of vehicular access, public open space, landscaping and associated engineering works. - Non-material amendment to previously approved planning permission 18/01677/FUL to amend the approved plans	Approval	31/07/2019
19/00964/DISC	Compliance/Discharge of Condition	135 Brighton Road Derby DE24 8TB	Change Of Use From Dwelling House (Use Class C3) To An Eight Bed House In Multiple Occupation (Sui Generis Use) - Dischof condition 3 of previously approved application	Discharge of Conditions Complete	26/07/2019

Application No:	Application Type	Location	Proposal	Decision	Decision Date
19/00975/DISC	Compliance/Discharge of Condition	3 Mill Street Derby DE1 1DY	code No. DER/04/18/00518  Two Storey And Single Storey Extensions And Change Of Use From Office (Use Class B1) To A Five Bed House In Multiple Occupation (Use Class C4) - Discharge of condition 3 of previously approved application code No. 06/18/00844 and 06/18/00845	Discharge of Conditions Complete	22/07/2019
19/01026/NONM	Non-Material Amendment	Rolls Royce Plc Raynesway Derby DE21 7BE	Installation of electrification to 423m of existing security fencing. Installation of replacement security fencing for 1,360m with secure entrances, lighting columns, CCTV columns and associated landscaping - non-material amendment to previously approved planning permission 19/00114/FUL to increase the height of the fence to 4.35m, change the fence alignment and alter the retaining wall	Application Withdrawn	26/07/2019