



Derby City Council

**PLANNING CONTROL COMMITTEE**  
**13 September 2018**

Report of the Director of Strategic Partnerships,  
Planning and Streetpride

# ITEM 8

## Applications to be Considered

### SUMMARY

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

### RECOMMENDATION

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

### REASONS FOR RECOMMENDATION

- 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.

### OTHER OPTIONS CONSIDERED

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

**This report has been approved by the following officers:**

<b>Legal officer</b> <b>Financial officer</b> <b>Human Resources officer</b> <b>Estates/Property officer</b> <b>Service Director(s)</b> <b>Other(s)</b>	Ian Woodhead
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<b>For more information contact:</b> <b>Background papers:</b> <b>List of appendices:</b>	Ian Woodhead Tel: 01332 642095 email: <a href="mailto:ian.woodhead@derby.gov.uk">ian.woodhead@derby.gov.uk</a> None Appendix 1 – Development Control Monthly Report
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## **Committee Report Item No: 1**

**Application No:** DER/07/18/01055

**Type:** Full Planning Application

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### **1. Application Details**

**1.1. Address:** 277 Baker Street, Alvaston.

**1.2. Ward:** Alvaston

**1.3. Proposal:**

Change of use from a dwelling house (use class C3) to a seven bed house in multiple occupation (sui generis use) including erection of a single storey rear extension.

**1.4. Further Details:**

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan/07/18/01055>

**Brief description**

277 Baker Street is a terraced house that stands on the south side of the street within a long terrace of similar houses within a predominantly residential area. Parking is typically on-street, with some houses on the north side having an off-street parking space and associated dropped kerb.

Permission is sought for a change of use of the building from C3 dwelling house to a seven bedroom house in multiple occupation (HMO) and the erection of a single storey rear extension to accommodate communal kitchen and living areas and a bedroom. A dormer window extension in the rear roof slope is in the process of construction under permitted development rights.

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

None.

### **3. Publicity:**

Neighbour Notification Letters

Site Notice

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

### **4. Representations:**

31 third-party representations have been received and are summarised below. Councillors Bayliss and Graves have also objected and requested that the application be considered by the Planning Control Committee.

- The proposal would increase levels of noise and activity and the likelihood of antisocial behaviour;
- The proposal would increase demand for on-street parking which is already high;
- The proposal would be to the detriment of highway safety;
- The proposed living environment would be of a low quality;

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- The established pattern of occupation of houses on Baker Street by families would be undermined;
  - There is no need for HMO accommodation in the area;
  - The proposal would increase fire risk;
  - The proposal would increase pressure on the drainage system;
  - Objection to the use of the shared access as the main point of entry to the application site.

Councillors' comments reflect residents' concerns and also raise the issues of design, community accord, over-development and de-gentrification.

### **5. Consultations:**

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

The following observations are primarily made on the basis of submitted plans "A3.0", "A2.0" and the accompanying application form.

The proposals will change the property from a 2 bed to a 7 bed property in multiple occupation. I understand that a residential household can be considered to have up to 6 occupants, and it is therefore only the addition of a single unit over this which requires planning approval.

Baker Street is traffic calmed and is within an area of high parking demand, with it being apparent practice for residents to park part on-part off the footway on the north side.

There are no waiting restrictions in the vicinity of the site, and at the time of the Case Officer visit (06.50hrs on a weekday) there were a number of parking opportunities available within a short work of the proposed conversion.

The development concerned does not make any parking provision as part of the proposals, and makes no cycle provision in an attempt to mitigate for the lack of parking provision.

The site is however considered to be in a sustainable location; with access to bus routes and local shops being in easy walking distance.

Whilst some of the residents may own vehicles, not all will necessary do so.

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; the same document "Alvaston Profile 2011/12" (page 35) suggests that "The percentage of residents travelling to work from Alvaston by car and van is close to the city average of around 59%".

As a very coarse assessment; taking the quoted figure of (say) 70% vehicle ownership; 7 units can be seen to result in 5 additional vehicles. Assuming that the existing dwelling had up to 2 vehicles associated with it; the proposals could possibly result in an additional 3-4 vehicles being attracted into the vicinity of the development.

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**Type: Full Planning Application**

Whilst this may cause an amenity issue for neighbouring residents; Paragraph 32 of the National Planning Policy Framework advises that “Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe”.

On balance therefore; the Highway Authority cannot argue that the impact of the development will (in highway terms) be “severe”.

It has however been noted that the application makes no provision for cycles in an attempt to mitigate for the lack of available parking. Developers should be encouraged to make sustainable provision within their developments.

**Recommendation:**

Should the Local Planning Authority be minded to approve the application; the following condition is suggested:-

**Condition:**

No part of the development hereby permitted shall be brought into use until provision has been made within the application site for parking of cycles in accordance with details submitted to and approved in writing by the Local Planning Authority.

**Reason:**

To promote sustainable travel.

### **5.2. Resources and Housing (HMO):**

I am making these comments on behalf of the Housing Standards Team at Derby City Council who is a consultee for this application.

I have reviewed the plans in accordance with the relevant housing legislation and guidelines which are applied by this department. I have the following comments to make, which I will also pass on to the applicant;

The property will be classed as a HMO under Section 254 of the Housing Act 2004 and will require a licence from this Authority for occupation by five or more persons. It will also need to meet the guidelines set out by this Authority for space and amenities. The published guidance details the general amenities and facilities that would need to be provided and should be referred to in order to ensure there are enough cooking, washing, food storage, food preparation, waste and bathing facilities for the number of people proposed to be housed. These are attached for your information.

<https://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/policiesandguidance/amenities-and-space-guidance-for-hmos-2018.pdf>

In order to obtain a licence it should be adequately managed and free of significant hazards under the Housing Health and Safety Rating System (HHSRS). This will include provision and maintenance of fire precautions. Guidance on fire safety in HMOs can be found in the LACORS Housing fire Safety guidance which can be found here;

<https://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/housing/LACORS%20Housing%20Fire%20Safety%20Guide.pdf>

If you have any queries please do not hesitate to contact this department.

**6. Relevant Policies:**

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

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

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

**Saved CDLPR Policies**

- GD5 Amenity
- H13 Residential Development – General Criteria
- H16 Housing Extensions

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

[http://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/policiesandguidance/planning/Core%20Strategy\\_ADOPTED\\_DEC%202016\\_V3\\_WEB.pdf](http://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/policiesandguidance/planning/Core%20Strategy_ADOPTED_DEC%202016_V3_WEB.pdf)

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

[http://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/policiesandguidance/planning/CDLPR\\_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. Residential and Visual Amenity**

**7.2. Highways Implications**

**7.1. Residential and Visual Amenity**

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

The proposal would intensify the existing residential use of this property by the addition of five bedrooms to the existing two, including one each in the proposed rear and roof space extensions. Permitted development rights would allow for the use of the building accommodating 6 people without requiring planning permission under permitted development rights as a house in multiple occupation (use class C4).

The proposed single-storey rear extension would result in some effects of massing and enclosure to the adjoining plots to the east and west of the application site. However, the limited eaves height (2.4 metres) of the extension and the relatively shallow pitch of its roof would restrict these effects to acceptable levels in my opinion. The design of the extension would be appropriate for a residential context and would be sufficiently sympathetic to the host building to avoid any significant adverse effect on the character and appearance of the dwelling. The extension would have no presence in the streetscene. Also proposed is the addition of a dormer window to the rear roof slope under permitted development rights, which is not considered in this assessment and already under construction.

The conversion of the building to a 7-bed house in multiple occupation would result in an intensification of the existing residential use with associated increases in activity and noise also likely. These increases would have some implications for the residential amenity of surrounding dwellings which could be argued to constitute harm from the effects of noise, parking and traffic generation. Whether this harm could be interpreted as "unacceptable harm" is doubtful in my opinion. The noise levels associated with intensified residential occupation of the building are unlikely to increase significantly beyond that which could be generated by a 6-person house in multiple occupation which could be implemented under permitted development rights. The intensified use is likely to result in increased traffic generation and demand for parking, which has been identified in responses to publicity as being high already. The addition of a number of cars to the area would be likely to have some amenity implications. However, to resist the application on these grounds would have no sound basis in policy terms as the overall contribution to parking demand from the

development would be too limited to be convincingly argued to constitute unacceptable harm, in my opinion.

With regard to the creation of a high quality living environment, the proposed room sizes and internal layout meet the requirements of the Council's amenities and space guidance for houses in multiple occupation. The proposal shows each room having access to natural light and access to bathroom facilities. The rear garden is large and would provide some shared outdoor amenity space for the occupants. Overall, I consider that the proposal would provide a satisfactory living environment for its occupants, and that the implications of the proposal for residential and visual amenities would be affected but that this would not constitute unacceptable harm. In my opinion the proposal meets the requirements of saved policies GD5, H13 and H16, and adopted policies CP3 and CP4 of the development plan and would be acceptable with regard to visual and residential amenity.

## **7.2. Highways Implications**

As explained in the consultation response from Highways Development Control (above), it is assumed for the purposes of this assessment that an increase in the number of cars using and parking on Baker Street is likely to result from the development and that demand for parking spaces is also likely to increase. As is also explained above, development should only be refused on highways grounds where "the residual cumulative impacts on the road network would be severe" (NPPF) or where it would "cause, or exacerbate, severe transport problems" (policy CP23).

That the proposal would have an impact on the highway network and would increase demand for parking seems likely. The question for this proposal is therefore whether this impact could be considered severe. Again, although it does seem likely that the proposal would have implications for parking demand in the vicinity, it is unlikely that this would significantly exceed demand that would be generated by a 6-person house in multiple occupation which could be implemented without the need for planning permission. Even if this were not the case, the application site is also within easy walking distance of public transport links and cycle routes which increases the potential for occupants of the house being able to travel without owning a car. Therefore, it is my opinion that although the implications of the development for the highway network have the potential to be significant, they could not be convincingly described as severe and that the proposal meets the requirements of adopted policy CP23 and the NPPF and is acceptable with regard to highways matters. Comments from the Highways Officer regarding the absence of cycle storage are noted and the recommended condition is included below.

Concerns regarding community balance are noted but to refuse the application on these issues would have no basis in either local or national policy. In the absence of a specific policy on houses in multiple occupation, the application has been assessed on the applicable policies of the development plan listed above and over-arching national guidance.



**Committee Report Item No: 1**

**Application No: DER/07/18/01055**

**Type: Full Planning  
Application**

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

**8.1. Recommendation:**

To grant planning permission with conditions.

**8.2. Summary of reasons:**

The proposal is considered to meet the requirements of local and national policy with regard to design, amenity and highways issues.

**8.3. Conditions:**

1. The development hereby permitted shall be begun before the expiry of three years from the date of this permission.
2. The development shall be carried out in accordance with approved plans.
3. No part of the development hereby permitted shall be brought into use until provision has been made within the application site for parking of cycles in accordance with details submitted to and approved in writing by the Local Planning Authority.

**8.4. Reasons:**

1. To conform with Section 91(1) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt.
3. To promote sustainable travel.

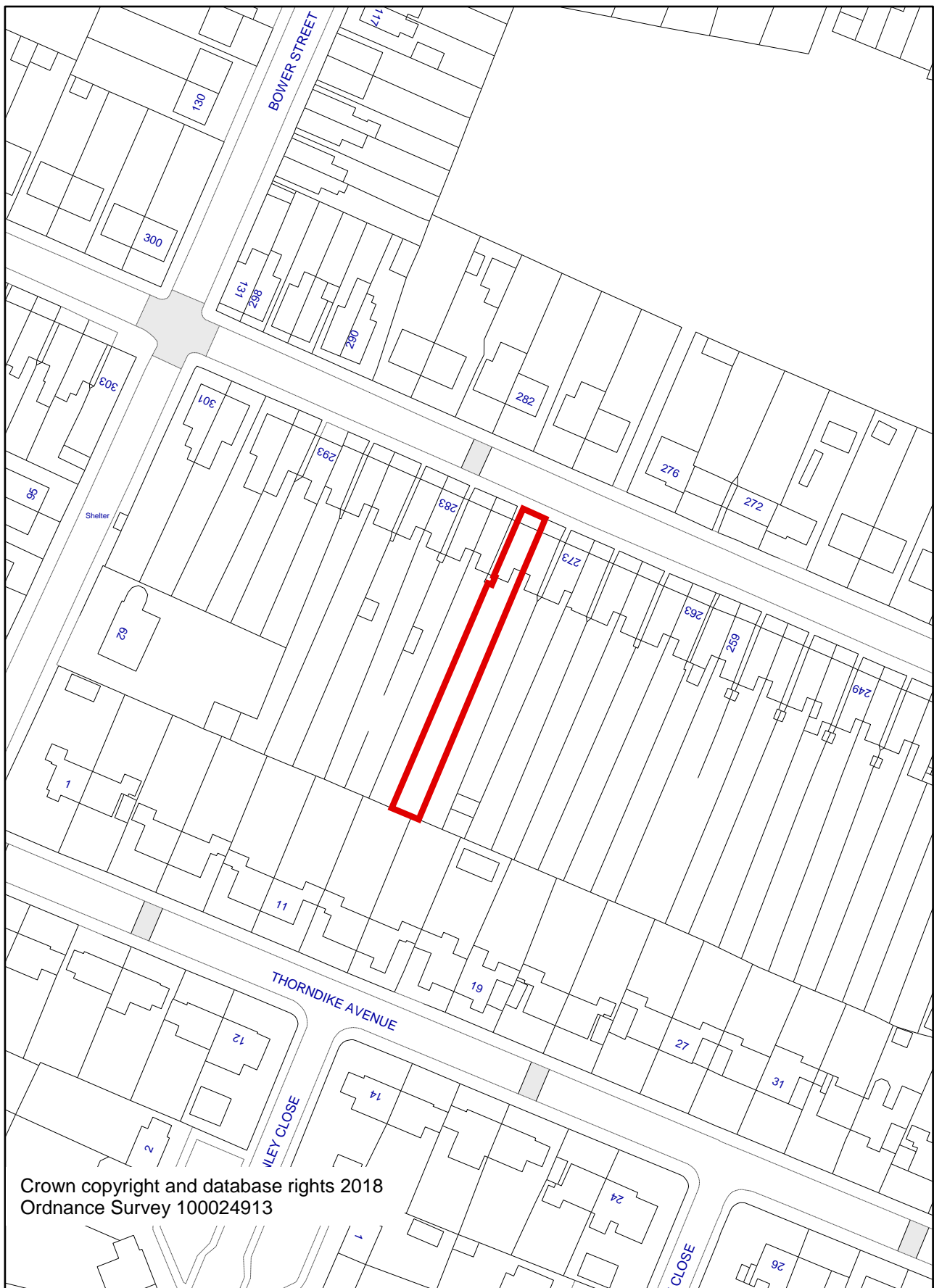
**8.5. Application timescale:**

The determination date for the application was the 07/09/2018. An extension of time of the determination period has been requested and agreed until 14/09/2018.

**Committee Report Item No: 1**

**Application No: DER/07/18/01055**

**Type: Full Planning Application**



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

**Application No:** DER/06/18/01005

**Type:** Full Planning Application

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### **1. Application Details**

**1.1. Address:** 85 Derby Road, Chellaston.

**1.2. Ward:** Chellaston

**1.3. Proposal:**

Retention of the erection of a pergola.

**1.4. Further Details:**

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan/06/18/01005>

#### **Brief description**

This retrospective application seeks consent to retention a timber pergola. The pergola is immediately adjacent to the south site boundary and is positioned to the rear of the existing garage. It has similar dimensions to the garage, being 3.3m wide and 3.3m high. The structure is 5.7m long and has a tiled, dual-pitched roof, to match the garage roof materials.

The site is a semi-detached house, with a side drive serving an existing garage. The site fronts the A514, Derby Road, a main arterial route. The surrounding area is primarily residential. There is an existing 1.5m panel fence on the south boundary, with no. 83.

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

No previous planning applications.

### **3. Publicity:**

3 Neighbour Notification Letters sent, dated 31 July 2018.

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

### **4. Representations:**

One representation has been received from the neighbour at no. 83, objecting on the following grounds:

- My main objection is the height and length of pergola already built.
- The build on both the buildings [rear outbuilding and the gutter of the Pergola] has encroached over my boundary by some 10 inches.
- The height is overbearing and seems like a bungalow has been erected on my boundary line.

Cllr Alan Grimadell has commented, *"I wish to object to the above planning application on the following grounds. It is out of character with surroundings. It is out of perspective in dimensions and does nothing to enhance the benefit of the neighbours totally unsuitable"*.

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

**Application No: DER/06/18/01005**

**Type: Full Planning Application**

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The Ward Member, Cllr Ross McCristal has referred this application to Planning Control Committee. No reasons were given.

### **5. Consultations:**

#### **5.1. Chellaston Neighbourhood Planning Forum**

No comments received

### **6. Relevant Policies:**

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

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

CP1(a) Presumption in Favour of Sustainable Development

CP3 Place making Principles

CP4 Character and Context

#### **Saved CDLPR Policies**

GD5 Amenity

H16 Housing Extensions

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

[http://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/policiesandguidance/planning/Core%20Strategy ADOPTED DEC%202016 V3 WEB.pdf](http://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/policiesandguidance/planning/Core%20Strategy%20ADOPTED%20DEC%202016%20V3%20WEB.pdf)

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

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

**7. Officer Opinion:**

**Key Issues:**

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

**7.1. The Principle of the Development**

**7.2. Design/Visual appearance**

**7.3. Impact on residential Amenity.**

**7.4. Other Issues**

**7.1 The Principle of the Development**

The proposal comprises small and proportionate alterations to an existing dwelling within a residential area. There are no site-specific policy constraints, such that – subject to an assessment of the visual appearance and impact on any neighbours - the proposal is considered to be acceptable in principle. The pergola only needs Planning Permission, as it is within 2m of the site boundary and infringes the permitted height limit.

**7.2 Design/Visual appearance**

The proposal would be to the rear of the site, set back from public views and would be screened by the existing garage, such that it would have minimal detrimental impact on the street scene.

The pergola comprises a well designed and built timber structure which echos the size and shape of the front garage. The ridge height, width and dual-pitch reflect the dimensions of the existing garage. It is a garden structure of a design and appearance, which would be considered visually acceptable.

**7.3 Impact on Residential Amenity.**

The pergola structure is located immediately adjoining the boundary of no. 83. It has a good degree of separation to other neighbours but is screened by existing outbuildings and conservatory, such that the only discernible impact is on the objector, at no. 83, to the south.

There is an existing 1.5m boundary fence. The pergola is on the north side of the neighbour, such that there would be no overshadowing. Any loss of privacy would be no worse than the previous situation.

There is already a physical presence of structures, with an existing garage and outbuilding on the application site, positioned alongside the neighbour's north/side boundary. The neighbour has a relatively large garden (approx. 18m long and 8m wide), with a substantial hedge and shrubs along the south boundary. The north boundary would have been more open and it is recognised that the pergola would give an increased sense of enclosure. However, the pergola roof slopes away from the boundary, which reduces any potential intrusive impact. Furthermore, it is not considered that the structure is so high as to represent an overbearing presence. There would be some loss of outlook but the neighbour has no right to a view. The

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

**Application No: DER/06/18/01005**

**Type: Full Planning Application**

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proposal is not considered to have any overriding adverse impact on residential amenity.

### **7.4 Other Issues**

The neighbour has raised concerns regarding encroachment over the site boundary. Matters of boundary disputes and land ownership are civil matters and should not be considered as material planning considerations.

Finally, should Members be minded to refuse this application, then – as the pergola is currently unauthorised - it is possible that planning enforcement action will be required to ensure the removal of the structure. Members must be clear that they consider that the structure is so unacceptable that, given all the circumstances, such action would be expedient.

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

### **8.1. Recommendation:**

**To grant** planning permission with conditions.

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

The pergola is considered to be of a moderate size, appropriate to the scale and style of the dwelling, such that it would be acceptable in principle. The use of traditional materials and design are in keeping with the character of the surrounding area. There would be no overriding adverse impact on neighbour's amenities. Consequently, the proposal is considered to be in compliance with Core Strategy Policies CP1, CP3 and CP4, and Saved Local Plan Policies H16 and GD5.

### **8.3. Conditions:**

1. The development hereby permitted shall be carried out in accordance with the following approved plans:
  - Site Location Plan.
  - Block Plan, Floor plans and Elevations (drawing no: 18032.01)

### **8.4. Reasons:**

1. For the avoidance of doubt.

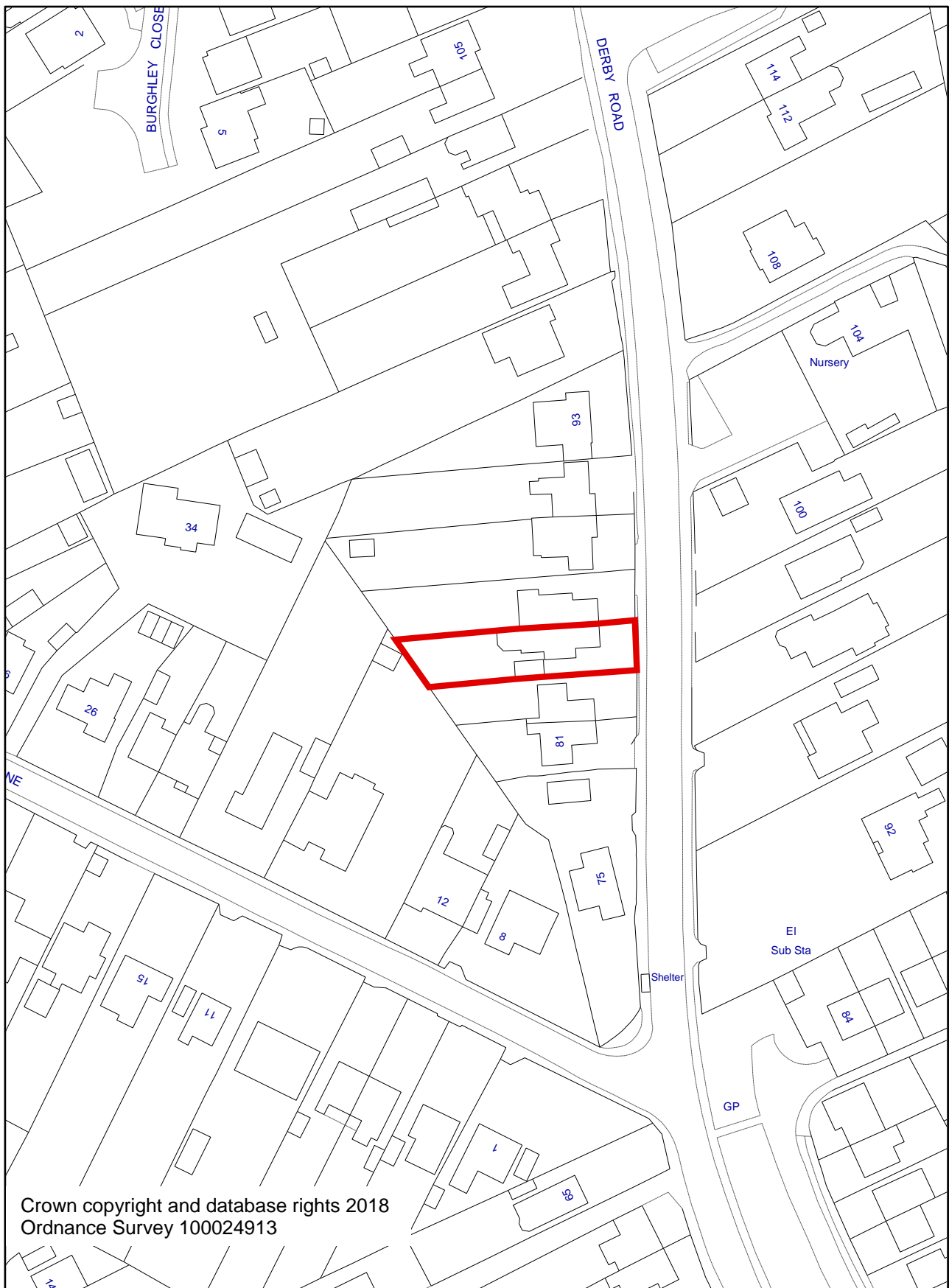
### **8.5. Application timescale:**

The statutory expiry date for the application is 25/09/2018. The application was referred to Planning Committee by a Ward Councillor.

**Committee Report Item No: 2**

**Application No: DER/06/18/01005**

**Type: Full Planning Application**



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

**Application No: DER/04/17/00429**

**Type: Full Planning Application**

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### **1. Application Details**

**1.1. Address:** Site of former Cock N Bull PH, Sinfin Lane, Sinfin.

**1.2. Ward:** Sinfin

**1.3. Proposal:**

Erection of an industrial unit with retail sales and car breaking (mixed use B2 / A1 / Sui Generis) and associated car parking.

**1.4. Further Details:**

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan/04/17/00429>

**Brief description**

This rectangular shaped site fronts onto Sinfin Lane and extends back approximately 80 metres from the highway, towards existing industrial units off neighbouring Amberley Drive and the adjacent Sinfin Commercial Park Industrial estate.

The site is currently vacant, as demolition of the previous Cock n Bull Public House has taken place. The site is closely bordered to the south by four properties, used for retail and residential purposes.

This stretch of Sinfin Lane is typically to the east side, made up of a mixture of two storey semi-detached and terraced properties and to the west side, a significant number of commercial units in close proximity. There are groups of Poplar and Lime trees adjacent to the site close to the northern boundary, which are covered by Tree Preservation Orders.

The proposal would include the erection of one commercial/retail unit with associated car parking provided. The unit would be positioned to the rear at the west end of the site with parking and turning facilities to the front of the site. Approximate dimensions of the unit are as follows: length- 40m, width-24.5m, height-8m. The building would have a shallow curved roofline and be two storeys in height. The unit itself would consist of: reception area, staff room, storage area, toilets and a large open warehouse space where works will be carried out.

The proposed use would differ from the previously refused scheme as the use would also consist of the breaking of vehicles within the building. In the supporting statement accompanying the application the applicant states that the methods used are very specialised, catering to a specific clientele. They state that this is not a typical car breaking operation since customers are not allowed in the area where operations are carried out and would only come to reception, within the retail area of the unit. The applicant states that the business has been operating from the current site on Cotton Lane for approximately 15 years, processing on average 1-2 vehicles per week. The reason for submitting the application is due to the need to carry out works in an indoor environment. The applicant states that they do not envisage an increase in the number of vehicles processed and vehicles they tend to dismantle are typically less than 5 years old, costing anything up to 4K per unit. The annual tonnage would be approximately 250 tonnes.



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

**Application No: DER/04/17/00429**

**Type: Full Planning Application**

A Noise Assessment and addendum have been provided in response to concerns raised by the Council's Environmental Protection team during the life of the application, which confirm that the proposed commercial use would now be carried out internally only. The applicant has also provided Tree Reports, Tree Protection Plans and a Tree Damage report, with addendums during the application in relation to the protected trees along the northern boundary of the site.

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

<b>Application No:</b>	DER/05/11/00503	<b>Type:</b>	Full Planning Permission
<b>Decision:</b>	Refused	<b>Date:</b>	15/06/2012
<b>Description:</b>	Change of use from public house (Use Class A4) to car sales/storage, car spares and treatment facility for end of life vehicles (Sui Generis Use), installation of roller shutters to the rear elevation and erection of boundary fence		

**Reason for refusal:**

*Located adjacent to the Sinfin Industrial Park the site is also in close proximity to a substantial residential area. Saved policy EP14 (Employment with Potential Off-site*

*Effects) requires demonstration that there would be no significant risk or detriment to the health, environment or amenity of nearby residents, employees or others in the area. The proposed development would involve processing work and storage of end of life motor vehicles in the open. In this respect, no noise risk assessment of the operation or mitigation measures required to protect the residential amenity of nearby dwellings has submitted in support of this application. As such the proposal would be contrary to the requirements of saved Policies GD5 and E14 in respect of failing to demonstrate that the proposed development would have no significant risk or detriment to the health, environment or amenity of nearby residential areas .*

<b>Application No:</b>	DER/03/10/00310	<b>Type:</b>	Full Planning Permission
<b>Decision:</b>	Granted	<b>Date:</b>	07/05/2010
<b>Description:</b>	Change of Use from Public House (use class A4) to Assembly and Leisure (use class D2)		

<b>Application No:</b>	DER/09/95/01154	<b>Type:</b>	Advertisement Consent
<b>Decision:</b>	Granted conditionally	<b>Date:</b>	31/10/1995
<b>Description:</b>	Display of externally illuminated fascia sign		

<b>Application No:</b>	DER/06/82/00637	<b>Type:</b>	Advertisement Consent
<b>Decision:</b>	Granted	<b>Date:</b>	12/07/1982
<b>Description:</b>	Display of 1 free standing pictorial post sign and individual fascial letters.		

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### **3. Publicity:**

Neighbour Notification Letter – 5 Letters

Site Notice

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

### **4. Representations:**

One letter of objection received and 92 signature petition in objection to the application have been received to date. The objections raised include:

- Car breaking element resulting in 'broken down cars piled high'
- Noise
- Vandalism/drug taking
- Environmental impact- oil chemical and acid pollution of water table
- Trees to rear, impact upon wildlife
- Suggest that the site is used for residential purposes.

### **5. Consultations:**

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

These observations are based upon application plan "A100"; and other information downloaded from the Planning Portal.

As existing the site (demolished public house) has dual access; which the applicant intends to make "in" and "out", with the "in" being the most southerly entrance.

Visibility in either direction from either access exceeds advised standards due to the adjacent 3m wide footway.

The site falls towards the highway, and has no apparent form of water trap; I note that the application drawing shows "soakaways"; however the profiling of the site is such that these will not necessarily be sufficient to prevent surface water egress; further details can be supplied in response to conditions which will be requested.

The applicant/developer should note that any proposed soakaway should be located at least 5.0m to the rear of the highway boundary.

The Design & Access Statement (section 4.2) states that "No delivery trucks will enter the site". Whilst this may be the case in respect of the applicants' envisaged use, it is difficult to see how in practice this could be guaranteed and conditioned in respect of both the applicant and any future occupiers of the site.

However, within the layout shown, there is ample opportunity for larger vehicles to be able to turn such that they can enter and exit the site in a forward gear.

Section 4.2 also states that 9 parking spaces have been provided (including 3 disabled); although according to drawing A100, only 8 (including two disabled) have

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been provided. There is however ample space within the site for this to be increased should it be necessary.

The applicant has followed the (pre-application) advice of the Highway Authority and provided a number of cycle parking spaces within the premises for use by staff.

Sinfin Lane already serves a number of industrial/commercial premises and (in highway terms) the proposals will not have a significant impact on the highway.

It will however be necessary to set the gates to the site back a suitable distance in order to ensure that arriving vehicles do not extend out into the highway whilst the gates are opened/closed (it is envisaged that the proposed use of the site will require more security at the access points than the previous use). This will entail further alterations to the existing fencing/gate arrangement.

### **Recommendation:**

The Highway Authority has No Objection, subject to suggested conditions.

### **Condition**

No part of the development hereby permitted shall be brought into use until the hardstanding 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**

No part of the development hereby permitted shall be brought into use until the parking, turning and servicing areas are provided with the parking spaces clearly delineated in accordance with the approved plan. The parking, turning and servicing areas shall not be used for any purpose other than parking, turning, loading and unloading of vehicles.

### **Reason**

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

### **Condition**

The gates at the access point shall open inwards only, be set back a minimum of 5.5 metres from the highway boundary, and constructed in accordance with details which have been first submitted to and approved in writing by the LPA. The approved gates shall then be retained for the life of the development.

### **Reason**

In the interest of highway safety.

### **Condition**

No part of the development hereby permitted shall be brought into use until the cycle parking layout as indicated on drawing A100 has been provided and that area shall not thereafter be used for any purpose other than the parking of cycles.

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### Reason

To promote sustainable travel.

### Notes To Applicant

- N1. It is an offence under S148 and S151 of the Highways Act 1980 to deposit mud and deleterious matter on the public highway, and as such you should undertake every effort to prevent it occurring.
- N2. The consent granted will result in the construction of a new building which needs naming and numbering. To ensure that the 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, location in relation to existing land and property, and the placement of front doors or primary access.

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

### Revised Comments (August 2018):

My concern is that the tree protection plan is separate to the proposed plans. The constraints of the trees should be on all plans (including proposed plans).

Whilst the supporting Arboriculturalist letter dated 17/08/18 states that he believes the applicant intends to construct using a raft suspended on pile and beam the proposed plan makes no reference. The proposed plan does make reference to drainage which appears to be within RPA which is contrary to the TPP.

The proposed plan also makes reference to ground preparation but makes no special measures within the RPAs.

I believe construction could be achieved but special measures must be used with the details being supplied and agreed prior to construction with input from their Arboriculturalist. This could be conditioned along with tree protection measures however I would be happier if they could demonstrate that they can achieve construction within RPA's (including car parking areas) prior to permission being granted. I would also like to see it condition that there Arboriculturalist inspects and signs off tree protection measures prior to construction and inspects installation of piles and treatment of car parking services within RPA's.

### Original comments (November 2017):

There are 2 group type TPOs protected trees immediately to the north of the site.

The TPOs are:

TPO 441: G2 - 5 x Lime located adjacent to Sinfin Lane.

TPO 441: G3 – 10 x Poplar located on the south boundary of the business park with the former Cock and Bull PH.

In order to assess the impact of the proposed development they must supply a BS5837: 2012 survey and supporting documents (including an arboricultural impact assessment).

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

#### **Revised comments (December 2017):**

Following my previous comments (9th October 2017) on the Noise Assessment Report (Report ref: 3785-R1 Workshop facility, Sinfin Lane, Derby by Clover Acoustics, dated 4th August 2017), a further submission has been made in support of the above planning application:

Letter Report, re: Proposed Sinfin Lane Unit – Clover Report 3785-R1. From Steve Clow, Clover Acoustics. 25th October 2017.

The submission addresses concerns made in previous comments:

**Traffic (delivery of vehicles):** The letter report refers to information from the client that 1-2 vehicles per week will be delivered to the site, and therefore be not significant in terms of noise impact. With the information provided relating to the scale of the operation, I am in agreement.

To ensure no loss of amenity to nearby receptors caused by noise from delivery vehicles, it is proposed that such deliveries should only take place during business hours, with an upper limit of 3 per week.

**Hours of opening:** it is noted in the application form that the proposed hours of activity at the unit are 8am to 6pm (Monday to Friday), and 9am to 3pm (Saturday), with no working Sundays or bank holidays.

**Outdoor working:** Agreement that car breaking/maintenance activities will only take place within the unit. Although the letter mentions 'all activities to take place internally', it is assumed that vehicles will be stored in the front yard for display.

**Acoustic performance of unit roller doors:** I am pleased to see modelling and calculation with regards to unit proximity, door area, and required acoustic performance. This concludes that the unit doors require a minimum sound reduction performance of 30dB Rw. Acoustic performance for walls and roof are also specified within the letter, and these should also not be diverged from without justification that it is not detrimental from an acoustic perspective.

The comments concerning the impact driver are noted, as are those relating to  $L_{Amax}$  (comparison with background), and the corresponding effect on the BS4142 assessment and WHO assessment.

#### **Recommendations and conclusions:**

With the additional information, the proposed development is predicted to have a rating level equal to the recorded typical background sound level, and will therefore not have an adverse impact on nearby sensitive receptors. However, this is based on several considerations, and therefore the following conditions are recommended:

- **ACOUSTIC PERFORMANCE:**

Given the proximity to residential properties, and the potential for noise disturbance, measures designed to control and/or minimise breakout noise from the proposed development shall be incorporated into the construction. These measures shall be based upon the findings and recommendations of the submitted noise assessment report (Report ref: 3785-R1 Workshop facility, Sinfin Lane, Derby by Clover Acoustics, dated 4th August 2017) and subsequent letter report (Letter Report, re:

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Proposed Sinfon Lane Unit – Clover Report 3785-R1. From Steve Clow, Clover Acoustics. 25th October 2017).

The required Rw values for doors, walls and roof, presented in the letter report shall be achieved by selection of appropriate materials, products and installation.

Once products have been selected, a detailed design scheme specifying these noise measures shall be submitted for approval prior to commencement of construction. A post-installation verification report shall be submitted for approval prior to occupation of the development.

- **OPENING HOURS:**

Hours of activity at the unit shall be 8am to 6pm (Monday to Friday), and 9am to 3pm (Saturday), with no working Sundays or bank holidays.

- **VEHICLE DELIVERY:**

To ensure no loss of amenity to nearby receptors caused by noise from delivery of vehicles, such deliveries shall only take place during business hours, with an upper limit of 3 per week (Monday to Saturday).

- **OUTDOOR WORKING:**

No car breaking or maintenance activities shall take place outside the unit. Any such activities taking place shall be within the unit, and with roller doors closed throughout the duration of those activities to ensure adequate control of noise.

**Initial comments (August 2017):**

I have reviewed the application information and I would offer the following comments in relation to Environmental Protection related issues:

**Land Contamination:**

Due to the site's historical use, it has been identified as 'potentially contaminated'. I would recommend that conditions are attached to any consent requiring:

- Before commencement of the development, a Phase I desktop study shall be completed for the site, documenting the site's previous history and identifying all potential sources of contamination and the impacts on land and controlled waters, relevant to the site. A conceptual model for the site should be established, which should identify all plausible pollutant linkages. A report will be required for submission to the Council for approval.
- Where the desktop study identifies 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.
- In those cases where the detailed investigation report confirms that contamination exists, a remediation method statement will also be required for approval.

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- 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.

### **Noise**

I note that as part of the planning application a noise impact assessment has been submitted. We will review this Report in detail in due course and respond accordingly. In the meantime, 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.

I have no other comments to make on the 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)**

CP2	Responding to Climate Change
CP3	Placemaking Principles
CP4	Character and Context
CP9	Delivering a Sustainable Economy
CP10	Employment Locations
CP13	Retail and Leisure Outside Defined Centres
CP16	Green Infrastructure
CP23	Delivering a Sustainable Transport Network

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### Saved CDLPR Policies

GD5	Amenity
S10	Trade and Showroom Type Sales
E12	Pollution
T10	Access for Disabled People

### Derby And Derbyshire Waste Local Plan (Adopted March 2005)

W1b	Need for the development
W2	Transport principles
W6	Pollution and related nuisances
W7	Landscape and other visual impacts

National Planning Policy for Waste (NPPW)

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. Ability for facility to meet all relevant policies**

#### **7.2. Amenity and environmental impacts**

#### **7.3. Design/layout**

#### **7.4. Highway implications**

#### **7.1. Ability for facility to meet all relevant policies**

The site of the proposal is not allocated for any particular use in the Local Plan – Part 1. The proposal includes an element of waste management and so falls to be considered under the Waste Local Plan in addition to the CDLPR saved policies and the Local Plan – Part 1.



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Policy S10 allows for trade and showroom type sales outside the defined shopping centre hierarchy provided that the surrounding area is predominantly commercial or industrial in character, and, where appropriate, is accessible by a choice of means of transport. The proposed retail element, for the sale of parts recovered from vehicles, is not an activity that would normally be found within a retail centre and therefore can be considered in the same vein as trade/showroom type sales. The allowance for retail activity in this location is based on the particular type of business therefore a condition restricting sales to vehicle parts recovered from the vehicles broken on site only should be applied to prevent uncontrolled retail activity. The western side of Sinfin Lane is largely industrial in character and so the proposal complies with this part of the policy.

The treatment facility for end of life vehicles is relatively small at 250 tonnes per annum and appears to be an integral part of the overall scheme. Policy W1b allows for waste development if it would help to cater for the needs of the local area. The proposal would be assumed, to serve the Derby area, which could be described as the local area in relation to a waste treatment facility. Policy W2 seeks to prevent an overall significant increase in the distance and number of waste related journeys for people, materials or waste. The proposal is to allow the relocation of an existing business without an increase in throughput; the proposal would therefore meet the intentions of Policy W2.

Policies W6 and W7 of the Waste Local Plan are similar in intent to policies in the CDLPR and Local Plan – Part 1 in that they seek to protect the environment. The proposal would assist in moving waste up the Waste Hierarchy in line with the requirements of the guidance contained in the NPPW.

Policy CP10 allows for new business and industrial development in areas not specifically allocated for those uses provided that it does not conflict with the objectives of the Plan; would not adversely impact on the amenity of nearby residents; is well integrated into the urban area; would not lead to a significant oversupply of employment land and; would contribute to the aims and objectives of Policy CP9.

### **7.2. Amenity and environmental impacts**

#### **Residential amenity**

There are no undue amenity impacts associated with the proposed development. Although significantly larger in footprint than the previous building, the new industrial unit has been designed at a relatively low height level for this type of building, at approximately 8m. As a result the proposed massing of the building will not have significant adverse impact on the residential amenities of nearby residential properties. The location of the proposed new building would not give rise to any significant overshadowing or overlooking of neighbouring properties on Sinfin Lane, taking into consideration the orientation and distance between the proposed new building and surrounding neighbouring units.

The application site is located in close proximity to existing industrial uses, at the adjacent Amberley Drive and the existing industrial estate to the rear at Sinfin Business Park. There are two residential properties to the south of the application site located to the rear of retail units fronting Sinfin Lane. These residential units are

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non-conforming uses in the context of the predominantly employment uses to the west of Sinfin Lane. Residents have objected to the noise that would be created by the proposal. Noise concerns relating to demolition and building works can be dealt with by condition. Concerns have been raised by neighbouring residents in regards to noise and general disturbance caused by collection and drop off of vehicles however, I am satisfied that such issues can also be controlled through the recommended conditions of the Council's Environmental Health Officer. Restricting the hours of operation would also avoid adverse impacts of the proposal on neighbouring properties at unsociable hours and on Sundays. It is also considered prudent to impose conditions to restrict potential noisy activities such as the use of power tools to inside the building and to require roller shutters to be closed when work is being undertaken. This along with hours of operation restrictions would protect the residential amenity of residents nearby from any excessive noise disturbance. Possible ground contamination issues identified by the Environmental Health Officer can also be dealt with by way of condition. Subject to compliance with these conditions, the proposal would reasonably satisfy the amenity requirements of adopted policies CP3 and CP4 of the Derby City Local Plan Part 1: (Core Strategy) and saved policy GD5 of the adopted City of Derby Local Plan Review.

### **Impacts on Trees**

To the north there are groups of mature trees close to the boundary which are protected by Tree Preservation Orders and include the following:

- TPO 441: G2 - 5 x Lime located adjacent to the Sinfin Lane frontage.
- TPO 441: G3 – 10 x Poplar trees located on the boundary of the business park with the former Cock and Bull site.

The Poplar trees in particular are in close proximity to the proposed footprint of the industrial unit and the Council's Tree Officer raised concerns that the root protection areas (RPA) of the trees would be affected by the siting of the building. In response the applicant has provided supporting arboricultural reports and tree protection plans, in relation to the tree impacts and these propose the use of a no-dig raft and beam method of foundation for the building, within the RPA of the trees. The Tree Officer is satisfied in principle with this method of protecting the trees, although he has requested more details from the applicant, which if received will be presented orally at the meeting. Planning conditions are also recommended to secure more detailed tree protection information and method statements which will ensure that the retention of the trees is safeguarded during and post- construction. Subject to compliance with the Tree Officer's recommendations, I am satisfied that the trees would be appropriately protected and the proposal accords with the intentions of Green Infrastructure Policy CP16 in regard to trees.

### **7.3. Design/layout**

The design and layout of the proposed industrial unit would be acceptable given the general surrounding context. The proposed external elevations for the unit have been designed to reflect and complement the surrounding industrial units along Sinfin Lane and the existing mature groups of trees. The proposed elevation treatment draws on the existing range of materials and architectural language seen throughout the units

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in close proximity to the site in order to create a simple but attractive image. The final details of material types are to be conditioned and agreed.

The proposal reasonably satisfies the requirements of adopted policies CP3 and CP4 of the Derby City Local Plan Part 1: (Core Strategy) and the saved policy GD5 of the adopted City of Derby Local Plan Review.

### **7.4. Highway implications**

The application details state that delivery vehicles would not be entering the site, although Highways Officers are satisfied that the parking and access layout shown, provides ample opportunity for larger vehicles to be able to access and manoeuvre in the site, such that they can enter and exit the site in a forward gear.

It is noted that the submitted layout drawing A100, shows 8 parking spaces (including two disabled) being provided. There is however ample space within the site for this to be increased should it be necessary. The applicant has followed the advice of the Highway Authority and provided a number of cycle parking spaces within the premises for use by staff. Sinfin Lane already serves a number of industrial/commercial premises and the proposals would not have a significant impact on highway safety on the local road network.

It will however be necessary to set the gates into the site back a suitable distance in order to ensure that arriving vehicles do not extend out into the highway whilst the gates are opened/closed. This will entail further alterations to the existing fencing/gate arrangement and can be secured by a suitable planning condition. Further to relevant conditions being met the proposal reasonably satisfies the requirements of adopted policy CP23 of the Derby City Local Plan Part 1: (Core Strategy) and the saved policy T10 of the adopted City of Derby Local Plan Review.

### **Conclusion**

This use is considered acceptable within a predominantly employment area to the west of Sinfin lane, in line with local plan policies subject to the imposition of relevant conditions.

Overall it is felt that the proposal is acceptable and residential amenity would not be unreasonably affected. Although one objection and a petition, have been received officers are satisfied that all relevant planning matters have been adequately addressed and accordingly the proposal reasonably satisfies the requirements of 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.

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

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

**To grant** planning permission with conditions.

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

The proposed industrial development is appropriate in principle in this location and is considered acceptable in terms of impacts on residential amenity, highway safety, protected trees and character of the streetscene, subject to compliance with recommended conditions.

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

1. Three year time limit.
2. Accordance with the approved plans
3. Details of any external materials to be agreed and used in the implementation of the development.
4. Landscaping scheme indicating the types and position of trees and shrubs and treatment of paved and other areas to be and agreed.
5. The landscaping scheme submitted pursuant to Condition 4 above to be carried out within 12 months of the completion of the development or the first planting season whichever is the sooner.
6. Tree protection plan and Arboricultural Method Statement for details of works within the root protection areas in accordance with BS:5837:2012 ("Trees in relation to design, demolition and construction") to be submitted and agreed and implemented through out period of construction. Tree protection measures and method of foundations to be inspected during construction by qualified arboriculturalist.
7. The hardstanding to be constructed with provision to prevent the discharge of surface water from the site to the public highway and then be retained for the life of the development.
8. The parking, turning and servicing areas are provided with the parking spaces clearly delineated in accordance with the approved plan and not be used for any purpose other than parking, turning, loading and unloading of vehicles.
9. The gates at the access point shall open inwards only, be set back a minimum of 5.5 metres from the highway boundary and then retained for the life of the development.
10. The cycle parking to be provided as agreed and that area not thereafter be used for any purpose other than the parking of cycles.
11. Retail activity is restricted to sale of vehicle parts recovered from the vehicles broken on site only.
12. A Phase I desktop study to identify any site contamination to be completed for the site, documenting the site's previous history and identifying all potential

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sources of contamination and the impacts on land and controlled waters, relevant to the site.

13. Where the desktop study identifies potential contamination, a Phase II intrusive site investigation to 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.
14. In those cases where the detailed investigation report confirms that contamination exists, a remediation method statement to be required for approval and implemented with all of the respective elements of the agreed remediation proposals to be suitably validated through a validation report.
15. A detailed noise impact assessment to be carried out and where the submitted acoustic report has indicated that noise mitigation is required, a scheme to be submitted for approval and implemented in full before the use of the site commences. Given the proximity to residential properties, and the potential for noise disturbance, measures designed to control and/or minimise breakout noise from the proposed development shall be incorporated into the construction.
16. Restrict hours of all operations on the site to 8am to 6pm (Monday to Friday), and 9am to 3pm (Saturday), with no working Sundays or bank holidays. Delivery of vehicles only take place during these business hours, and shall be limited to no more than 3 deliveries per week (Monday to Saturday).
17. No car breaking or maintenance activities to take place outside the building and any such activities taking place shall be within the building, and with roller doors closed throughout the duration of those activities to ensure adequate control of noise.

### **8.4. Reasons:**

1. To conform with Section 91(1) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt.
3. To ensure a satisfactory external appearance of the development in the interests of visual amenity.
4. To ensure a satisfactory external appearance of the development in the interests of visual amenity.
5. To ensure a satisfactory external appearance of the development in the interests of visual.
6. To protect trees and other vegetation on and adjoining the site during the course of construction works in order to preserve the character and amenity of the area.
7. To ensure surface water from the site is not deposited on the public highway causing a danger to highway users.

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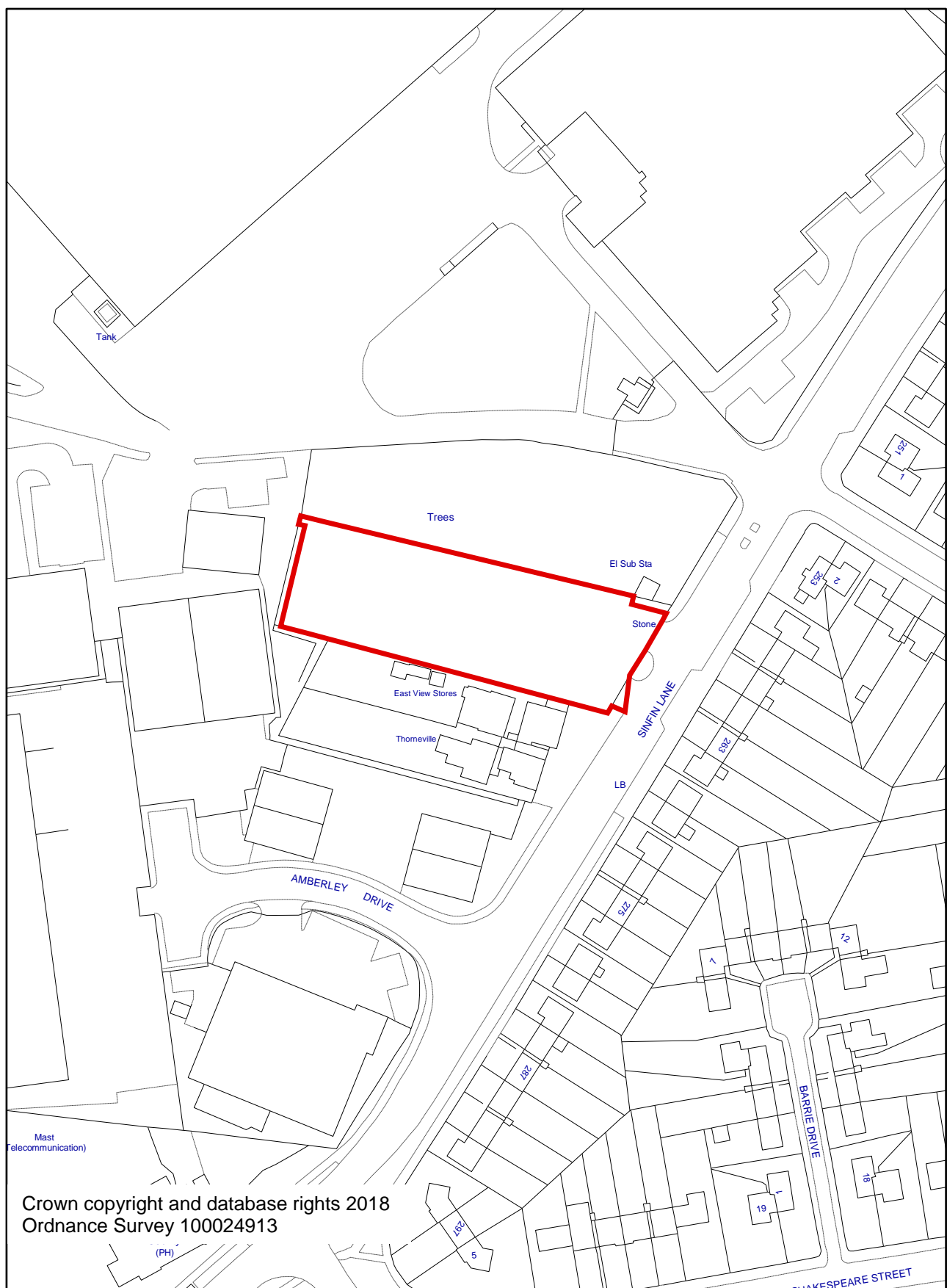
- 
8. To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking in the area.
  9. In the interest of highway safety.
  10. To promote sustainable travel.
  11. To protect residential and environmental amenity.
  12. To protect residential and environmental amenity.
  13. To protect residential and environmental amenity.
  14. To protect residential and environmental amenity.
  15. To protect residential and environmental amenity
  16. To protect residential and environmental amenity
  17. To protect residential and environmental amenity

### **8.5. Informative Notes:**

- a) It is an offence under S148 and S151 of the Highways Act 1980 to deposit mud and deleterious matter on the public highway, and as such you should undertake every effort to prevent it occurring.
- b) The consent granted will result in the construction of a new building which needs naming and numbering. To ensure that the 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, location in relation to existing land and property, and the placement of front doors or primary access
- c) 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.
- d) There should also be no bonfires on site at any time.

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

The application target date expired August 2016, it has been delayed due to requirement of further information relating to both Environmental Health (noise report) and arboricultural report (TPO trees adjacent to the site). A further extension of time will be agreed with the applicant.



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

**Application No: DER/04/18/00542**

**Type: Full Planning Application**

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### **1. Application Details**

**1.1. Address:** West Park Community School, West Road, Spondon.

**1.2. Ward:** Spondon

**1.3. Proposal:**

Erection of Teaching Block (six classrooms with associated toilet facilities and staff accommodation) together with formation of staff car park and level access.

**1.4. Further Details:**

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan/04/18/00542>

**Brief description**

West Park Community School is situated just outside the Spondon Conservation Area and is within an existing 'Green Wedge' designation. Whilst the school as a whole occupies a large site, development is proposed on two smaller areas with the existing built form of the school buildings. Due to a rising roll and the need to provide additional places the school have secured funding to build an additional block of six classrooms.

This two storey block is situated toward the North of the site and is of a conventional design, clad in grey brick with areas of bold colour to provide relief and visual interest.

Additional car parking provision and a reconfiguration of the South car park circulatory arrangements within the school grounds plus additional bicycle facilities complete the proposed works.

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

The school has an extensive planning history of improvements and alterations since the mid 1970's.

### **3. Publicity:**

Neighbour Notification Letter

Site Notice

Statutory Press Advert

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

### **4. Representations:**

25 representations have been received in response to the publicity exercise. There are 2 neutral comments, 1 in support and 22 against the proposal. These are summarised below and are available for scrutiny on the application web-pages via the link at the start of this report.



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### Support

It is a very popular school and the school are trying to accommodate more children

### Neutral/Objections

- Building will block light and views and is unattractive.
- Parking is already very difficult.
- The design of the new teaching block is 'industrial' and will be an eyesore for residents of Devas Gardens who will have a clear view of it.
- Emergency vehicles will not be able to access Devas Gardens at certain time due to the number of cars parked.
- Residents are sometimes unable to access their properties due to the number of cars parked in the vicinity of the school.
- Children can't be seen crossing the road between the parked car and are at risk of being knocked down.
- The police are forced to control parking and install bollards because of parents parking on the pavement.
- There must be other schools in the city, with better access arrangements which could be extended or a new secondary school could be built in Oakwood.
- The entry criteria for the school should be made more stringent to limit numbers attending.
- Residents are unable to cross the road due to the traffic.
- Roads in the area are narrow and historic and not built for so much traffic.
- Previous building work at the school has caused problems with flooding on the Spondon No.1 footpath and damaged the surface of the path. This work will make the situation worse.
- Parents display ignorance of basic highway-code rules when dropping off children and are discourteous to residents.
- The school have no regard for the concerns of nearby residents and are unable to control the existing parking problems so a new block will only make the situation worse.
- Parking issues are horrendous and exacerbated by there being three schools in close proximity.
- The Local MP and Councillors have tried to work with parents to encourage more considerate parking but the head teacher is unwilling to address the problems.
- An increase in the number of cars will add to air pollution problems.
- The character of the Conservation area will be impacted by more activity.
- The current successful reputation of the school may be diluted by an increase in its size.

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

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- Many nearby residents are retired and they don't want the increase in noise and disturbance the increasing activity at the school will cause.
  - The cherry trees which were part of the old Devas Estate orchard should not be felled.
  - The submitted travel plan is a very poor document. Offering increased cycle parking is laudable but in reality parents will be unwilling to let their children cycle to school on such busy roads. The offer of discounted bus travel is not achievable as bus routes have been altered and the service isn't practical for pupils.
  - No additional landscaping is proposed to offset the loss of the open grassed area.
  - The height of the proposed buildings is inappropriate for residents of Devas Gardens.
  - The green highlighting on the proposed building is more suited to a retail park and inappropriate in this location.
  - The position on the site of the proposed building will lead to increased noise and disturbance for nearby residents and the buildings would be better sited further away from the existing houses.
  - Adding further classrooms is unsustainable, reckless and potentially life threatening.

## **5. Consultations:**

### **5.1. Transport Planning:**

The estimated trip generation has been calculated using a mode share survey of the current student population. The results show that 27.2% of the 934 respondents travel to school by car. Applied to the 150 students that the proposed development will accommodate results in 41 two way trips.

Existing congestion along West Road during the AM and PM peak are concentrated around school opening and closing times. This situation is relatively common at most schools, not only in Derby but in all urban areas in the country. The intensification of use is concentrated into very short time periods at school arrival and dispersal times, and outside of these times the issues do not exist. The concern from local residents at this location is most likely due to its proximity to Springfield Primary School and St. Werburgh's Primary School. The school times are staggered in order to avoid congestion. However, this does create a longer lasting effect on the local network between the sites.

The application proposes a net increase of 19 parking spaces. The majority of these spaces are to be formed in the new southern Staff car park. The relocation of this parking provision will remove vehicle trips from West road access and reassign them to the less congested Park access road. Whilst the car parking provision appears, from the surveys, to exceed demand. It is unlikely to lead to an increase in vehicle trips as the parking demand from staff will remain stable. The provision of extra spaces will help to future proof the development against any increase in staffing.

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A street Parking accumulation survey was carried out in order to understand the impact of the school and proposed development on the locality. As expected, the parking accumulation reaches its peak during the PM peak due to the parking of vehicles waiting for the school day to finish. The accumulation in the AM peak is reduced by the opening of the electronic gates at the West Road access to create a drop off point and the nature of the parking being shorter. The parking survey highlighted the behaviour of vehicle trips dropping students off within a walkable distance to the school on roads such as Locko Road, Chapel Street, Church Street and Merchant Avenue. Due to this, the 41 two way trips are likely to be distributed across the local network and have no material impact.

The schools location benefits from strong pedestrian and cycling links and it is welcomed that the cycling storage provision is to be increased to accommodate the increase in demand by students and staff. There are also good bus links from surrounding areas including direct buses from Derby bus station.

It is also noted that the school places members of staff on the main entrances/ exits in order to direct/ control students to increase their safety.

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

The following comments should be read in conjunction with my colleague's comments in respect of the transport statement submitted to support the above application.

The level and nature of the objections attracted by the above application confirms that this school is no different to most schools and at peak times there is a significant level of congestion on the highway surrounding the school. This has been confirmed by colleagues who are responsible for traffic management in Spondon.

The school is located to the rear of residential development and has two accesses one off West Road and the other off Park Road. Both routes are historic roads and consequently vary in width. West Road in particular has a pinch point and does not have continuous footways both sides of the road. Where footways do exist some are narrow when compared to modern standards. My traffic management colleagues report that at peak times, school children walk in groups in the road. The accident data shows that in 2015 a 12 year old was seriously injured in the vicinity of the pinch point.

As indicated at pre-application stage the increase in number of pupils can only exacerbate the existing congestion issues. It is suggested that as a consequence of this application a review of the current traffic management measures on both Park Road and West Street should be undertaken and where necessary additional and/or changes to Traffic Regulation Orders or other physical measures i.e. additional bollards be agreed with the LPA.

The above application proposes to increase the staff by 8. Some objectors allege some staff currently park on street. The additional parking being provided will provide more opportunity for any displaced staff to find an off-street parking space.

Para 3.1.1.2 in the transport statement says that the school closes the gates at the access in the pm peak to discourage parent pick-ups. In travel planning terms this

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seems a good thing to do, however in practical terms it results in parents turn in private driveways etc. West Road has no turning space.

Suggested conditions: Prior to the additional classrooms becoming operational, any changes to the traffic management measures on West Road and Park Road identified following a review of these streets shall be undertaken in accordance with details to be agreed with the LPA. Reason: in the interests of highway safety.

### **5.3. Built Environment:**

The application site adjoins NHLE ref 1279402, a pair of Grade II\* listed C18 stone gateways at its eastern entrance from Park Road, and the westernmost boundary of the Spondon Conservation Area.

Although very small structures, the listed gateways are elegant, carefully-detailed classical designs, which is reflected in their high grading, but their context has been irrevocably changed by the demolition of Upper House and its replacement with a C20 secondary school complex. There is very limited inter-visibility with the proposed teaching block and the amendments to the south car park, whilst closer, are a minor change in the context of the other development which has occurred. The proposals are therefore unlikely to have any demonstrable impact on the character and significance of the heritage assets in the vicinity.

#### **Conclusion:**

The scheme is considered to have a neutral impact on the significance of the adjoining heritage assets, and accords with the objectives of the NPPF and Policies E18 & E19 of the 2006 City of Derby Local Plan Review and CP20 of the 2017 Derby Local Plan Core Strategy.

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

The development corresponds to the site of Parkland associated with Spondon Field House (Derbyshire HER no. 32436) which is depicted on 1st ed. O.S. maps of 1870.

The site is now under modern development however, and we would not consider that this scheme will have any archaeological impact.

### **5.5. Highways – Land Drainage:**

The development is a small additional school building in an existing school site which, according to the Council's SFRA and other sources of information is at low risk of flooding from all sources.

However, it is still a requirement not to increase the runoff of surface water from the site, so the addition of impermeable footpaths, car parking and roof areas on this development may increase flood risk to third parties if not managed appropriately. Small scale SuDS methods could be used to manage runoff from this site to greenfield rates. For example, permeable paving, soakaways or rain gardens are options that can easily be incorporated on most sites successfully without significant additional cost or land take. Attenuation tanks have been specified in the Design and Access Statement, however these should be formalised and approved and then

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implemented during the construction phase of the scheme. Ideally, some form of surface water treatment should be included.

As such, I would recommend the following condition attached to my approval of this development:

- 1) 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:-
  - i) A sustainable drainage solution,
  - ii) Provision of appropriate levels of surface water treatment defined in Chapter 26 of The SuDS Manual (Ciria C753) or similar approved.
  - iii) Drainage system to be designed and constructed to make maintenance practicable and safe.

## **6. Relevant Policies:**

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

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

- |      |  |
|------|--|
| CP1a | Presumption in favour of sustainable development |
| CP3  | Placemaking principles                           |
| CP4  | Character and context                            |
| CP18 | Green wedges                                     |
| CP20 | Historic environment                             |
| CP21 | Community facilities                             |
| CP23 | Delivering a sustainable transport network       |

### **Saved CDLPR Policies**

- |     |  |
|-----|--|
| GD5 | Amenity  |
| E30 | Safeguarded areas around aerodromes                |
| LE2 | School uses  |
| E18 | Conservation Areas                                 |
| E19 | Listed Buildings and buildings of local importance |

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

[http://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/policiesandguidance/planning/Core%20Strategy\\_ADOPTED\\_DEC%202016\\_V3\\_WEB.pdf](http://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/policiesandguidance/planning/Core%20Strategy_ADOPTED_DEC%202016_V3_WEB.pdf)

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

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

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

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

### **7. Officer Opinion:**

#### **Key Issues:**

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

#### **7.1. Green wedge**

#### **7.2. Historic environment**

#### **7.3. Character, context and amenity**

#### **7.4. Pedestrian and vehicle movement**

#### **7.5. Planning balance**

#### **7.1. Green wedge**

The site is located in the Spondon/Chaddesden green wedge as covered by Policy CP18 of the adopted Derby City Local Plan – Part 1: Core Strategy (DCLP).

As members will be aware green wedges form an integral part in defining the structure of our city and these designations have enjoyed long standing protection in area specific and city-wide development plans.

Policy CP18 allows for ‘essential buildings and activities ancillary to existing education establishments’. In this case the proposed building and the additional car parking would be sited within the existing ensemble of school buildings and both components would not intrude into the sensitive, undeveloped parts of the green wedge. I am, therefore, satisfied that both the siting of the proposed building and additional car parking are acceptable in the context of Policy CP18. I am also satisfied that the 2 storey scale of the proposed building would be commensurate with the existing development on site and this meets the aspirations of Policy CP18.

#### **7.2. Historic environment**

Colleagues in our Built Environment Team have assessed the application in the context of the Spondon Conservation Area and the setting of the Grade II\* listed C18 stone gateways at the site's eastern entrance from Park Road, and the western most boundary of the Spondon Conservation Area. In line with the specialist advice of my colleagues it is concluded that the proposal would...have a *neutral impact* on the significance of the adjoining heritage assets, and accords with the objectives of the NPPF and Policies E18 & E19 of the 2006 City of Derby Local Plan Review and CP20 of the 2017 Derby Local Plan Core Strategy.

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The application has also been scrutinised by the County archaeologist who has confirmed that the development corresponds to the site of parkland associated with Spondon Field House (Derbyshire HER no. 32436) which is depicted on the 1st edition Ordnance Survey maps of 1870. Given the re-development of the site to accommodate the school it is considered that this scheme will not have any archaeological impact.

I am, therefore, satisfied that the proposal accords with local and national policy in the context of these heritage assets.

### **7.3. Character, context and amenity**

The proposed building would be sited within a group of school buildings. It would be located in the north-eastern corner of the school grounds within an area of parking and soft landscaping. The existing languages and humanities block would be located to the south of the proposed building and neighbouring residential properties sit beyond the eastern site boundary on Devas Gardens. These residential properties sit on either side of a cul-de-sac that runs on a north-south axis. The site is at the westernmost boundary of the Spondon Conservation Area and the immediate area has a varied residential character.

I am satisfied that the siting of the proposed building in this location is acceptable, in view of its design and 2 storey scale. It would not be at odds with the overall character of the school and would be commensurate with the scale of the existing school buildings.

The proposed building would be sited some 25m from the eastern site boundary and it would be visible from the rear, east facing, elevations of various properties on the western side of Devas Gardens. The internal configuration of the proposed building has been designed to accommodate the classrooms on the west facing flank of the building. As such, at first floor level in particular the majority of principal are located on the west facing elevation with circulation and other more secondary spaces positioned with an east facing outlook. This clearly assists in minimising overlooking into neighbouring rear gardens on Devas Gardens. I am also satisfied that the flat roofed design of the building assists in minimising the overall mass of the proposal and whilst it would be visible from neighbouring residential properties the overall scale and massing impact would not, in my opinion, be unduly detrimental to neighbouring amenities. For these reasons I consider that the proposal accords with saved Policy GD5 of the adopted CDLPR

The proposed building has been designed with a legible main entrance when approached from the northern, West Park, access and it would be served by disabled persons parking spaces and a ramped access. The building would be set down some 1.5m from the boundary level on West Road thus reducing the overall height impact of the development. The submitted Design and Access Statement outlines that the proposal would meet the necessary access and space standards, as set out under separate legislation and guidance. In my opinion, the proposed building footprint, elevations and materials palette would combine to create an acceptable form of development that would add visual interest to this site. For these reasons I consider that the proposal accords with Policy CP4 of the adopted DCLP.

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The proposed additional surface car parking would be provided in the south-eastern corner of the site and would be accessed from Park Road. The proposed car park would include 28 parking spaces and this is to cater for the additional staff (8 no.) that is required to address the proposed expansion for 150 additional pupils. The spaces would also accommodate existing staff during construction of the new building.

### **7.4 Pedestrian and vehicle movement**

Members will note that local residents have raised strong concerns that the proposed expansion of the school will have an injurious impact on living conditions in the immediate area at school drop-off and pick-up times. Concerns are also expressed about the agglomeration of schools in the area and the combined detrimental impact of pedestrian and vehicle movement to these sites.

Members will be aware that the majority of school sites across the city attract problems at drop-off and pick-up times and this can create difficult situations for people who live close to school sites.

The agent has submitted a Transport Statement which, amongst others, addresses the issue of trip generation to the site and the results of a travel survey of students on a single day – 7 June this year. The Transport Statement also addresses the issue of sustainable travel opportunities at the site, the results of a parking survey on 28 June this year and the school's existing travel plan which seeks to encourage more sustainable modes of travel.

Clearly the issue of travel, on-street parking and attitudes to school travel in general is a hot topic for local residents and this has generated 22 objections together with representations to the local ward members and MP.

Colleagues from the Council's Travel Planning and Highways Development Control Teams have assessed the Transport Statement, the physical characteristics of the site and the geometry and parking conditions on surrounding streets. There are no over-riding objections to the proposal on highways grounds and it is recommended that, before the proposed building is brought into use, a further assessment of traffic management measures on West Road and Park Road is completed and any measures implemented as necessary.

The Transport Statement highlights that the travel survey of pupils shows that over 72% of respondents travel to school either on foot, by bicycle or by public transport. The school expansion will mean that the school population will exceed 1400 pupils in September 2019 and clearly there will be an impact on the public highways surrounding this school. However, the proposal provides a net-gain of 11 parking spaces on-site for 8 additional staff and the school has measures in place to encourage sustainable travel. There are pedestrian connections to the school site from various directions together with a combined pedestrian/cycle route through the site from West Road to the north to Park Road to the south. The proposed building would provide for an additional 20 covered cycle parking spaces and I am satisfied that, in the context of Policy CP23 of the adopted DCLP, the proposal makes reasonable provision for the additional school capacity in parking terms. With the recommended condition in place to review traffic management measures on both



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West Road and Park Road I am satisfied that the proposal is reasonable in highways access and parking terms.

### **7.5 Planning balance**

The proposal seeks planning permission to increase the capacity at this existing school site in response to rising pupil numbers.

The existing school population would grow by circa 12%, for the September 2019 intake, and this will have an impact in terms of the overall physical footprint of the school buildings and the 'movement' impact of staff, pupils and others to the school at the start and the end of the school day.

I am satisfied that the siting of the proposed building and the scale and form of the additional surface car parking are reasonable and acceptable in terms of the impact on the character, scale and function of the green wedge. I am also satisfied that in terms of the layout, scale and design of the proposed building it would not unduly impact on neighbouring residents, particularly those on Devas Gardens, in massing and overlooking terms.

Clearly, the proposed building would be visible to those neighbouring residents but I consider that the overall 'amenity impact' would be within reasonable tolerances.

The proposal has generated strong objections from neighbours and the issues of access and parking in the immediate areas are current issues for residents and it is perceived that such issues will worsen with the proposed building and additional car parking in place.

Members will be aware that these issues prevail in most parts of the city where people live in close proximity to school sites. I acknowledge the concerns of residents and colleagues in Highways Development Control have assessed the changing nature of footway and carriageway dimensions along West Road and Park Road leading to the school site.

I also appreciate that the school has to grow in response to rising pupil numbers and this is a challenge for education providers at both primary and secondary levels across the city.

I am satisfied that the proposal makes reasonable provision for the rising intake in terms of additional covered cycle parking and surface car parking and the review of parking measures along both West Road and Park Road is a reasonable off-site response to the issue of on-street parking.

I consider that the importance of school place demand and rising pupil numbers should weigh heavily in the planning balance and, in this case, I consider that the merits of the proposal outweigh the negative impacts.

There are no over-riding issues to address in terms of heritage impact, flooding, drainage or ecology that cannot be reasonably addressed by condition and, therefore, I recommend that planning permission be granted accordingly.

The conditions and accompanying reasons listed below are in an abbreviated format and will be fleshed out for the final decision notice.

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**Type: Full Planning Application**

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

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

**To grant** planning permission with conditions.

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

The proposed building and additional surface car parking on-site are, in the opinion of the Local Planning Authority, acceptable additions to the overall scale and function of this existing school site. The proposed development would not intrude into the open, undeveloped components of this green wedge site and there are no over-riding objections to the proposal on heritage or archaeological grounds. The application has attracted objections and local residents were primarily concerned about the impact of the proposed development and the intensification of activity at the school, in terms of the movement of pedestrians and vehicles and parking issues in the immediate area. The application has been accompanied by a Transport Statement and Travel Plan and the issue of parking in the immediate area has been duly considered. While those objections remain the merits of the proposal and the provision of modern teaching facilities to accommodate rising pupil numbers decisively outweigh the negative aspects of the development. Therefore, subject to conditions, the proposal is, in the opinion of the Local Planning Authority, a sustainable form of development in this case.

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

1. Standard 3 year time limit
2. Approved plans
3. Condition requiring drainage details
4. Condition requiring the assessment and of traffic management measures on West Road and Park Road

#### **8.4. Reasons:**

1. Standard time limit reason
2. For the avoidance of doubt
3. To secure a sustainable surface water drainage
4. To assess and consider improvements to the surrounding road network

#### **8.5. Informative Notes:**

None

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

Not applicable

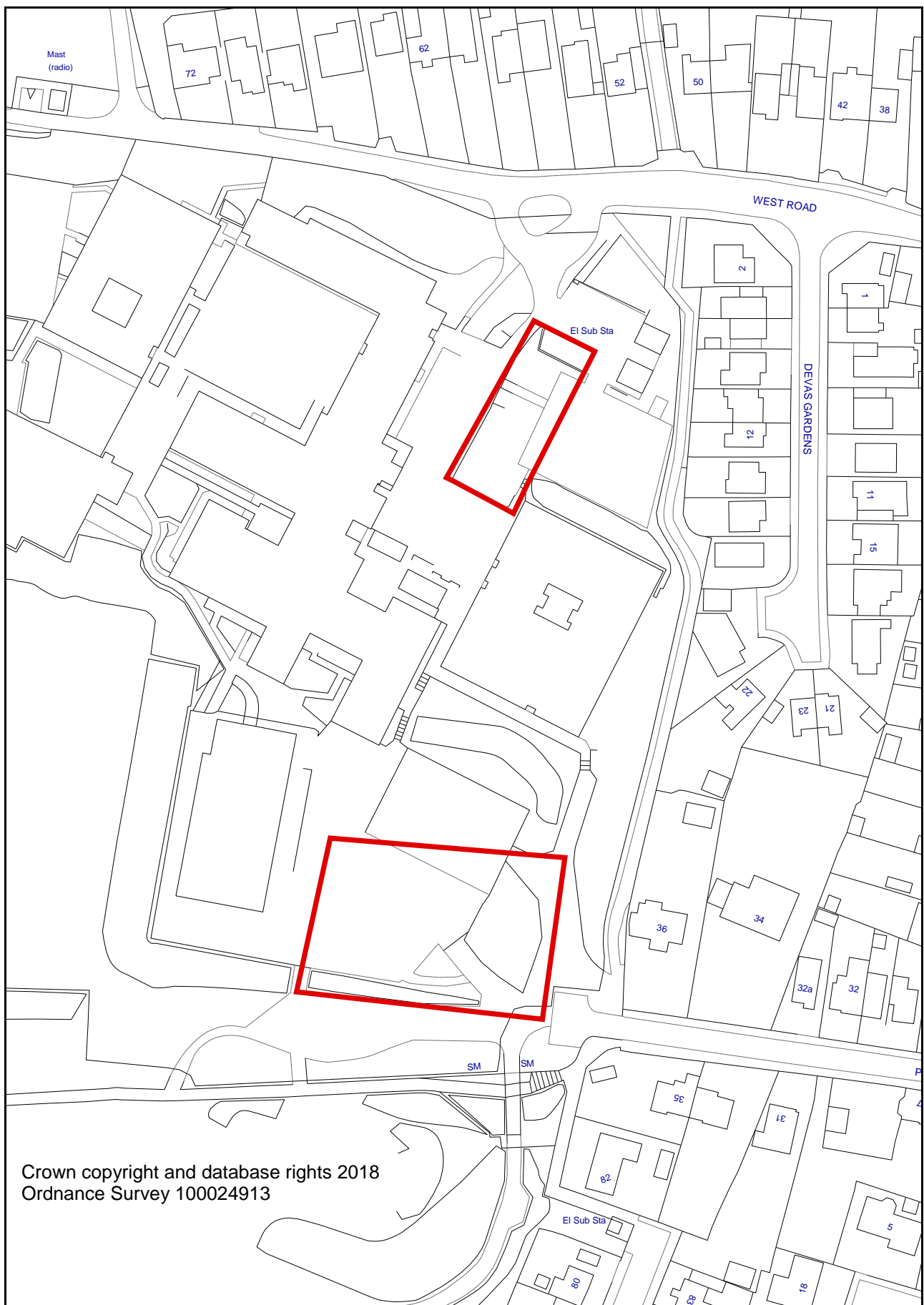
#### **8.7. Application timescale:**

The statutory expiry date for the application was June 2018. An extension of time has been agreed.

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**Application No: DER/04/18/00542**

**Type: Full Planning**  
**Application**



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

**Application No: DER/07/18/01062**

**Type: Full Planning Application**

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### **1. Application Details**

**1.1. Address:** 189-191 Blenheim Drive, Allestree.

**1.2. Ward:** Allestree

**1.3. Proposal:**

Change of use from beauty salon (sui generis use) to a micro pub/bar (use class A4). (The application details include an internal layout plan but no external alterations are proposed.).

**1.4. Further Details:**

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan/07/18/01062>

**Brief description**

The application seeks permission to change the use of the ground floor of an existing beauty salon, which is a sui generis use to a micro pub/bar in A4 use. The site comprises a 2-storey building, currently in use as the “Simply Gorgeous” beauty salon on the ground floor with a training facility on the first floor. The first floor has recently been granted permission to return back to a flat.

The site is located within the Neighbourhood Centre at Blenheim Drive, Allestree with residential bungalows to the east and north. There is a small parking area in front of the premises. A Co-operative Supermarket is immediately to the west and the Woodlands Chapel is immediately to the east.

The applicant has submitted a supporting statement, which concludes:

*“The bar I would like to open is a small micro pub/bar. It is going to have the feel of a higher-end wine bar with a quiet, relaxed atmosphere specialising in great beers and wine. It is not intended to interfere with the existing business of the Woodlands Pub which is located within a mile. Through the course of applying for the Premises License I have been in consultation with the Licensing Department at the Council, the Fire service and I have met Derbyshire Police on site to discuss public safety and nuisance. I have held my personal License for almost 12 years. The Police and Fire Service are both satisfied that if the premises were to operate as a licensed bar it would not have a negative effect as far as their remit towards safety and nuisance is concerned”.*

The applicant has confirmed that the premises would employ 3 persons. The proposed opening hours would be 10.00am – 11.00pm, daily. There would be 1 scheduled delivery a week made by a small van. This will most probably be on Tuesday or Wednesday between 10:00 and 14:00.

The applicant has confirmed the land at the front of the property, used for car parking, is within the control of the site owner. There is an agreement that the Church can use the available parking spaces when the Church is in use.

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

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**Type:** Full Planning Application

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

Ground Floor:

<b>Application No:</b>	DER/10/13/01177	<b>Type:</b>	Full Planning Application
<b>Decision:</b>	Granted Conditionally	<b>Date:</b>	06/01/2014
<b>Description:</b>	Change of use from Café to Beauty Salon		

<b>Application No:</b>	DER/02/07/00287	<b>Type:</b>	Full Planning Application
<b>Decision:</b>	Granted Conditionally	<b>Date:</b>	11/04/2007
<b>Description:</b>	Change of Use from Dry Cleaners to Café		

<b>Application No:</b>	DER/02/80/00282	<b>Type:</b>	Full Planning Application
<b>Decision:</b>	Granted	<b>Date:</b>	24/03/1980
<b>Description:</b>	Alterations to Laundrette and shop front		

First Floor:

<b>Application No:</b>	DER/05/18/00792	<b>Type:</b>	Full Planning Application
<b>Decision:</b>	Granted Conditionally	<b>Date:</b>	19/07/2018
<b>Description:</b>	Change of use from training facility back to flat		

<b>Application No:</b>	DER/05/16/00656	<b>Type:</b>	Full Planning Application
<b>Decision:</b>	Granted Conditionally	<b>Date:</b>	08/08/2016
<b>Description:</b>	Change of Use from flat to training facility		

### **3. Publicity:**

6 Neighbour Notification Letters sent 20 July 2018

Site Notice displayed, dated 20 July 2017

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

### **4. Representations:**

No representations have been received.

Ward Member, Cllr Steve Hassall has referred this application to Planning Control Committee and stated:

*"I have had notice that the licensing application at Blenheim Parade has been granted and has now progressed to your department. Residents had previously submitted objections to Licensing on the grounds of parking, noise, ASB etc. However these were dismissed by Licensing as not being material considerations. I feel they could well be at the planning stage, so can I suggest that any representations of this nature are forwarded to your department".*

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

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**Type: Full Planning Application**

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### **5. Consultations:**

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

The applicant seeks to change the use of the ground floor from a beauty salon to a small micro pub/bar. The property has four off street parking spaces and good public transport links, with bus stops located close by along Blenheim Drive. There is also a large population within walking distance that can easily access the property using the footpath network. The plans do not show any form of secure cycle parking which would support sustainable travel in the area. Recommendation: No significant highway implications, and in view of this, no objections.

#### **5.2. DCC - Environmental Protection:**

No adverse comments

#### **5.3 DCC – Licensing:**

Confirm that a Premises Licence has recently been granted. There were numerous objections to the application but none of them were valid under the Licensing Act.

#### **5.4 Derbyshire Fire & Rescue:**

A submitted letter confirms that the Fire & Rescue Service have no objections to the premises licence.

#### **5.5 Cadent Gas Networks:**

Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land. The Applicant must ensure that proposed works do not infringe on Cadent's legal rights and any details of such restrictions should be obtained from the landowner in the first instance. All developers are required to contact Cadent's Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to.

### **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
- CP12 Centres
- CP15 Food, Drink and the Evening Economy
- CP23 Delivering a Sustainable Transport Network

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### Saved CDLPR Policies

GD5	Amenity
E24	Community Safety
T10	Access for Disabled People

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. The Principle of the Proposed Use**

#### **7.2. Impact on Amenities**

#### **7.3. Impact on Highway Safety**

### **7.1 The Principle of the Proposed Use**

The proposal must be considered against key Core Strategy Policies CP12 (neighbour centres), CP15 (food and drink uses) and CP21 (community facilities).

The site of the proposal is in a Neighbourhood Centre and Core Strategy Policy CP12 allows for proposals that meet local shopping and service needs while supporting the vitality and viability of the centre. This proposed change of use would encourage competition and consumer choice and maintain vibrant and coherent shop frontages. It is considered that the proposal would respect, and be compatible with, the scale, role, character and function of the centre. It would not have an unacceptable impact on the vitality and viability of other centres in the hierarchy.

The proposed change of use is considered to be in accordance with Policy CP15, which encourages food, drink and other evening and night-time economy uses that contribute to the vitality of Derby's centres and which support the creation of a safe, balanced and socially inclusive economy. Detailed policy criteria are such that the proposal should help to improve and diversify the City's evening and night-time

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economy and have a positive impact on the vitality and viability of defined centres. The proposal would not result in an unacceptable concentration of bars, hot food takeaways or other similar uses and would not undermine the role of the primary shopping area.

In considering applications for bars (Use Class A4), the Policy requires regard to certain criteria. It is considered that the proposal would not be out of character with the neighbourhood centre; and would not exacerbate any existing issues with disturbance, anti-social behaviour, amenity, traffic or safety issues. Public houses are classified as community facilities and it is considered that the proposal would meet the locational and amenity criteria of Policy CP21.

The proposal would not lead to the loss of a retail unit, as the existing use is defined as being “sui generis”. The most recent survey of the Blenheim Drive Centre, classes the centre as being in a healthy state with a range of uses and no vacancies. There was only one other Class A4 (drinking establishment) use, at the opposite end of the centre to the proposal. The proposal would not create an over concentration of such uses. The beauty salon use of the application site has recently closed, such that if permission was to be granted, the 100% occupancy rate of the centre overall would be maintained.

It is not considered that the proposed change of use would give rise to any adverse effect on the vitality and viability of the Neighbourhood Centre. Consequently, it is considered that the proposal is generally in line with policy and acceptable in principle.

### **7.2 The Impact on Amenities**

No third party representations have been received. However, concerns have been expressed via the Ward Member, Cllr Steve Hassall on the grounds of potential parking problems, noise nuisance and anti-social behaviour.

The proposed bar entrance would be on the Blenheim Drive frontage. This is an area of existing activity with cars and pedestrians using the area to access the adjoining shops and the Church. The adjoining Co-op supermarket is open until 10pm, so a certain amount of late evening activity is already prevalent. Any activity is concentrated away from the adjoining houses, such that there should be minimal impact on residential amenities.

Micropubs are generally small free houses which attract a dedicated clientele, promoting conversation and shunning electronic entertainment. The applicant confirms that the proposal would be a higher-end wine bar with a “quiet, relaxed atmosphere”. A Premises License has been issued and the Police are satisfied that the proposed bar would not have a negative effect on safety and nuisance. It is considered that it would be appropriate to impose conditions relating to hours of operation, outside drinking and noise nuisance caused by music. It is not considered that there are sufficient amenity grounds to refuse the planning application.

### **7.3 The Impact on Highway Safety**

The site has limited parking at the front of the property but good public transport links and a large population within walking distance. The car parking area is within the



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control of the site owner. There is an agreement that the Woodlands Chapel can use the available parking spaces during church services. There are no significant highway implications and no objections have been raised on highway safety grounds.

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

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

**To grant** planning permission with conditions

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

It is not considered that the proposed change of use would give rise to any adverse effect on the vitality and viability of the Neighbourhood Centre and would be acceptable in principle. Any activity would be concentrated away from the adjoining houses, such that there should be minimal impact on residential amenities. The Police are satisfied that the proposed bar would not have a negative effect on community safety or nuisance. No Highways objections have been received.

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

1. Standard time limit condition (3 years)
2. Standard approved plans condition
3. Notwithstanding the provisions of the Town & Country Planning Use Classes Order 1987 (as amended) and any succeeding legislation, the permission only for the use of the ground floor as a drinking establishment, falling within Use Class A4, and for no other purpose.
4. Restrictive hours of opening to customers between 10.00am – 11.00pm on any day.
5. Restricting use of external areas (including the forecourt of the premises) to prevent use by any customers, at any time, in connection with the approved use.
6. Restricting noise emissions from any live or amplified music to prevent this taking place in any external areas at the premises. Any internally emitted noise from any live or amplified music source in the premises shall be so controlled by limiting the output thereof, and by sound insulation if necessary, so that the level of noise within any neighbouring dwelling shall be inaudible.

#### **8.4. Reasons:**

1. To comply with relevant legislation.
2. For avoidance of doubt.
3. To define the permission, and to enable the local planning authority to control the future use of the premises, in order to safeguard the amenities of the surrounding area.
4. To safeguard the amenities of the surrounding area and of nearby residents.
5. To safeguard the amenities of the surrounding area and of nearby residents.
6. To safeguard the amenities of the surrounding area and of nearby residents.

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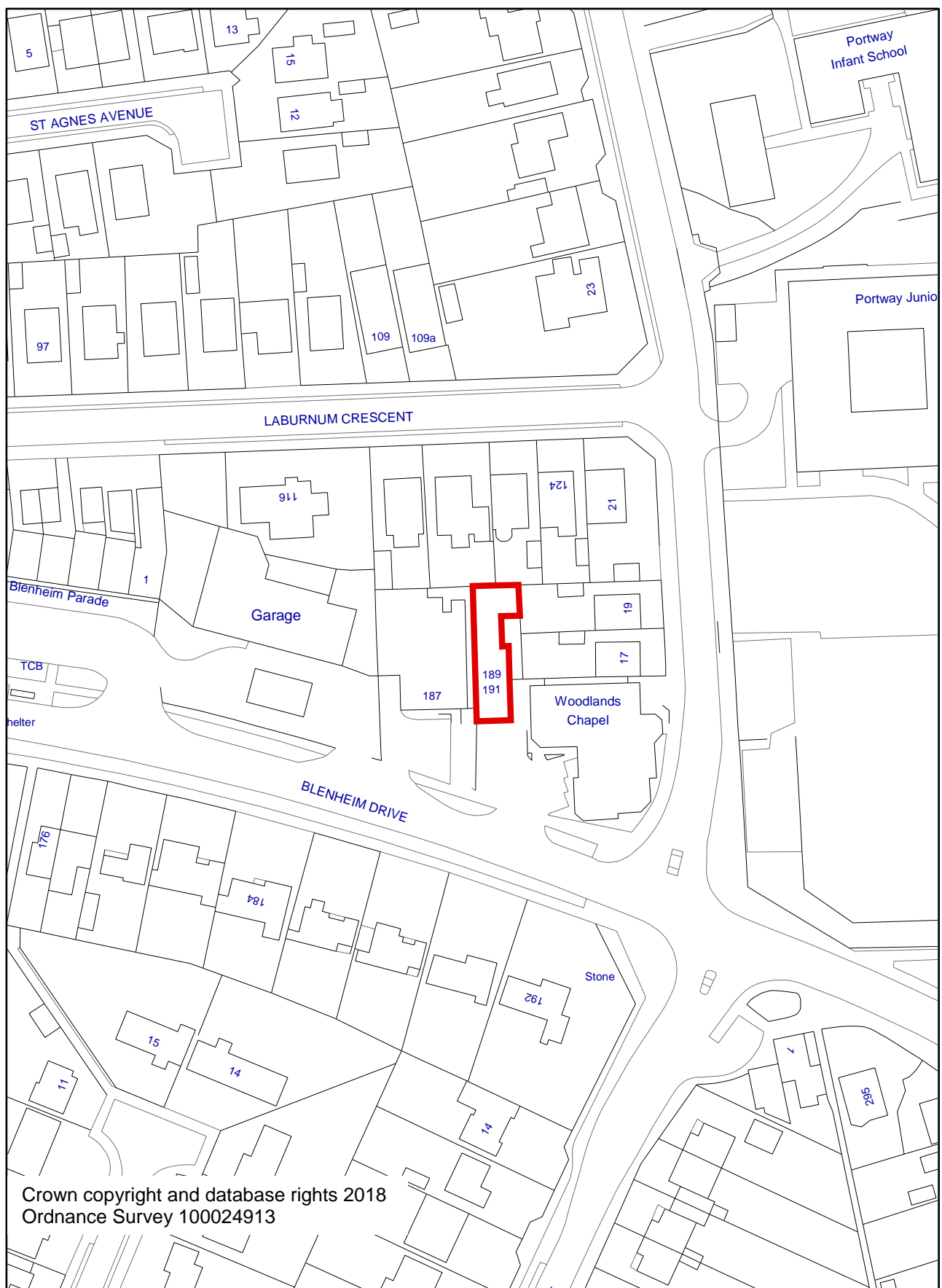
**8.5. Application timescale:**

The target date for determination of the application is 13/09/2018 and an extension of time has been requested.

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## **Committee Report Item No: 6**

**Application No: DER/06/18/00975**

**Type: Full Planning Application**

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### **1. Application Details**

**1.1. Address:** 46 St Peters Street, Derby.

**1.2. Ward:** Arboretum

**1.3. Proposal:**

Change of use from retail (Use Class A1) to mixed use of restaurant/hot food shop (Use Class A3/A5) including installation of extraction flue to the rear elevation.

**1.4. Further Details:**

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan/06/18/00975>

**Brief description**

The proposal seeks to change the use of the existing vacant shop premises to be a Belgium-style frites take away/restaurant. The premises were previously occupied by "Game" (computer shop) and have recently been used as a pop-up retail unit selling art works. The only external works which form part of this application comprise the installation of an extraction flue to the rear elevation. Proposed alterations to the shopfront and signage are expected but do not form part of this application.

The site is a 3-storey building, with a ground floor shopfront (with a recessed central doorway) and painted brickwork above. The site is within the main shopping area of the City Centre, fronting a pedestrianised street. The surrounding premises are a mixture of shops, service uses and food outlets.

The applicant has submitted a supporting Planning Statement, which concludes:

*"Frites 33 is based on [the applicant's] previous start-up business, the highly successful Heavenly Desserts, which was founded in 2008. Heavenly Desserts ... [now have] ... stores in ... Birmingham, Leicester, Derby and Nottingham. It is on this basis that Frites will be operated, following the successful and niche market within which Heavenly Desserts has already flourished. The team has significant experience in launching this type of quality business and the Council should be assured that this proposal is not just for a standard hot food takeaway, it will create a bespoke eating experience in the centre of Derby and one that will branch out across city centres across the country.*

*The building has been actively marketed as an A1 unit for over 6 months which saw no interest being shown towards the use of the building for A1 retail purposes.*

*The current economic climate has led to the closure of a number of retail units, some of which are located immediately adjacent to the application site. It is therefore evident that the current economic climate is making it increasingly difficult to attain the desired A1 within the primary frontage, as outlined in Policy AC3. In this case an alternative use should be considered to achieve the viable long-term occupancy of the building, which contributes towards supporting economic growth and town centre vitality, which is highly encouraged by Policy AC1 of the Local Plan.*

*On this basis, introducing an alternative use into the primary frontage area would ensure the future viability of the application site which would contribute towards promoting a competitive town centre, as advocated in Section 1 of the NPPF and*

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*Policies CP12, AC1 and AC2 of the Local Plan, as well as saved Policy CC4. The economic benefits associated with bringing the building back into active use should be prescribed great weight in the decision-making process, as outlined in the NPPF.*

*The LPA also raised concerns surrounding the number of 'similar uses' within the immediate setting of the application site, which Policy CP15 (b) is resistant towards. The proposed use very much operates as an A3 establishment which operates until 8pm and offers a considerable degree of active frontage which contributes towards the Council's 'Purple Flag' initiative. Having regard to the proposed closing time, teamed with the variance in closing times and the different type of clientele associated with the surrounding hot food establishments it is unlikely to proposal will result in disturbances and/or anti-social behaviour. It has been demonstrated that the proposal is in complete compliance with the criteria set out in Policy CP15.*

*The proposal brings forward a number of employment opportunities. The proposal is located within a highly accessible location within close proximity to sustainable transport opportunities. The proposal does not result in any issues in relation to highway safety, noise or ecology. The scheme is therefore considered to comply with the policy requirements of the Derby City Council adopted Local Plan, the saved policies from the 2006 Local Plan and the National Planning Policy".*

The applicant has submitted letters of support from the St Peters Quarter BID, from Marketing Derby and from FHP Surveyors.

St Peters Quarter BID is a Business Improvement District covering part of the city centre between Intu and the Cathedral Quarter. A BID is where businesses have voted to invest collectively in local improvements to enhance their trading environment. The projects and initiatives undertaken as part of the business plan aim to establish the area as a destination by providing an alternative and complementary shopping, leisure and commercial area.

The BID state that, *"the challenges faced by city centres are not insurmountable and it is important that as a city we continue to develop in a way that services a twenty-first century population. It is considered that Frites 33 will have a positive impact on St Peters Street and the surrounding area, providing the public with a service which will complement what already exists in the city centre. The quality of the proposed refurbishment for what is currently a vacant unit is very promising and the creation of 15 jobs will be a positive development for the local economy".*

Marketing Derby support the proposal and state, *"The St Peters Quarter, [situated between Intu and the Cathedral quarter] has suffered from the economic downturn in 2008, competition from online trading and excessive business rates. St Peters Street, currently designated as a Primary Shopping Area, is no longer relevant. There are high vacancies and out-dated restrictions are being redefined elsewhere. The opening of Frites 33 would ensure a balance of uses on this street, continuing the positive impact of increasing footfall and vibrancy".*

FHP Surveyors state, *"Derby's retail pitch has continued to change over the last two to three years. In particular, we have witnessed a number of national retailers relocate within the Intu Shopping Centre. Some retailers have been unable to maintain two stores in Derby, due to strong competition from online retailers. As a result, we are now left with a number of vacant properties and we are currently*

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*marketing eight units on St Peters Street. The most recent lettings on the main pitch within St Peters Street have been to: Carnero Lounge, Pound Bakery and Subway. All of which offer an element of food. St Peters Street, is having to adapt to become more of a mixed use destination in order to attract shoppers”.*

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

No previous planning applications. The only previous submissions relate to advertising.

### **3. Publicity:**

Neighbour Notification Letter sent to 6 adjoining business addresses.

Site Notice displayed 19 July 2018.

Statutory Press Advert dated 6 July 2018.

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

### **4. Representations:**

Three representations have been submitted, making the following comments:

- Adverse amenity impact on adjoining offices through odour and noise nuisance
- Concerned about the proposed fume extraction arrangements as in certain wind conditions the fumes will eddy around the area rather than being dispersed.
- The walls of the adjacent and surrounding buildings will form reflecting surfaces for the noise from the high velocity outlet.
- A chip shop will detract from the amenities of St Peters Church.
- Objection on commercial grounds from a competitor, who has recently achieved permission for a similar food outlet elsewhere in the City centre.

Comments have been received from Cllr Martin Rawson, who has referred the application to Planning Control Committee, as follows:

- Given the number of empty units on St Peters Street I would support in principle the application.
- There is a need for Committee to have a discussion about the merits or otherwise of continuing to protect retail frontages in an age when retail is shrinking and we end up with rows of empty shop fronts in high profile locations.
- However, having said that, we should not desperately feel obliged to accept any and every application we receive to fill the High Street.

**5. Consultations:**

**5.1. Conservation Area Advisory Committee:**

No objection to the change of use but were very concerned at the quality of the indicative signage.

**5.2. Highways Development Control:**

The proposed change of use is unlikely to have any significant impact on the highway and, in view of this, the Highway Authority has no objections.

**5.3. Conservation Officer:**

No 46 is, with Nos 48 & 52, part of a late C19<sup>th</sup> commercial building prominently located on the west side of St Peter's Street, within the St Peter's & Green Lane conservation area.

The wider frontage contains a number of good quality C19 buildings, and No 46-52 is itself is a distinctive, boldly ornamented building which makes a positive contribution to the townscape.

There is no conservation issue with the change of use in itself but given the sensitivity of the building and its location, any associated signage proposals will need to be carefully considered. No 46 has a modern shopfront which is architecturally-neutral but there is an opportunity to reduce the depth of the fascia so it is more proportionate to the width of the elevation. However judging from the information submitted, the applicants may need to reconsider their corporate livery: the Council's shopfront design guide does not support internally-illuminated signage in conservation areas and nor would a fair-faced timber boarded fascia be likely to be acceptable.

**Recommendation:**

No objection, subject to above caveats

**5.4. Environmental Protection (Health – Pollution):**

No adverse comments.

**5.5 Land Drainage:**

The development is within Flood Zone 2, according to the Council's SFRA, although it is likely to be in the very outer fringes of this and Flood Zone 1. The development's previous use was of the 'less vulnerable' use classification and the proposed development will not change this. As a result, the proposed change of use will not increase flood risk vulnerability and it will not increase flood risk to third parties. The development is very likely to offer a safe dry route of egress to very local higher ground in the event of a flood, so the development is safe in flooding terms.

As a result I have no objections to the 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
CP12	Centres
CP15	Food, Drink and the Evening Economy
CP20	Historic Environment
CP23	Delivering a Sustainable Transport Network
AC1	City Centre Strategy
AC2	Delivering a City Centre Strategy
AC3	Frontages
AC4	City Centre Transport & Accessibility

**Saved CDLPR Policies**

GD5	Amenity
CC4	Becket Well Policy Area
E18	Conservation Areas
E21	Archaeology
T10	Access for Disabled People

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:

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

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



**7. Officer Opinion:**

**Key Issues:**

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

**7.1. The Principle of the Change of Use**

**7.2. Impact on Heritage Assets**

**7.3. Impact on Amenities of Surrounding Area**

**7.4. Other Issues**

**7.1. The Principle of the Change of Use**

The site of the proposal is within the Becketwell Regeneration Area as defined by saved policy CC4, the CBD and Core Area, the St Peters Quarter character area and forms part of a primary frontage.

Policy CC4 seeks the comprehensive regeneration of the wider Becketwell area. The objectives of the policy include that proposals support and contribute to city centre strategy objectives and that the mix of uses provided by proposals are consistent with the nature and function of the city centre.

The CBD is the main focus and concentration of economic and leisure activity across the city centre, the Core Area being the focal point if non-food retailing and key to the vibrancy of the city centre's economy. The overriding retail function is protected through the identification of primary frontages.

The unit is in a primary frontage where Policy AC3 seeks to ensure that defined primary frontages remain predominantly in retail use. Alternative uses will on be permitted subject to criteria where they would not undermine the shopping function, character, vitality or viability of a specific frontage. In considering alternatives to retail uses regard will be had to:

1. the level of retail frontage and activity on the individual frontage, or nearby frontages within a specific 'character area'
2. the continued suitability or viability of the unit for retail use and the impact of the proposal on long term and persistent vacancy
3. the prominence of the unit in the frontage
4. the ability of the use to add vibrancy, animation and activity to the area, including its potential impact on pedestrian footfall
5. the impact of the use on the character and environmental quality of the nearby area.

In all cases, the alternative use should be open to the general public during the day and maintain a shop front or display of visual interest.

The St Peters Quarter primary frontage reflects the more traditional 'high street' shopping area and should remain predominantly retail in function, complemented by cafes and restaurants (subject to an assessment of the criteria identified in Policy CP15), banks and building societies, health and beauty uses and leisure uses.

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Policy CP15 encourages food, drink and other evening and night-time economy uses that contribute to the vitality of Derby's centres and which support the creation of a safe, balanced and socially inclusive economy. Policy CP15 supports proposals which:

- (a) help to improve and diversify the City's evening and night-time economy, helping to create a mix that meets the needs of all Derby residents and visitors
- (b) have a positive impact on the vitality and viability of defined centres. Concentrations of bars, hot food takeaways or other similar uses which could have a detrimental effect on community safety and/or on the character, role and function of a defined centre will be resisted
- (c) support both the day-time and evening/night-time economies whilst not undermining the role of primary shopping areas
- (d) do not unacceptably impact on neighbouring uses in terms of noise, traffic and disturbance or prejudice the development of land identified for alternative uses

Whilst the relevant policies may offer some support for A3 uses in primary frontages, there are concerns regarding this proposal. The proposal would lead to an A1 retail use being lost to an A3 use. This in itself would not be in line with the stated primary aim of the frontage in this particular area to retain the retail character of the 'high street' location. There is an existing vacant A3 unit close to the application unit that appears to be available to let (albeit a previous proposal was refused as there was no satisfactory method of fume extraction).

Within this frontage there are already businesses that supply food and drink. Two of them, Greggs and a bakery, are classified as A1 uses but they operate to a degree in a similar way to A3/A5 uses, along with the nearby McDonalds, and so can be taken into account in relation to the character of the frontage; Policy CP15 supports this stance in the reference to 'similar uses' in criterion b. To be added to these currently operational units is the nearby vacant A3 unit which could be brought back into use at any time.

The Applicant's agent acknowledges that the proposal would operate in the same way as these units with the comment, in paragraph 5.15 of the supporting planning statement, that "the proposal would provide a take-out provision, on the basis of a 'quick service restaurant' which is comparable to that of Greggs and McDonalds which are classified as A1/A3 uses".

The applicant has submitted supporting information, which confirms that the proposed use would offer a considerable degree of active frontage and would not result in disturbances and/or anti-social behaviour. The proposal would bring forward a number of employment opportunities and would ensure that a vacant unit is brought back into use.

The supporting information makes it clear that the St Peters Quarter has suffered from the economic downturn in 2008, competition from online trading and excessive business rates. The currently Primary Shopping Area designation is considered to be out-dated and should be redefined. St Peters Street is having to adapt to become more of a mixed use destination in order to attract shoppers. This is recognised in the most recent lettings, which have all offered an element of food. The proposal would

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ensure a greater balance of uses and would continue the positive impact of increasing footfall and vibrancy.

The NPPF 2018 states that Councils planning for town centres will no longer be expected to identify primary and secondary shopping frontages but should "respond to rapid changes in the retail and leisure industries". The NPPF 2018 para 85 states that, "Planning decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation". The benefits outlined by the applicant must be balanced against the policy concerns. It is recognised that there is a need to consider the conflicting interests of protecting retail frontages, which may lead to more empty shop fronts in high profile locations, against the obligation to accept inappropriate uses, simply to fill vacant units. In this instance, the general policy concerns must carry significant weight.

Members should be advised of recent appeal decisions relating to the potential loss of retail units within the Prime Frontage. An appeal at no. 21 for a change of use from a retail unit to a gaming centre was dismissed in July 2017 (application ref: 11/16/01418). The Appeal Inspector concluded that, *"the proposal would affect the role and character of the primary retail frontage and as such would undermine its viability and vitality. For these reasons, the proposal would be contrary to Policies AC2 and AC3 of the Derby City Local Plan"*.

An appeal at nos. 107-109 for a change of use from a retail unit to a betting shop was dismissed in November 2014 (application ref: 04/14/00552). The Appeal Inspector concluded that, *"based on my own observations and the evidence before me, I consider in this case that the current balance between retail and non-retail uses is currently such that the loss of a further retail unit would, cumulatively, undermine the vitality and viability of this part of the St Peter's Street Primary Shopping Frontage. Nor am I convinced that the proposal would enhance or sustain the shopping role and character of the City Centre Shopping Area, or strengthen its function in accordance with Local Plan Policy"*.

With respect to the supporting submissions, there are two inter-related areas of concern, the first being the loss of A1 retail use from the frontage and secondly the impact of the A5 use on the character and environment of the area. A key point is that the authority only have control over the use and not the prospective occupier. Whilst Frites33 might be a beneficial addition to the frontage, this application must consider the worst case scenario, such that a Class A5 use would allow any hot food outlet to operate. The authority cannot determine an application based on the individual merits of the occupier, even if that means refusing proposals which may have some benefits.

The current make-up of the street frontage demonstrates the flexibility that the Council have already demonstrated, with approvals for non-retail uses such as the Carnero Lounge and the Royal British Legion. A recent survey of the 20 units on this stretch of St Peters Street (between Victoria Street and the Church) show that only 30% of the units are operating as Class A1 retail premises. The remainder being Class A2 service uses, vacant units and 25% food and drink outlets. Given the previous refusals in this area and successful appeal decisions, an approval here

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would establish a strong precedent to allow similar proposals elsewhere within the Core Area and in primary shopping frontages.

In terms of the policy context, the Primary Frontage policy was the subject of extensive consultation at the time and was adopted by the Council in the 2017 Core Strategy, such that the policy is relatively new and up to date. The 2017 frontages are significantly reduced from those in the previous 2006 plan. The current Core Strategy policy acknowledges that the concentration of A1 retail uses should now be more focussed, which enables more diversification in more peripheral areas

In conclusion, it is considered that – on balance - the proposal would adversely affect this primary shopping frontage, contrary to Policy AC3 and criterion b of Policy CP15 in relation to general vitality and viability, by leading to a loss of A1 use, and a change of character due to the introduction of an additional food and drink use. Consequently, it is considered that the proposed change of use would be contrary to policy and would not be acceptable in principle.

### **7.2. Impact on Heritage Assets**

There are no adverse comments raised concerning the proposed change of use. The proposed extraction flue would be to the rear and would not have an adverse visual impact on the street scene. The current application does not include any external alterations to the frontage. If the change of use is approved, any external changes (to either the shopfront or advertising) would require the approval of a further application. The impact on heritage assets would be assessed at that time.

### **7.3. Impact on Amenities of Surrounding Area**

Concerns have been raised by a local business and by a local Churchgoer, regarding the potential nuisance from odour and noise nuisance. However, these concerns have not been endorsed by Environmental Protection. There are a number of other food outlets in the vicinity and it is considered that an additional unit will not unduly exacerbate the existing situation.

### **7.4. Other Issues**

An objection has been made by a competitor, on commercial grounds, concerned that there is not enough market for the two to compete in the local centre. However, this is not a material planning consideration.

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

### **8.1. Recommendation:**

**To refuse** planning permission, for the following reasons:

### **8.2. Reasons:**

1. In the opinion of the Local Planning Authority, the proposed change of use from A1 to a mixed A3/A5 use would have a detrimental impact upon the character of this primary retail frontage. The proposed use would unacceptably dilute the concentration of retail uses within this frontage and would materially undermine the retail function of the frontage thereby having an adverse impact upon the

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Primary Frontage and unacceptably damaging the retail integrity of the immediate locality. In this instance, it is considered that the proposed change of use would be materially harmful to the vitality and viability of the City Centre Shopping Area. Consequently, the proposed change of use is considered to be contrary to Core Strategy Policy AC3 and criterion b of Policy CP15.

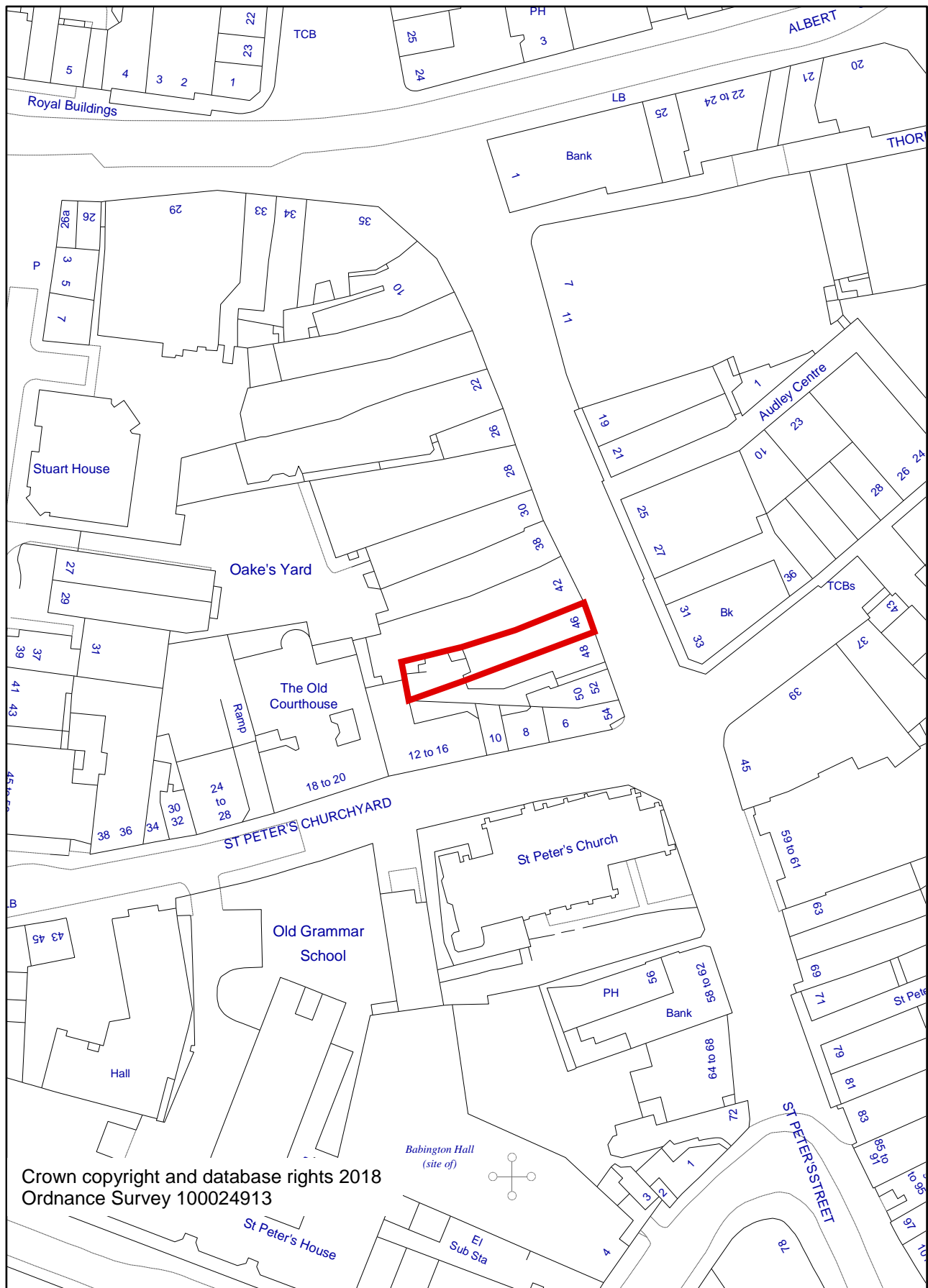
**8.3. Application timescale:**

The statutory expiry date for the application was 20/08/2018. The application was referred to Planning Committee by a Ward Councillor. An extension of time has been requested.

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**Application No: DER/10/15/01314**

**Type: Outline Application**  
**(all matters reserved  
except access)**

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### **1. Application Details**

**1.1. Address:** Land at Rough Heanor Farm, Rough Heanor Road, Mickleover.

**1.2. Ward:** Littleover

**1.3. Proposal:**

Re-model junction (A516/A38 on and off slip), demolish outbuildings and erect 80 dwellings, a restaurant and a coffee shop with drive-through facilities.

**1.4. Further Details:**

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan/10/15/01314>

**Brief description**

This outline planning application seeks permission to re-model the junction of the A516/A38 on and off slip, demolish outbuildings of Rough Heanor Farm and erect up to 80 dwellings along with a restaurant and a coffee shop with drive-thru facilities.

The application site is located to the west of Derby and is in the form of an island site sandwiched between the on and off slip of the A38 where it adjoins the A516, a main distributor corridor linking the suburbs of Littleover and Mickleover with the City Centre. The main neighbouring features of this application site are the strategic road network of the A38 and it's on and off slips. However beyond that are the following features.

The application site and land to the north of the site form part of the Green Wedge which runs between Mickleover and Mackworth. To the east of the application site is the large hospital staff car park which accommodates in the region of 2000 car parking space with a further 600 expected soon to be constructed following the approval of a planning application, under code no. DER/06/16/00707, along with the small neighbourhood centre which comprises of an Aldi supermarket, public house and hotel. Behind which is the former Manor Kingsway Hospital site which is currently being re-developed to provide in the region of 700 new homes. To the south-east of the application site is the Royal Derby Hospital; Derby's main hospital which also accommodates the Accident and Emergency Department. To the south, south-west and north-west of the application site are a large number of residential properties.

The application site covers an area of approximately 7.77 hectares. Land levels across this site vary following the apparent depositing of waste materials in consequence of the construction works at the Royal Derby Hospital. Access to the site is currently via the on and egress via the off slip. The site currently comprises of a series of buildings; the farmhouse which is a locally listed building and outbuildings and open space/scrub land. The application seeks to retain the existing farmhouse but demolish the former outbuildings. The site is largely covered with vegetation which provides screening to the farmhouse and isn't visible from either the on or off slip or the main carriageway of the A38. Some Members may recall the formal site visit early during the life of the application.

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### **Proposed Development**

In terms of the proposal, the application has been submitted in outline format with all matters reserved except access. The Local Planning Authority (LPA) has made the applicant aware of the policy conflicts raised by the proposal but have sought to work with the applicant during the life of this application to resolve other concerns relating to highway impacts, noise, air quality and heritage. This is shown through the submission of additional information relative to the above material considerations. The application is therefore accompanied by a suite of documents which includes but is not exclusive: a Planning Statement, Design and Access Statement, Transport Assessment with Addendums, Air Quality Report, Noise Report, Flood Risk Assessment, Habitat Surveys, Contaminated Land Report, Land and Visual Assessment, Heritage Statement and Arboricultural Report. All documents relating to this application can be viewed via the above link.

In respect of informing the applicant of the LPA's concerns; the LPA has issued a series of position statements which identify their concerns along with the consultation comments of consultees. These position statements were issued 28<sup>th</sup> September 2016, 13<sup>th</sup> April 2017 and 29<sup>th</sup> September 2017. It is also important to note that officers have sought to positively engage with the agent across a range of issues but this has not been reciprocated.

There are three elements to the proposed development:

1. Highways Works
2. Residential Development
3. Commercial Development

#### **1. Highways Works**

To provide access to the development site the applicant proposes to re-align the existing A38 on and off slips where they adjoin to the A516. The current junction of the A38 slip roads and the A516 is a gyratory which provides access to the Royal Derby Hospital for patients, visitors and emergency vehicles. This gyratory is currently signalised at every arm except the Manor Park Way arm which provides access to the key worker units, the small neighbourhood centre and the hospital staff car park.

The application seeks to stop up the current on slip and integrate this section of highway into the application site as an estate road pushing the proposed on-slip northward in the application site. The current off slip will remain relatively unaltered except at the point of access to the application site. The application seeks to provide a new roundabout comprising of four arms, (1) link to the proposed development site, (2) link to the A516 gyratory (3) on and off slip to the A38 and (4) a new link to the hospital staff car park.

#### **2. Residential Development**

The proposed residential development would be located to the west of the application site and positioned between the re-aligned on-slip/A38 main carriageway and the existing residential development to the south.



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Through the life of the application the applicant has increased the maximum number of units proposed on the development site from 75, as originally submitted to 80 as now amended. The applicant has failed to provide through the life of the application any certainty to the actual number of units that can be supported on the site once the highways works, their retaining features and visibility splay have been implemented, along with the sites drainage solutions, the retained Rough Heanor Farm with suitable curtilage and suitable noise and air quality buffer.

Whilst the applicant has indicated that they have a house builder considering the site no details of this have been provided during the life of the application, although it is noted that such details are not required to determine this planning application. However, having a housebuilder on board would provide some evidence of potential deliverability of the scheme.

### **3. Commercial Development**

The proposed commercial development would be located at the eastern end of the application site. The commercial development comprises a restaurant, it is assumed to be Kentucky Fried Chicken who are the applicant, and a coffee shop with drive-thru. An end user has not been named during the application for the coffee shop drive thru.

No indicative details have been provided during the life of the application that indicates the layout of the commercial area.

### **Determination of the Application**

In terms of the life of this application; the application was submitted in October 2015 following preliminary application discussions between the Local Planning Authority (LPA) and the applicant/agent. During these discussions the LPA raised concerns relating to the loss of the green wedge, the proposal being contrary to planning policy, highway impact concerns and impacts of noise and air pollution.

The application was submitted despite the above concerns being raised. During the life of the application the Local Planning Authority have worked proactively with the applicant and their agent to ensure consultation responses have been fed back and their attention drawn to the requirement of additional information, where necessary, namely through position statements.

The Local Planning Authority has also sought confirmation from the applicant and their agent that they are still wishing to work proactively and in collaboration to progress the application by entering into an Extension of Time. The applicant and their agent have declined to enter into extensions of time throughout the life of the application and therefore have failed to demonstrate that they are working in a collaborative manner.

It is also acknowledged that the Local Planning Authority and its consultees have not always provided responses within the statutory 21 day period, as a result of the complex nature of the issues being considered and the need to ensure that any assessment and consideration of information submitted has been robust and detailed. The applicant has also failed to acknowledge receipt of the aforementioned planning position statements and also not acknowledged various emails relating to the application and the desire to agree an extension of time. Furthermore, there

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have been long periods of time where the Local Planning Authority has been awaiting the submission of information from the applicant and their agent.

Most recently, during May 2018, the agent was advised to provide a position statement of where they considered the application to be in respect of its determination. Despite numerous further prompts a position statement from the applicant and their agent has not been forthcoming.

Therefore, as set out in the National Planning Policy Guidance, '*Determining a planning application*' dated 28 July 2017, I do not feel that the applicant should be allowed a planning application refund under the 'planning guarantee'.

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

<b>Application No:</b>	DER/06/90/00948	<b>Type:</b>	Full Planning Application
<b>Decision:</b>	Granted	<b>Date:</b>	07/09/1990
<b>Description:</b>	Erection of 2 Dwelling Houses		

*Through the viability considerations of this application consideration has been given to this application and whether or not this permission has lapsed. The applicant considers that the application is still alive through the implementation of foundations for the two units however the Local Planning Authority has not received any evidence to confirm this. Furthermore, it is not clear following the relocation of construction waste from the hospital, if these foundations were in fact laid if the development could be resurrected as direct result of the regrading of the land. It would therefore be for the applicant/agent to provide satisfactory evidence that the above planning permission has been implemented.*

### **3. Publicity:**

#### **Initial Consultation**

25 Neighbour Notification Letter sent 26<sup>th</sup> October 2015

Site Notice erected 3<sup>rd</sup> November 2015

Statutory Press Advert

#### **Second Consultation**

28 Neighbour Notification Letter sent 28<sup>th</sup> June 2016

Site Notice erected 4<sup>th</sup> July 2016

Statutory Press Advert 1<sup>st</sup> July 2016

#### **Third Consultation**

30 Neighbour Notification Letter sent 18<sup>th</sup> November 2016

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

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### **4. Representations:**

The application has attracted 10 letters of objection which are summarised below:

- Concerns regarding the impacts of traffic on the A516 corridor and access to the Derby Royal Hospital.
- Concerns relating to the content of and conclusions of the submitted Transport Assessment and its addendums.
- Given the relatively low trips attracted by the commercial units, as set out in the TA, will these even be profitable?
- The scheme does not appear to be supported by Highways England.
- It is not clear whether the proposed mitigation will be sufficient and how the increased car parking at the hospital will be affected.
- Loss of the green wedge when surrounding green wedges have been lost and narrowed to allow housing.
- Increasing urban sprawl.
- Concerns relating to the loss of trees, vegetation and impact on wildlife.
- Concerns relating to noise and pollution from the A38.
- Concerns relating to loss of amenity for those properties on Partridge Way as a result of delivery vehicles to the commercial units, overlooking from new dwellings, odours and noise from the proposed commercial units, opening hours of the commercial units, light pollution as a result of the car park lights,
- The commercial units are too close to existing residential properties.
- Concerns about criminal activity/anti-social behaviour as a result of the proposed uses and any links to the existing housing estate,
- Concerns that the scheme is not viable.
- Concerns that the highway mitigation costs would mean that the proposal would not provide any affordable houses.
- Concerns for the safety of the school and its pupils.
- Concerns that a fast food restaurant is not in keeping with the Council's healthy eating policies and would does help to improve the obesity crisis.
- Increased litter.
- Impacts on amenities such as schools.
- Concerns about on-street parking and the need for further on-street parking restrictions.
- The public meeting held by the applicant/KFC left more questions than it answered.
- It is unclear why the hospital is supportive of this application.

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- This site has not been considered for housing under the SHLAA or in the core strategy.
  - The proposed development is not compatible with current green wedge policy.
  - There are too many fast food outlets in Derby.
  - Concerns regarding the impacts of construction in respect of noise.
  - The benefits of the proposed development do not outweigh the dis-benefits.

## **5. Consultations:**

### **5.1. Highway England**

#### **Transport Assessment Addendum No. 5**

Highways England confirmed, in their email dated 13<sup>th</sup> June 2018, that the Transport Assessment Addendum No. 5 has been reviewed and the comments set out below fully take into consideration the contents of this addendum and they have no further comments to make.

#### **Transport Assessment Addendum No. 4**

Referring to the notification of a planning application referenced above, a re-consultation dated 6 July 2017, in connection with the A38, Demolition of outbuildings, residential development (80 dwelling houses), restaurant with `drive thru`, coffee shop and alterations and re-modelling of junction located at Land at Rough Heanor Farm, Rough Heanor Road, Mickleover, DE3 9BY, notice is hereby given that Highways England's formal recommendation is that we:

*c) recommend that planning permission not be granted for a specified period (see Annex A – further assessment required);*

#### **Annex A Highways England recommended further assessment required**

HIGHWAYS ENGLAND ("we") has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the Strategic Road Network (SRN). The SRN is a critical national asset and as such Highways England works to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

This response represents our formal recommendations with regard to application reference 10/15/01314 and has been prepared by Steve Freek.

Highways England issued a holding response most recently in October 2017 recommending planning permission not to be granted for a period of three months in order to allow the applicant to gather more information regarding the proposed development. Our main concerns related to the following aspects:

- Highway Land
- Proposed Highway Scheme Layout
- Highway Impact Assessment

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As no further information has been submitted since our October response letter, our comments remain unchanged, as below:

### **Highway Land**

The land forming the existing A38 on-slip to be stopped-up is to be incorporated into the development area. Highways England's Lands Department has undertaken an initial review of the proposed land swap and advise that any land sales or exchanges should be dealt with in accordance with government accountancy rules, currently contained in HM Treasury document called Managing Public Money.

Any disposal of surplus land would have to accord with the Crichel Down Rules which requires us to offer the surplus land back to the original owner before placing it on the open market. We understand that the applicant has now confirmed that the previous owners of Rough Heanor Farm were the landowners prior to the construction of the A38, and that therefore this land should be made available to the applicant. It has also been confirmed that the site could still proceed without the land, although this is not the preferred option and would result in a reduced number of houses.

Clarification as to the specific land which the applicant is seeking to obtain should be provided including drawings of land ownership pre and post scheme as the proposed 'land swap' may involve sections of land of differing value. Highways England therefore need to obtain market values for the land to understand potential contribution requirements to make up for the differences in value.

Until we understand these land aspects further we could not provide a substantive response to the planning application consultation.

### **Proposed Highway Scheme Layout**

Highways England previously raised concerns regarding visibility splays and appropriate advanced roundabout signage. From a review of section 9 (Road Safety Audit) of TAA3 we note that the applicant acknowledges the lack of forward visibility along the diverge slip road due to dense vegetation on both sides and the applicant agrees to clear this. It is acceptable that details regarding advanced signage on the off-slip will be provided during the detailed design process.

Having since reviewed the latest submissions (drawing ref: NTT/2366/100-05 Rev P1), we are now content that our previous concerns which related to the vertical profile of the diverge slip road have now been addressed as the proposed layout is now compliant with TD9/93 Table 3 from a design standards perspective.

In order to address capacity issues raised in our latest October response and further discussed in a meeting with the applicant on 31 October 2017, TAA5 of December 2017 states that minor changes have been made to the A38 off-slip approach to the proposed roundabout. These changes include a slight increase to the flare length and radius, however the roundabout maintains the size of that previously proposed, and does not provide any additional lanes. From a review of the revised scheme drawing, this appears very similar to that previously reviewed and as such this is not expected to result in any material improvement in network performance, discussed further below.

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### Highway Impact Model Assessment

#### Proposed A38 / A516 gyratory scheme – LinSig

As no changes have been made to the A38 / A516 gyratory since the comments provided in October following review of TAA4, the following comments regarding performance of this junction remain unchanged.

Based on the re-routing of vehicles currently travelling to the Royal Derby Hospital parking area via the existing Northmead Drive access, in future routing via the proposed site access roundabout, the assessment considers an additional 269 vehicles impacting on this roundabout. This was reviewed in detail and reported on in Highways England's previous response of May 2017, which considered this a realistic amendment and thus an acceptable approach. We therefore do not agree with the comment that this provides 'an extremely robust sensitivity test' as stated in TAA4 as justification for the acceptability of the mitigation proposals despite capacity issues.

From review of TAA4, 2025 base assessment results of the A38 / A516 gyratory (Table 1) are equal to those previously presented in TAA2. We note that the worst-case scenario in the AM peak hour indicates a degree of saturation (DoS) of 82.1% and a mean maximum queue (MMQ) of 14 PCUs on the A38 off-slip approach. PM peak hour performance is acceptable.

TAA4 provides updated results for the 2025 base + re-routed car park traffic + development traffic (Table 4). As above, we consider the methodology adopted to consider this re-routed traffic a reasonable approach and realistic assessment, rather than an extremely robust one.

The AM results indicate that the DoS on the A38 approach to the gyratory will be 94%, with a MMQ of 21 PCUs. The proposed roundabout will therefore be over capacity and further refinement is required.

PM peak hour performance is acceptable.

Paragraph 5.14 of TAA4 confirms Highways England's concerns regarding the potential for queues at the A38 off-slip approach to the signalised gyratory blocking back through the proposed site access roundabout. Paragraph 5.15 states the sole implication of this as temporarily blocking the vehicles leaving the car park area, however misses our major concern which is the risk of significant queues forming on the A38 approach. The Junction 9 assessment tests the site access roundabout in isolation and therefore does not consider this issue.

#### Proposed site access roundabout – Junctions 9

TAA4 Table 3 shows the performance results of the site access roundabout in the 2025 assessment year with development traffic, however no re-routing of car park traffic. This shows the A38 off-slip approach to the site access roundabout to perform with an RFC of 0.77, which is within capacity. Inclusion of the re-routed car park traffic demands however (Table 5) results in this increasing to 0.86.

TAA5 provides updated modelling based on the slightly amended site access roundabout, and considers revised traffic flows at the request of Derby City Council to

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consider the implications of traffic generated by the consented 600 space car park distributing via the proposed site access roundabout.

The modelling results show the A38 approach to the site access roundabout to operate over capacity with RFC values of 0.86 and 0.89 respectively in the AM peak.

As acknowledged within TAA5, an RFC of 0.85 on an approach is considered as operating at practical capacity. As this is a new junction forming a part of significant highway works and disruption to the network, it would not be suitable to approve a scheme which upon opening will operate over capacity.

Where the network operates within capacity prior to development, the applicant must demonstrate that any proposed highway changes sufficiently mitigate the impacts of the proposed development such that they do not cause the network to operate over capacity. If already over capacity, the mitigation proposed should not result in further detrimental performance of the network. Highways England therefore recommends that planning permission not be granted for a period of three months pending additional information being submitted.

### **5.2. Transport Planning**

#### **Transport Assessment Addendum No. 5**

##### **Introduction**

The latest assessment by BWB, Transport Assessment Addendum 5 (TAA5) examines and responds to the following points raised in a Memorandum by DCC in September 2017, and at a meeting between all parties in October 2017. Please note where

##### **Background**

Over the lifetime of the application, DCC have maintained the concerns set out in points 1-3 below. DCC have reiterated that prior to de-trunking, the proposed new access will need to operate satisfactorily in both peak hours. Confirmation is required from Highways England, that the proposed changes to the strategic road network (SRN) are acceptable. This is particularly so in respect of traffic entering and leaving the new hospital car park not adversely impacting on the operation of the hospital gyratory i.e

1. Vehicles blocking back into the new roundabout from any control barrier on the new access to the hospital car park
2. Traffic blocking back from the hospital gyratory into the proposed roundabout thereby impeding the operation of the roundabout
3. Traffic blocking back from the KFC/Coffee Drive Thru into the proposed roundabout

A robust Transport Assessment is required by DCC that considers the concerns set out in Points 1-3 above. The assessment will involve reassigning a proportion of existing traffic and the recently consented 600 car parking spaces from the A516 Uttoxeter Road to the new access. It is very important that the right turn into the new access is robustly estimated because each right turner has priority over the traffic coming from the A38. Currently, significant queues already form on the A38 slip road.

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### Reassignment of Traffic - Methodology

TAA5 examines the following scenarios:

**Scenario 1** - traffic flows prior to re-distributing traffic from A516 to the new access (as reported in TAA V2)

**Scenario 2** – traffic flows which include the redistribution of 250 vehicles from Northmead Drive to the new access (as reported in TAA V4). Scenario 2 also did not consider the additional 600 parking spaces.

**Scenario 3** – At the request of DCC Scenario 3 builds on Scenario 2 but adds and re-distributes 50% of the consented 600 additional car parking from Northmead Drive to the new access, plus the original 250 assumed in scenario 2. The figures add up to around 45% of the traffic redistributed and not 50% as suggested.

**Scenario 4** – At the request of DCC Scenario 4 builds on Scenario 3 but re-distributions 50% (318) of all traffic currently traveling from A516 from Northmead Drive and 50% (72) of the proposed 600 car parking spaces to the new access. This scenario is considered the absolute worst case.

### Traffic Movements

**Table 1** below sets out the predicted traffic movements for Scenario's 1-4.

New Access	AM Peak		Split In		Split Out	
	In	Out	From A516	From A38	To A516	To A38
Scenario 1	223	18	19	204	7	11
Scenario 2	473	18	269	204	7	11
Scenaio 3	580	18	341	239	7	11
Scenario 4	648	18	409	239	7	11
New Access	PM Peak		Split In		Split Out	
	In	Out	From A516	From A38	To A516	To A516
Scenario 1	23	147	2	21	64	83
Scenario 2	180	147	159	21	64	83
Scenaio 3	180	217	159	21	104	113
Scenario 4	102	217	81	21	104	113

**Table 1 – Total Traffic Movements**

### **Highway Impact – Signals and Junction Capacity Assessment Results**

#### Linsig – A38 Hospital Gyratory:

The following comment are made on Linsig model **171221 A38 Gyratory Site Access Model (Scenarios 1-4).lsg3x** only. The latest submission uses an unacceptable Linsig model and detailed comments are therefore not appropriate. In short, the model shows the gyratory operating as a 5 stream junction. Currently it operates as a 2 stream junction so the addition of the new pedestrian crossing across the A38 slip road should be modelled as a 3rd stream added to the existing 2 stream model.

- Previous model submissions have been based on that provided by DCC and represent the junction as it operates today. This latest submission has a 5



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stream operation and is therefore not representative of the junction operation which is currently a 2 stream junction. The new pedestrian crossing across the A38 slip road should be added as a 3rd stream to the existing 2 stream model.

- Operation of this junction is complex to ensure the 2 un-signalised links are able to gain access to the roundabout and the current situation is specifically designed to achieve that by providing space on the internal links. In order to achieve a satisfactory clearing of traffic from the main hospital exit (Zone C) Arm J1:6 should clear every cycle (in this submission there is a 2pcu residual queue in the AM Peak and a 4pcu residual queue in the PM Peak with only a 7pcu capacity).
- It is noted that in both AM and PM scenarios some internal links of the gyratory are operating significantly over-capacity with residual queues at the end of the green signal period. This will have a negative impact on the operation of the gyratory by slowing the flow of traffic round the gyratory and should therefore be avoided. The current 2 stream operation of the gyratory more tightly controls traffic in this high pressured junction and therefore minimises those internal link queues.

Consequently, the likely impact on the hospital gyratory as a result of the proposed new access is not known.

### **Junction 9 – Proposed New Roundabout Access:**

The latest submission represents the AM Peak correctly across all four modelled scenarios. However, during the PM Peak some of the numbers represented in the model are transposed with those detailed in the figure drawings. These anomalies occur mostly on Arm 2 (A38 east) where the number modelled (1489) is more than what is represented (1459) in the figure diagrams. This occurs in modelled Scenarios 1-3.

Scenario 4 underrepresents Arm 2 in the model at 1459. The figure drawing suggests this movement is 1489?

Similarly with Arm 1 in Scenario 3 for the PM peak. A movement of 62 has been modelled. The figure drawing suggests this is 104.

### **Further clarification is required.**

#### **Junction Results Summary:**

The junction performance indicates that the proposed new access, particularly Arm 4, A38 east in Scenarios 3 and 4, during the AM Peak will exceed its minimum 0.85 RFC theoretical capacity. Scenario 3 performs at 0.86 and Scenario 4 at 0.89. Even in Scenario 2, which did not consider the additional 600 car parking spaces the RFC is at 0.84. This demonstrates that the junction is already pushing towards its limits with background and development traffic. Highways England suggests the maximum they would expect at this new access is an RFC at 0.7 to provide longevity in the future years. DCC support this.

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	AM					PM				
	Queue (Veh)	Delay (s)	RFC	LOS	Network Residual Capacity	Queue (Veh)	Delay (s)	RFC	LOS	Network Residual Capacity
	Scenario 1									
Arm 1	0.1	9.83	0.05	A	26 % [Arm 1]	0.2	5.49	0.20	A	36 % [Arm 2]
Arm 2	0.6	2.33	0.36	A		2.4	5.05	0.70	A	
Arm 3	0.1	3.30	0.07	A		0.1	5.98	0.10	A	
Arm 4	3.0	5.38	0.75	A		0.6	2.14	0.38	A	
	Scenario 2									
Arm 1	0.1	11.06	0.06	B	13 % [Arm 4]	0.2	5.49	0.20	A	25 % [Arm 2]
Arm 2	0.9	2.76	0.47	A		3.4	6.59	0.77	A	
Arm 3	0.1	3.83	0.08	A		0.1	7.08	0.12	A	
Arm 4	5.2	9.26	0.84	A		0.7	2.32	0.40	A	
	Scenario 3									
Arm 1	0.1	10.41	0.05	B	11 % [Arm 4]	0.3	5.78	0.24	A	23 % [Arm 2]
Arm 2	1.0	2.93	0.50	A		3.5	6.88	0.78	A	
Arm 3	0.1	4.01	0.08	A		0.1	7.34	0.12	A	
Arm 4	6.1	10.88	0.86	B		0.7	2.32	0.40	A	
	Scenario 4									
Arm 1	0.1	10.41	0.05	B	8 % [Arm 4]	0.4	6.22	0.29	A	31 % [Arm 2]
Arm 2	1.1	3.10	0.53	A		2.7	5.64	0.73	A	
Arm 3	0.1	4.20	0.08	A		0.1	6.48	0.11	A	
Arm 4	7.3	13.02	0.89	B		0.6	2.23	0.39	A	

**Table 2 - Junction 9 Results, Proposed New Access. Arm 1 Car Park Barrier Entry, Arm 2 A38 Westbound, Arm 3 Site Access, Arm 4 A38 Eastbound**

Full technical comments on the Arcady modelling are not provided because the input files have not been included. As such it is unclear what parameters have been applied in the model to generate the results set out in Table 2 above. It would appear basic model parameters have been examined. Due to the proposed new access location, immediately off the A38 slip and in close proximity to the signalised hospital gyratory the 'advance' model in Arcady would be more appropriate to examine entry/exit restriction and defined lane usage.

Although Arm 1 in the AM peak shows the Level of Service (LOS) to be operating at 85% with little queue or delay, it's important to note that the entry flow assumption entered into the Arcady model are derived from flows exiting the car park and not those entering the arm at the barrier. As such, exiting flows on Arm 1 in the AM Peak will be low as the majority of hospital staff won't be leaving work during this time. The traffic flow movements exiting Arms 2 and 4 to enter Arm 1 are significant.

Further complexity is that Arcady does not model entry barrier systems. This is because there is no function in the model to constrain/mimic barrier entry movements and timings that would be associated with how a security barrier operates. There is also an element of drive behaviour/reaction that cannot be modelled. This is discussed further in the note.

Arcady can be calibrated to provide an understanding of delay but this would require manipulating the capacity constraints and intercept values to provide a rational outcome.

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### **Proposed New Access – Barriers and Car Park Configuration**

**DWG NTT/2366/100-03 revision P28** provided in TAA V5 sets out further changes previously reported in TA Addendum 4. The revised changes now include:

- Two barriers instead of one.

The proposed new car park access has been revised to provide a two barrier entry system set back roughly 62 metres from the main highway. Drivers will enter the car park on a single lane approach which splits into two filter lanes for each barrier. The assumptions set out in TAA V5 suggest that there will be storage for a total of 15 vehicles, 12 vehicles in the nearside lane and 3 vehicles in the offside lane. However, the agent has assumed a single car length of 5m, which is not acceptable.

The normal rule of thumb is to assume the length of a Passenger Car Unit (PCU) to be 5.75m when assessing highway impacts. The Arcady capacity analysis presented in TAA V5 assumes the vehicle length to be 5.75m. Whilst vehicle lengths can be altered in Arcady it is important when undertaking capacity analysis that the same consistent approach is applied. In this case, each vehicle contained in the storage lane should be represented as a PCUs rather than a single vehicle length.

Applying the PCU length, the storage capacity for 62m will roughly be 10-11 PCUs entering Arm 1 of the proposed new access. However, looking at drawing **DWG NTT/2366/100-03 revision P28** it would appear the length of road before it splits into two lanes is around 40-45m, providing storage for around 7 to 8 PCUs.

There is some disparity in the number of vehicles entering the new access. **Table 1**, In Scenario 4 reports 648 movements and paragraph 2.1 i) in TAA V5 assumes 629. I presume this is a typo? However, the report goes on to explain that from 629 cars an average of 10 cars per minute will enter the new access. This equates to one car entering every 6 second between two barriers.

If we assume the volume of traffic to be 648, this would equate to 11 cars per minute at around 7 seconds. On a recent site visit (10/07/2018), observations showed that barrier entry timings varied between 6-8 seconds from card activation to close, per barrier. It varied depending how quickly the driver could locate and activate their pass. On two occasions vehicles took more than 7 seconds to activate the barrier. One vehicle took around 23 seconds to activate the barrier, clear the barrier, and then close ready for the next car, the other at around 40 seconds.

It is important to point out that whilst the observation surveys provide an indication of barrier entry times, what can't be modelled is driver behaviour and reaction. As such TAA V5 cannot demonstrate what could be a realistic situation. Furthermore, the trip rate profile at the proposed new access will not necessarily be a flat profile as you can't assume all 648 vehicles will arrive all at once within the hour. A more reasoned argument would be to assume that the trip profile for the 648 trips will fluctuate in peaks and troughs over the hour. An explanation for this could be down to hospital staff arriving at different times to start their shifts.

For the reasons above, DCC are not satisfied that the propose barrier entry system designed in **DWG NTT/2366/100-03 revision P28** will be able to accommodate the volume of traffic expected to gain access to the car park via the new junction.

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- Loss of 36 car parking spaces instead of 33 to accommodate the double barrier entry system
- Indicative Access Road Layout into the Drive Thru has been revised to accommodate the level of anticipated traffic generation. Further comments below are provided in response to the anticipated traffic generation.
- Minor Changes made to the A38 off-slip approach to the new access to maximise capacity. **Does Highways England accept these changes?**

### **KFC Indicative Parking layout:**

DCC requested that an indicative car park layout be provided for the proposed KFC. This information has not been provided. It is suggested this information will be dealt with at reserved matters under a Grampian style condition. Due to the complexity of the hospital gyratory, DCC requested the information early on in this process to understand the operation and internal interactions of the KFC/Coffee shop with the proposed new access. DCC want to be content that this development will not impede the operation of the proposed new roundabout access or the RDH gyratory, and consequentially we feel this issue should be considered at this stage.

### **Proposed Traffic Generation**

As a significant amount of time has passed since the application was registered, the original traffic generation assumptions for the coffee drive thru element of this application are considered under representative of how coffee drive thru's now operate.

Time	Arrive	Depart	Two-way
0800 - 0900	18	17	35
1200 - 1300	17	12	29
1700 - 1800	7	7	14

**Table 3 – TAA V5 Proposed Traffic generation – Coffee Drive Thru**

AM		Car Park		Drive Thru	
		IN	OUT	IN	OUT
08:00	08:15	13	11	2	2
08:15	08:30	15	13	0	2
08:30	08:45	13	14	4	2
08:45	09:00	13	14	3	4
08:00	09:00	54	52	9	10
Total		63	62		
Trip rate	172	0.366	0.360		

Midday		Car Park		Drive Thru	
		IN	OUT	IN	OUT
12:00	12:15	6	6	2	2
12:15	12:30	9	5	8	8
12:30	12:45	10	11	7	7
12:45	13:00	8	8	10	10
12:00	13:00	33	30	27	27
Total		60	57		
Trip rate	172	0.349	0.331		

PM		Car Park		Drive Thru	
		IN	OUT	IN	OUT
17:00	17:15	0	3	3	6
17:15	17:30	4	2	0	3
17:30	17:45	1	3	3	5
17:45	18:00	1	1	0	2
17:00	18:00	6	9	6	16
Total		12	25		
Trip rate	172	0.070	0.145		

**Table 4 – DCC Observed Traffic Generation**

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Considering the above, it is recommended that the assessment is validated against current observed conditions and applies the Trip Rates set out in **Table 4**.

### **Summary**

The latest submission, TAA V5 in its current form provides insufficient information. Consequently DCC are unable to determine the full highway impacts at this time.

The following information contained in TAA V5 is absent or inconclusive:

1. Unacceptable Linsig model applied to model the hospital gyratory
2. Transposed figures contained within Junction 9 capacity assessment
3. Unacceptable vehicle length assumption
4. Scenario 4 traffic volume assumption incorrect
5. Indicative layout for proposed KFC/Coffee Drive Thru not provided as advised
6. Original Proposed Traffic Generation is low
7. Proposed amendments to the proposed A38 off slip approach - acceptance by Highways England required

DCC have serious concerns about the proposed new access, the proposed new slip road, the costs of these proposals and their viability in relation to the scale of the development. It is essential that the new length of road/realignment can safely accommodate the forecast traffic flows so it does not queue back onto the A38 from the existing A516 signalised gyratory. This would have implications for the development in that no traffic will be able to exit the development or the car park during peak hours.

Queuing traffic already existing on the slip road off the A38 to the A516 hospital gyratory, introducing another function to the road layout in such a short distance to a mainline carriageway and large gyratory will only exacerbate the existing situation and could potentially increase the queue further back. Any impact at the hospital gyratory is unacceptable.

There are some fundamental technical issues with the proposed scheme assessment contained in TAA V5 set out in Points 1-7 above. DCC require a robust assessment that reflects the operation of the existing network to provide reassurance that the new access junction can operate freely.

The assessment of the proposed barrier traffic management measure, contained in TAA V5 does not provide comfort that such high volumes of traffic can be accommodated without impeding the new access. As mentioned above, this is particularly important for right turners as each right turner has priority over traffic coming from the A38. Currently, significant queues already form on the A38 slip road. The Junction 9 capacity assessment provided in TAA V5 demonstrates that Arm 4 (A38 east) is predicted to operate above the suggested minimum theoretical capacity.

The highway impacts of this scheme need to be agreed firstly by Highways England prior DCC accepting a de-trunking order.

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### **Transport Assessment Addendum No. 4**

Transport Assessment Addendum 4 examines and responds to the following points raised in a Memorandum by DCC, May 2017.

#### **Traffic Flow Queries:**

The peak hours applied to this assessment are between 7:30 and 8:30. This is acceptable for Highways England's Strategic Road Network (SRN) requirements. BWB need to be mindful that the HE's concern is primarily the SRN and their position does not reflect that for Derby's local road network.

Generally, we ask for the local road network to be assessed in the peak hours between 8:00 – 9:00. However, in this instance higher flows were recorded on some arms between 07:30 – 08:30 and 16:00 – 17:00.

#### **Reassignment of traffic into the new hospital car park access:**

Whilst BWB have provided a sensitivity test of the 'total assessment flows' in the am peak (Fig 30), this does not include the recently permitted hospital parking space application (planning app 06/16/00707 600 space car park ) to the new RDH car park access. It is not acceptable to assume no redistribution from the proposed 600 space car park, as there will be a proportion of traffic which will find this new access attractive. For a robust assessment we need to understand the full impacts at the new junction access, and this will include diverting an agreed proportion of this committed traffic.

#### **Sensitivity Test:**

BWB have undertaken a sensitivity test to reassign 50% of the total assessment traffic (636 PCUs - Fig 30) only to the new roundabout junction. However, this is only 45% of the 636. 50% of 636 is 318. The 144 coming from the A516 east arm as part of hospital car park planning app have not been re-assigned to the new access. BWB maintain their argument that the Northmead Drive will remain the most attractive access point. As suggested above DCC, question this approach and reiterate the need for a robust approach.

For clarity the assumptions are broken down as follows:

Fig 30 – 2025 total assessment traffic AM peak = 636 heading to Northmead Drive.

Fig 32 – Hospital Car Park Re-Assignment AM peak = 144 heading to Northmead Drive

$636 + 144 = 780$

Minus 250 = 530 as demonstrated in Fig 36 – Total Sensitivity Test AM peak

If we were to assume 50% of the total 780 we would be looking at the redistribution of 390 vehicles from the A516 east arm to the proposed new access (318 of the 636 + 72 of the 144), not 250 which is not 50%.

#### **Capacity Findings:**

This note examines only the Linsig model and the results presented in Transport Assessment Addendum 4. A lack of comment on previously highlighted issues doesn't imply satisfaction with any of those issues.

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General comments:

- Para 5.7 – *“The Practical Reserve Capacity (PRC) would increase by approximately 5% in both peak hours.”* The PRC is shown to **decrease** by approximately 5% in both peak hours when comparing the results tables given.
- Para 5.8 & para 5.9 – *“The lane operating with the least spare capacity at the roundabout would be the A38 off-slip ahead lane in the morning peak hour including for the RDH traffic flows, but this would still only operate at 79.8% of capacity.” And “the greatest mean maximum queue is forecast to occur in the outside lane of the A38 off-slip, measuring 18.4 passenger car units (pcu) (or 106 metres assuming 5.75 metres per pcu), versus a stacking distance of 112 metres.”* The results seem to be incorrectly quoted and the queue comments are misleading and don't give the full picture:

Considering the definition of MMQ – this is a prediction of the largest average queue length likely to exist. This queue will, at some point in time, be shorter than the average and at other times be longer than the average. In a congested network such as this, the expected queue will be shorter by the number of vehicles which can pass through a single signal green at some point in time, and longer at another point in time giving rise to the average value being between these 2 points. In considering the impact on the site access junction therefore it is necessary to evaluate the worst case queue length. This queue will not be present for the entire modelled hour but will impact on the site access junction for some of that time and as such would be undesirable.

For **2025 Total AM Peak** the lane with the least spare capacity is Lane 1/3 and is forecast to operate at 90.0% of capacity. With 29s of signal green time it is expected that  $0.9 \times 14\text{pcus}$  will pass the stopline each cycle, therefore the maximum queue length is  $\text{MMQ} + 12 = 30.4\text{pcus}$  or 175m which significantly exceeds the available stacking distance.

For **2025 Total AM Peak (Sens) +250RT** the same lane operates at 94% of capacity. With 28s of signal green time it is expected that  $0.94 \times 14\text{pcus}$  will pass the stopline each cycle leading to a maximum queue length of  $21.4 + 13.1 = 34.5\text{pcus}$  or 198m.

It is noted that in both scenarios the internal links of the gyratory are operating significantly over-capacity with residual queues at the end of the green signal period. This will have a negative impact on the operation of the gyratory in the real world and so is unacceptable.

### Revised hospital car park arrangement:

Based on BWBs recent submission, DCC have concerns that the volume of predicted traffic at the new access will stack back onto the A38 Link arm to the hospital Gyratory. This is further compounded by the concern that the proposed barrier entry system will not be able to open at sufficient speed to dissipate queuing traffic.

BWB have provided a design that will provide stacking space for up to 12 PCUs. Based on their assumptions that 473 vehicles will redistribute to this new access (around 8 PCUs an minute) BWB are confident that the stacking space will be sufficient. This is debatable given that we still have concerns over the traffic figures and whether a barrier entry system can cope with the volume of traffic.

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### KFC Indicative Parking layout:

DCC have advised again that an indicative car park layout should be provided for early discussions. BWB have not provided this and suggest this will be dealt with at reserved matters.

### Summary

DCC need to be comfortable that the traffic management measures put in place are effective and can accommodate a high volume of traffic in the peaks. It is essential that stacking traffic does not impede the operation of the hospital gyratory. Understanding this element of the assessment is critical.

### Supplementary Comments 24/04/2018:

*To clarify the position of Transport Planning to date the most recent comments have been reproduced above which were sent to BWB for their consideration in September 2017. Our comments were based on their TA Addendum Version 4 submission. Their latest assessment, TA Addendum Version 5 submitted in December 2018 has not been assessed. We await an agreement for an extension of time from the planning agent to commence a formal consult which has not been forthcoming.*

*The application has been ongoing since July 2015, with pre app discussion since May 2014. Transport Planning have remained concerned with the way the trip rates were previously assessed, as TRICs provides very little comparative data on this land use, drive thru coffee shops. Considering the knowledge we now have about drive thru coffee destinations and their subsequent impacts, we are mindful to request that their proposed trip rates are validated against current observed conditions. This would include an additional inter-peak assessment. As a considerable amount of time has passed, DCC needs to be comfortable that the hospital gyratory will continue to operate efficiently with the development in place, and primarily not impeding access to the hospital.*

*Transport Planning have briefly looked through their TAA V5 and note that the proposed new roundabout access RFC operates at 0.89 in the sensitivity test. Albeit a theoretical test it does not provide much future proofing or spare capacity if the drive thru trips to this site were to exceed what has been modelled. Highways England were very clear during the meeting, 31/10/2017 that they were looking to achieve an RFC of 0.7 to provide longevity in the future, which we support.*

*In the opinion of Transport Planning, we do not consider that we have a formal agreement from Highways England that they accept the principle of this scheme? Derby City Council has maintained the position that until such a time as Highways England provide approval of this proposed scheme, in principle, it is difficult for DCC to assess the impact of this scheme on our network or provide meaningful advice. At our last meeting in October 2017 Highways England were still seeking further information from the planning agent over what proportion of land would be subject to the proposed two financial transactions in order to accommodate the slip and to facilitate the development. To our knowledge this is still outstanding.*



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

Highway comments were provided dated 28<sup>th</sup> Sept 2016. The current position with respect to those earlier comments is as follows:

- There is no agreement between Highways England (HE) and Derby City Council in respect of a future boundary to demark the extent of the trunk road;
- Aecom have considered the operation of the proposed roundabout, see HE's consultation response;
- The applicant has confirmed that 36 spaces will be lost with the current proposal. There remains some concern about the potential length of queuing at the barriers, however it is likely this can be resolved by a re-design of the car park layout in the vicinity of the barriers;
- Committed development has now been included in the assessment.

I refer to my transport planning colleague's report entitled 'Comments on Transport Assessment Addendum Version 5', the report highlights the Highway Authority's concerns are as follows:

1. *Vehicles blocking back into the new roundabout from any control barrier on the new access to the hospital car park.*

As stated above it is likely this can be resolved by a re-design of the car park layout in the vicinity of the barriers, but it is considered that this should be agreed before any consent is issued.

2. *Traffic blocking back from the hospital gyratory into the proposed roundabout thereby impeding the operation of the roundabout.*

The report describes what is wrong with the version of the 'Linsig' model that has been used to assess the post development operation of the gyratory and consequently why it is not possible to answer the above question until the junction has been re-modelled using the correct 'Linsig' model.

3. *Traffic blocking back from the KFC/Coffee Drive Thru into the proposed roundabout.*

It would have been beneficial to have an agreed solution to this aspect of the development prior to consent being issued, however no car parking layout has been provided. Therefore I would suggest any consent should be conditioned such that no development can be undertaken on the application area unless or until the KFC carpark layout has been submitted to the LPA and it has been robustly demonstrated that the KFC will operate successfully without causing a traffic queue back towards the roundabout.

For the reasons set out in the report the Highway Authority considers the applicant is yet to demonstrate that an adequate safe and suitable access solution has been proposed.

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### **5.4. Environment Agency:**

The Environment Agency has no objection, in principle to the proposed but recommend, if planning permission is granted, that a condition which considered groundwater and contaminated land is imposed.

### **5.5. Land Drainage:**

The information that has been supplied following previous comments has been reviewed:

- a) A more detailed assessment of the Bramble Brook has now been undertaken. It has been demonstrated that due to the relative levels of the surrounding land compared to the development site, the flood risk to the development from the brook can be considered low. Flood risk from the brook will be able to be managed by ensuring that property floor levels are set such that the any exceedance flows caused by blockages are routed away from properties.
- b) A green corridor appears to have been retained to allow a wildlife corridor to be maintained along the Bramble Brook and also to allow access for maintenance. Consideration should be given to reducing the length of the public sewer that discharges to the Bramble Brook and re-establishing the brook over a longer length.
- c) A more detailed drainage strategy has now been developed and calculations provided, to demonstrate that the design can provide adequate volumes of storage. The strategy is provided in outline only and a more rigorous design will need to be undertaken at the detailed stage.
- d) There is a brief statement regarding maintenance of the SuDS drainage system but no details and the financial arrangements have not been provided. The system as it is proposed appears to have connections from private drainage systems, Public sewers, and Highway drainage with pipe connections under the highway. This complicates the adoption process particularly if this is not maintained by a public body. Derby City Council would be prepared to adopt the SuDS system which would give certainty to the adoption, but a commuted sum would be payable through the section 106 agreement.

Therefore no objections have been raised subject to a conditions relating to a surface water drainage scheme, finished floor levels, management/maintenance of the drainage systems and securement of an easement along the top of the watercourse bank being imposed, along with a condition securing the enhancement of and protection of the Bramble Brook within the development, should planning permission be granted.

### **5.6. Environmental Health:**

#### **Contaminated Land**

1. I note the submission of a further Desk Study Appraisal which precedes the date of the originally submitted Ground Investigation, the submission of which appears to have been an omission from the original October 2015 application.

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2. The Desk Study does not affect my earlier comments of 11th December in that the submitted details still only provide a 'preliminary' investigation of land contamination risks on site. Further detailed investigation is still therefore required.
3. I would reiterate my earlier recommendation to attach relevant land contamination conditions to any consent that may be granted.
4. I would further advise the attachment of an advisory note highlighting the fact that the previously submitted details are only considered a preliminary investigation and therefore additional detailed site assessment is still necessary.

### **Noise**

I refer to the recently submitted additional information regarding noise, namely:

- Site Plan Drawing NTT/2366/100-03 (Rev P27), depicting the location of the proposed acoustic barrier and associated predicted noise levels at two receptor points; and
- Email of 25th January 2018 from Mr Adam Barr, Senior Consultant – Acoustics, BWB Consulting Limited confirming predicted noise levels at bedroom height at night.

The following comments should be read in conjunction with my earlier comments of the 11th December 2015 and those of 29th July 2016, the contents of which still stand, subject to any amendments highlighted below.

### **Noise**

1. The plans now provide a clear indication of the location of the proposed 4.5m acoustic barrier.
2. The plan and email also now provides predicted noise levels at the two receptor locations for both daytime and night-time. These are as follows:
3. The information now covers the outstanding points of clarification requested in my earlier comments of July 2016.
4. A detailed scheme of insulation for proposed dwellings is still unavailable at this outline stage.

### **Conclusions and Recommendations on Noise**

5. Please accept the following conclusions and recommendations as a replacement for any earlier conclusions and recommendations relating to noise.
6. Based on the updated information, the proposed mitigation does appear to provide for compliance with BS8233:2014 criteria and as such, it would be hard to refuse planning permission based solely on noise amenity grounds.
7. It is important to note, however, that the predictions assume that the proposed residential dwellings are positioned such that they benefit from the full protection of the acoustic barrier (which section 3.10 of the Noise Addendum seems to suggest may not necessarily be the case for all dwellings) and that resident's windows are kept closed at all times.

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8. Given the above assumptions, the Environmental Protection Team still has concerns over the level of amenity provided by the proposed development for future occupants.
  9. We would maintain our opinion that the site's position, surrounded by major roads on all sides, presents a perceived poor living environment for future occupants, albeit that the proposed mitigation does marginally manage to avoid 'significant harm' within the context of the NPPF.
  10. Should the LPA still be minded to grant permission, we would strongly recommend conditions requiring the following:
    - A requirement for a detailed noise insulation scheme for future dwellings, to be agreed by the LPA;
    - A requirement for a detailed scheme providing a mechanical and acoustically treated alternative means of ventilation to all future dwellings, to be agreed by the LPA; and
    - A requirement for the full installation of the proposed 4.5m acoustic barrier as detailed in Plan NTT/2366/100-03, Rev P27.

### **Air Quality**

Further to the originally submitted air quality assessment, I note the submission of an Air Quality Mitigation Letter, which sets out a proposal to include a 20 metre buffer between the main A38 carriageway and any new dwellings.

Notably, this proposal only relates to the façades of proposed dwellings and therefore suggests that it may still be appropriate to locate residential gardens closer than 20 metres to the A38.

Whilst I would accept the concept of the proposed 20 metre buffer in principle, further clarification is still required to assess the combined impact of emissions from the future slip road in conjunction with the A38 as this is proposed to run very close to the A38 carriageway at the western end of the site. In practice therefore, this could mean facades are located very close to the slip road. I would therefore recommend that the 20 metre buffer to the nearest residential facades should be measured from the closest edge of either the A38 or the slip road kerb, whichever is closer.

Whilst the above-mentioned buffer should be sufficient to allay the earlier concerns over potential breaches of the EU Limit/National Objectives for nitrogen dioxide (NO<sub>2</sub>), there has been insufficient consideration of health risks associated with fine particulate matter (PM<sub>2.5</sub>) within the proposals.

In April 2016, the Department for the Environment, Food and Rural Affairs (DEFRA) updated their guidance on Local Air Quality Management (LAQM), which now requires all Local Authorities to take action to reduce the exposure of the public to PM<sub>2.5</sub>. Whilst there is an EU Limit Value and a National Objective set at an annual average of 25µgm<sup>-3</sup>, the updated LAQM regime is based on the principle that there is no safe level of PM<sub>2.5</sub>.

In recognition of this and given the nature of the location which I would highlight is still considered by the Environmental Protection Team to be largely unsuitable with

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respect to future occupant's exposure to air pollution generally, I would strongly recommend that further consideration of the potential exposure of the public to PM2.5 at the site is carried out should permission be granted.

This should include consideration of public exposure both within dwellings (including gardens) and also in respect of other exposure points e.g. footpaths/cycleways/public open space and where necessary should provide air quality mitigation proposals for the development as a whole, subject to any mitigation that may already be proposed under any travel plans, electric vehicle charging infrastructure or similar proposals.

I would strongly recommend a condition requiring the above.

### **5.7. Derbyshire Wildlife Trust:**

#### **Basis for response**

We have checked the site against the Trust's data sets (see Endnote) and we are aware of brown long-eared and common pipistrelle bats are present on site (building and tree).

We have considered the relevant documents submitted as part of the planning application with particular reference to the following:

- Habitat and Protected Species Report and Phase 2 Bat Survey report Revision 4 (Paul Hicking Associates, December 2015)
- Topographical Survey and Habitats Plan (Drg 1406-001 Rev B)
- Revised Design and Access Statement

#### **Comments on the ecological report**

The phase 1 habitat survey and protected species surveys (reptiles and bats) have been undertaken at an appropriate time of year (15th May 2014, 1st September 2014 and 15th September 2014) by suitable qualified ecologists.

The development site described within the ecology report is not a designated site nor are there any adjacent to the site. The report, however, identifies two LBAP priority habitats 'Woodland and stream' and 'wildlife pond'. It is therefore recommended that the proposed development should protect, retain and enhance these habitats.

No reptiles were identified during the survey effort and no further consideration to reptiles is given. If, in the unlikely event, reptiles are found works should cease and the advice of a suitably qualified ecologist should be sought. Common frogs were found in the pond on site.

Common pipistrelle bat roost and brown long-eared bat roost are present on site within the buildings and a tree.

#### **Outstanding Issues**

It should be noted, that the proposals, as detailed in the ecology report will require a licence from Natural England, once detailed mitigation (as discussed below) has been addressed and submitted prior to determination. Outline mitigation refers only to bat boxes and timings of works. However, the proposed indicative layout plan illustrates the retention of the farmhouse building on site and the removal of the tree

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with a bat roost. It is highly recommended that the building (and tree) is retained and design accordingly for the retention of a bat roost for common pipistrelle and brown long-eared. A purpose built bat loft and crevice design would provide suitable mitigation and enhancements for bats and is preferable option compare to bat boxes.

Bat surveys are only valid for two survey seasons; the survey season is between May and mid-September, inclusive, so if an application is unchanged, a bat survey carried in June 2015 should be updated with emergence surveys from May to mid-September inclusive, in 2017. This is to see whether the bats have changed their roost location, or whether a new species has moved in, or whether numbers and types of roost has changed. Changed circumstances could require changes to mitigation. If the Bat Mitigation Plan (once finalised) is subject to a planning condition, changes must be approved in writing by the Planning Authority, backed up with a supporting survey report. If the type or scale of the proposed development changes, the mitigation needed might also change, therefore the Bat Mitigation Plan may need to be revised and re-submitted.

It should be noted, Natural England typical accept a licence application with up to date surveys i.e. surveys from the year of submission of the licence. However, for this application, an updated and detailed mitigation plan for bats would suffice in order to determine the application.

### **Recommendations**

We would advise that further information is required with respect to the mitigation proposed for bats and that without this information the local planning authority is unable to discharge its legal duties in respect of the requirements of the Habitats Regulations.

We would recommend that any trees with bat roost potential should be retained. All retained habitats should be protected from damage by the erection of adequate temporary protective fencing for the duration of the works in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any works on the site as a condition of any consent.

We note and welcome the habitat creation measures included as part of the proposed landscaping but note that no details appear to have been provided in respect of the ongoing maintenance of the landscape areas outside the curtilage of the new domestic properties. Such information is lacking and needs to be provided.

Furthermore, design measures i.e. low level bollards, are recommended to ensure vehicle access does not affect the pond, ditch and proposed swale. This will also help to prevent pollutants entering the water course. Due to the watercourses on site and the proposed changes it is highly recommended that pollution prevention measures are implemented, and wording to this affect should be condition as part of any approval granted.

The proposed bunding and fence could provide an ideally opportunity to include enhancements to the site, without impacting the function of the bund itself. It would be welcomed to use native and local characteristic plants/species and refugia could be included to provide a net gain to biodiversity within the site, as detailed below:

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- The bund could be seeded with a tussocky wildflower grassland seed mix, such as the EM10 from Emorsgate ([www.wildseed.co.uk](http://www.wildseed.co.uk)). This should be sown in either autumn or spring, at the recommended rate of 25 – 50 g/m<sup>2</sup>
  - Ongoing management of the grassland habitat should involve cutting the vegetation on the bund on a three year rotational basis, whereby sections equating to one third of the total length of the bund are cut in any one year. This should be done using brush cutters, and all arisings will be removed and piled adjacent to the bund to form a permanent compost heap. The compost heap will provide foraging habitat for mammals such as badger, and also provide potential egg laying habitat for grass snake, and a place of shelter for other amphibians and reptiles. The rotational cutting of the bund will help to retain a varied structure, whilst preventing it from becoming over-run with tall ruderal species which may decrease the value of the bund. Cutting will be conducted in October, and the vegetation will be cut to approximately 5 cm in height.
  - Hibernacula can be created adjacent to the bund in accordance with the Great Crested Newt Conservation Handbook
  - Hedgehog homes can be created adjacent to the bunds, obviously outside of the operational area of the hardstanding.

Although the likelihood of reptiles and amphibians were assessed as low, it would be prudent for Reasonable Avoidance Measures (RAMs) to be implemented to avoid harm and this will include the following actions;

- Scrub, grassland and ruderal vegetation areas will be directionally strimmed in two stages to allow any reptiles/amphibians present to move out of the working area naturally. All vegetation will be removed from the working area to prevent potential areas of refuge being created for reptiles to shelter in;
- Suitable refugia, for example log or rubble piles, will be dismantled carefully by hand under the supervision of a suitably experience ecologist; and
- Although no compensation measures are statutorily required any development can be seen as an opportunity to increase biodiversity locally. General compensation measures, such as construction of artificial hibernacula could improve habitats on site for use by reptiles, as detailed below.

We would welcome a revised plan, based on the above, to ensure the retention of valuable habitats on site and to ensure there is no net loss of biodiversity or adjacent habitats affected by the proposed works.

It would be welcomed to include enhancements, as discussed above, to the site and aim to achieve a biodiversity gain for the proposals.

If the Council were minded to grant planning permission at this stage please contact the Trust for further advice regarding suitable planning conditions.

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### **5.8. Natural Environment:**

#### Trees

Within the curtilage of the land covered by outline application 10/15/01314 at Rough Heanor Farm, there are no Tree Preservation Orders (TPOs) and the site is not in a conservation area.

Having visited the site, I would agree with the findings of the submitted Pre-Development Tree Survey and as long as the advice given / recommendations made in sections 2 and 3 are followed, particularly section 3; I would have no further comments to make.

In relation to the submitted Indicative Layout Plan though, it is noted that the majority of the surveyed trees will possibly not be retained, other than those along the drive to the former farmhouse and also to the north of this building.

It is accepted that these trees overall have limited public visual amenity because of the location of the site, but I would recommend that if this outline application progresses, that the applicant endeavours to retain as many existing trees, and hedgerows, within their proposed layout as possible.

Also, as it is not clear from the submitted Indicative Layout Plan whether the trees and hedgerow along the southern edge of the site with the existing school, open space and housing will be retained, I would recommend that this be clarified.

#### Rights of Way

There are no recorded public footpaths running over the area covered by outline application 10/15/01314 and it is unlikely that rights have been established through usage because of the site being effectively cut off from the surrounding area by the A516 slip roads and the A38 trunk road.

Our Rights of Way Improvement Plan 2014/2017 identifies a proposed route to the north west of the site, from Brisbane Road to Mackworth Park, which is just beyond the A38 alongside Bramble Brook. This route links with the Mickleover to Egginton Greenway. To the east of the site there is another proposed route in the improvement plan from Uttoxeter Road to Kingsway, across the Kingsway Hospital site.

The potential footpath / cycleway links shown on the Indicative Layout Plan would complement the proposed routes in our improvement plan.

This is welcomed as it would further increase the opportunity for walkers and cyclists to access the Kingsway Retail Park and Derby city centre, via the Kingsway Hospital site, avoiding the traffic along Uttoxeter New Road and the outer ring road.

It would also link in with the Mickleover to Egginton Greenway, beyond the Kingsway Retail Park, off Greenwich Drive South.

### **5.9. Conservation Area Advisory Committee**

**15<sup>th</sup> September 2016**

*No objections were raised although Committee stated they would like to see more detailed proposals under the reserved matters.*



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10<sup>th</sup> March 2016

*The committee:*

- 1) *Welcomed the outline application;*
- 2) *Raised no objection; and*
- 3) *Encouraged consideration for greater clearance between the north side of the building and the road in any detailed submission.*

### **5.10. County Archaeologist:**

'Rough Heanor' is attested as early as 1150 in documentary sources, with the name given as 'Henover' or variations thereon through the medieval period, with 'Heynor' or 'Heanor' by the 15th century, and 'Rough Heynor House' appearing on Burdett's map of 1767.

This is clearly therefore a site with medieval origins, and may even represent a former village/hamlet site shrunken to a single farmstead by the 18th century. There is consequently archaeological potential for remains of medieval date, most likely to be concentrated in the area around the current farm buildings.

The site has however been substantially disturbed during the 20th century, through road building activity to all sides, and more recently by dumping of soil arisings from a nearby development. The applicant's ground investigation report shows deposits of made ground to substantial depth in peripheral parts of the site, with however a more intact ground profile reported from the central area of the site around the farm buildings.

Despite ongoing disturbance from the farming use of the site into the 20th century, it is likely that archaeological remains of medieval or early post-medieval date survive within the central part of the site, relating to the former medieval farmstead or settlement.

Although it is desirable (NPPF para 128) for the site to be evaluated archaeologically in order to establish significance at the determination stage, I feel that there are practical difficulties with this approach: geophysical survey is not effective on disturbed ground, and evaluation trial trenching may be hampered by the existing farm buildings on the site.

I therefore recommend on balance that the demonstrable archaeological interest in the site is addressed through a conditioned scheme of archaeological work in line with NPPF para 141. This should be a phased scheme involving trial trenching of the central area in the first instance, to take place before a reserved matters application with details of layout (in order to allow the archaeological results to inform layout as appropriate). Significant results would then necessitate a second phase of targeted excavation before the commencement of development.

The standard condition requiring a written scheme of investigation should be imposed.

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### **5.11. Built Environment:**

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 relevant Local Plan Review January 2006 saved policies and emerging core strategy).

Rough Heanor Farm on this site is a heritage asset, a locally listed building and is therefore of local importance.

This outline proposal is for the demolition of outbuildings and to undertake alterations to the junctions, construction of residential development, a restaurant and coffee shop.

I note the contents of the submitted Heritage Statement/ Statement of significance. On the basis of the historic plans submitted I note that the single storey building to the west looks date from the same time as the main building. Is it possible to retain this extension to the main house also? I accept the demolition of the other outbuildings. I would suggest, as I did previously, whether the bund/fence could be pushed further northwards. I would have no issue with an appropriately detailed boundary wall instead of the bund/fence which may free up more space and feeling of space to the north of the locally listed building.

Having visited the site I note that the locally listed building has its original main front door. I suggest that this is retained and repaired. I also suggest that the visual appearance of the house could be substantially improved by the reinstatement of timber (which could be double glazed) sash windows. This would reinforce the significance of this building as a focal point of the scheme.

### **5.12. Public Health, Adults, Health and Housing:**

The establishment of a new drive-through hot food takeaway in the city conflicts with Derby's Health and Wellbeing Strategy and Childhood Obesity Strategy. One in five children in Derby is already carrying excess weight by age 4-5, and by age 10-11 the figure has risen to over a third. Obesity puts us at greater risk of type 2 diabetes, heart disease and stroke, certain cancers, low self-esteem and can reduce life expectancy by up to 9 years. Our Childhood Obesity Strategy aims to tackle the 'obesogenic environment' in Derby, including the availability of 'junk food' and the drivers of sedentary lifestyles (such as car dependence).

I would like to stress the importance of a safe and pleasant pedestrian network that links the site to nearby community facilities, including local primary and secondary schools, recreational greenspace, local health services, and shops. If such facilities and amenities cannot be easily, safely and pleasantly accessed by foot and cycle the development will certainly increase traffic and associated pollution and noise, and may contribute to reduced physical activity and community coherence. Should the developer fail to secure the land to the south of the site then ensuring an adequate pedestrian network would appear to be impossible.

The proposed development is on an area of designated green-wedge. Such areas should ideally be left un-developed to avoid the impression of urban sprawl.

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I have significant road safety concerns about visibility from the proposed new slip road. Insufficient sight distance and limited forward visibility can adversely affect safety and increases the risk of a collision. Adequate sight distance should be created at the approach to the intersection.

Proposed changes to the road system, including creation of a new roundabout, may increase traffic congestion. If this happens it can be expected to exacerbate air pollution, as emissions are greater at slower driving speeds and in the stop-start conditions of congested traffic.

I welcome the proposed provision of new homes, but note that 75 dwellings in the context of an annual requirement for new homes of over 1000 is a relatively small number. Given the significant health dis-benefits likely to result from the development, the balance of cost to benefits in terms of health does not appear favourable.

### **5.13. Police Liaison Officer:**

There are no objections to the principle of either residential development or fast food outlet where proposed.

The existing open space and social services buildings on the periphery of the site are not well connected to existing housing, so it would be a positive move for any new housing to overlook the open space, and for any future links within this area to have an open aspect and similarly to be faced by active building elevations.

Housing which currently backs onto the A38 southbound slip should retain their secure boundary, by housing or commercial boundaries within the development site being situated back to back with existing.

As there is no indicative detail to assess, can I suggest that as an informative the applicants are advised to make contact with us prior to any detail being drawn up, to discuss the community safety design element of the scheme.

## **6. Relevant Policies:**

Whilst consultees have referenced the National Planning Policy Framework 2012 in determining this application regard has been given to the National Planning Framework 2018 which is reference in the reasons for refusal as set out in Section 8 of this report.

The key themes within the National Planning Policy Framework 2018 remain consistent with those of the 2012 Framework albeit now cited under different paragraph numbers with slightly different wording. The issues of this application are considered to be substantive and the updated National Planning Policy Framework does not consider these any differently to the 2012 Framework. I therefore feel it is unnecessary for consultees to update their comments.

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

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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	Climate Change
CP3	Placemaking Principles
CP4	Character and Context
CP6	Housing Delivery
CP7	Affordable and Specialist Housing
CP12	Centres
CP13	Retail and Leisure Outside of Defined Centres
CP18	Green Wedges
CP19	Biodiversity
CP20	Historic Environment
CP23	Delivering a Sustainable Transport Network
CP24	Transport Infrastructure
MH1	Making it Happen

### **Saved CDLPR Policies**

GD5	Amenity
H13	Residential Development – General Criteria
E12	Pollution
E19	Listed Buildings and Buildings of Local Importance
E24	Community Safety

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

[http://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/policiesandguidance/planning/Core%20Strategy\\_ADOPTED\\_DEC%202016\\_V3\\_WEB.pdf](http://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/policiesandguidance/planning/Core%20Strategy_ADOPTED_DEC%202016_V3_WEB.pdf)

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

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

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

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

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### **7. Officer Opinion:**

#### **Key Issues:**

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

#### **7.1. Principle of Development**

#### **7.2. Highways Matters**

#### **7.3. Other Material Considerations**

#### **7.4. Planning Balance**

### **7.1. Principle of Development**

#### **General Principles**

The application site lies between the on and off slip roads of the A38/A516 junction and is made up of 7.77 hectares of land that is currently open in character with the exception of the Rough Heanor Farmhouse and its ancillary outbuildings. To the north and east of the site, on the opposite side of the off-slip road lie the surface car parking associated with the Royal Derby Hospital and Manor Parkway Retail Park, respectively. To the south of the on slip-road lies residential development off Rough Heanor Road; with the built up area of Mickleover on the opposite side the A38 to the west.

The application site is designated in the newly adopted local plan as being green wedge and therefore green wedge policy is a material consideration.

The Local Planning Authority has considered this application site through preliminary application discussions, the call for sites of the Derby City Local Plan Part 1 (DCLP1), the examination in public for the local plan and during the life of this application; always maintaining an objection to the release of this green wedge site for housing and commercial uses. Furthermore, the applicant has failed to demonstrate that the development is suitable, available and viable during the life of the application by failing to overcome the holding objections issued by Highways England and the objections made by colleagues in Highways failing to demonstrate compliance with policy CP23 and CP24.

#### **Green Wedge**

The entirety of the site lies within the Mickleover/Mackworth Green Wedge and the application therefore needs to be considered against Policy CP18. The role of Green Wedges is to define and enhance the urban structure of the city as a whole, in particular by reinforcing local identity by maintaining areas of open land between the City's residential neighbourhoods. Whilst a range of activities are suitable in Green Wedges, the aim of Policy CP18 is to restrict development that would adversely affect the predominantly green and open nature of wedges.

Policy CP18 restricts development within Green Wedges to the following categories: :

1. Agriculture and forestry
2. Green space, outdoor sport, recreation and community uses providing the character of the Green Wedge and its amenity is not adversely affected

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3. Nature conservation, including improvements which provide multiple benefits to Derby's green infrastructure or which link the Green Wedge to the wider Green Infrastructure network
  4. Cemeteries
  5. Essential buildings and activities ancillary to existing education establishments
  6. Public utilities where it can be shown that a suitable site outside the Green Wedge is not available
  7. The extension or alteration of existing dwellings and the erection of ancillary buildings.

The proposal being a mixed use, residential and commercial development, not being within any of those categories is clearly in conflict with policy CP18(a).

As well as being contrary to that policy, the loss of openness that would result from the proposed development would harm the role this site currently plays in separating and defining the character of the Mickleover/Littleover area and acting as a buffer between those existing neighbourhoods and the mixed use development on the Manor Kingsway allocation and Manor Parkway Retail Park to the north east - both key principles of the Green Wedge policy. The development of this site would also mean it would fundamentally undermine the role and function of this part of the Green Wedge.

The prospect of the development of this site and its removal from the Green Wedge has already been considered through the preparation of the DCLP1. The site at Rough Heanor Farm was considered as an omission housing site through the Examination process. The Inspector made clear that as he was satisfied with the Council's housing land supply position that there was no compelling reason in principle why further Green Wedge sites should be included in the Local Plan. Referring specifically to the application site the Inspector found at paragraph 105 of his report that *"...the site would require the realignment of slip roads on to the A38 and there is insufficient information as to whether this would be feasible or viable"*. I would note that this remains to be the case, there is still insufficient information submitted as part of this application to determine whether or not this would be feasible or viable.

The Council is currently preparing the Part 2 of the Core Strategy; the applicant/agent for this application has put forward this site again during the call for sites.

### **Housing Context**

The adopted DCLP1, which was adopted in January 2017 during the processing of this application, plans for the delivery of a minimum of 11,000 homes within the City 2011-2028. This target is being met, in part, by 15 new allocated sites totalling some 6,975 new homes. Of those allocations the DCLP1 identifies in the region of 2,000 new homes, almost 20% of the proposed housing target, on sites that were previously designated as Green Wedge. These allocations were made as part of the strategy underpinning the plan for managed growth within the city's environmental limits. The strategy seeks to strike a balance between prioritising brownfield development and releasing greenfield land within the city. Green Wedge releases

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were included in the Plan on the basis that those specific sites could accommodate development without compromising the role and function of the respective Green Wedge. Despite being promoted for development, the application site was not allocated via the DCLP1 and remains identified as Green Wedge. Although, as discussed in more detail above, the site was considered as an “omission” site during the Examination in Public of the DCLP1.

All but one of the allocated housing sites has either a current planning application, valid permission or is being built out. The progress made on these allocated sites along with significant ongoing completions in the City Centre means that the Council can demonstrate a robust 5 year housing land supply.

Given the recent adoption of the DCLP1 and the fact that the Council can demonstrate a robust 5 year supply position, the policies which are most important for determining the application can be considered to be up to date for the purpose of decision making, in terms of the presumption in favour of sustainable development at paragraph 11 on the NPPF (2018). A position that is only likely to become stronger when the Housing Delivery Test figures are published on November 2018.

To ensure that the 5 year supply position can be maintained and the target of 11,000 new homes by 2028 is achieved, the Council is currently progressing preparation of the Part 2 Local Plan, which amongst other things will seek to allocate more smaller non-strategic housing sites. This may, if numbers necessitate, include further review of Green Wedge boundaries. However, the DCLP1 makes clear that any review of boundaries will be taken within the context of maintaining the principles of Green Wedge as set out in this policy and the objectives of the plan (paragraph 5.18.6 of CP18 refers). This site is included in representations made of the Local Plan Part 2 and therefore will be considered further as Plan preparation progresses.

In addition, to the housing supply policies, policy CP7 of the adopted Plan seeks to ensure that the need for affordable housing is met through a range of mechanisms. The policy sets out that the provision of a maximum of 30% affordable housing on residential developments on sites of 15 or more dwellings will be required, subject to viability.

### **Retail Uses**

In addition to the Green Wedge issues, concerns remain regarding the justification and rationale for food and drink uses in this location. Food and drink uses are considered to be main retail centre uses and are therefore subject to the provisions of the sequential test, as set out in the NPPF and Policies CP12 and CP13 of the DCLP Part 1. The site of the proposal does not form an obvious extension to the identified out-of-centre location at Manor Parkway as it is separated by the A38 slip road, which is a significant barrier impeding the potential for linked trips.

Further to this, no specific ‘need’ for the proposed food and drink uses has been identified, over and above their possible contribution to viability. In this context, a sequential assessment should consider all preferable locations across the city as a whole, including the city centre, district centres, neighbourhood centres and identified out-of-centre locations. The brief assessment submitted at Appendix B of the Planning Statement is inadequate in this regard.

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It is acknowledged that the proposed scale of food and drink uses does not trigger the requirement for an impact assessment. However, this does not mean that impact is not a consideration. Policy CP13 relates to all proposals for shopping and leisure outside of defined centres, (including food and drink) and requires applicants to demonstrate that proposals would not individually or cumulatively have a significant adverse impact on the role, vitality, viability or competitiveness of centres. This issue has not been adequately addressed in the submitted information.

The overriding issue in relation to the in principle acceptability of food and drink uses is the context in which they should be considered. Reference is made within the Planning Statement to the food and drink uses partly funding the housing element of the proposals. However, it is not clear what contribution they make to the viability of the wider scheme. Without clear evidence that the food and drink uses are required to make the scheme viable, the justification for considering them in the context of 'enabling development' is weak, if there at all. Even if it can be demonstrated that the uses are required to cross subsidise the wider scheme, the Council would need to be convinced that the benefits of the scheme are of sufficient significance to outweigh the in-principle policy conflicts.

### **Conclusions on Principle of Development**

The in principle objections to the scheme in terms of impact on Green Wedge and out of centre retail proposals are considered to weigh heavily against the proposed development. The policies that the scheme offends are contained in a recently adopted local plan that can be considered fully up to date. Furthermore, since the adoption of the Part 1 Local Plan the Council has consistently been able to demonstrate a 5 year supply of housing sites in line with Government requirements. Accordingly the DCLP1 policies referred to can carry full weight in the decision making process. There are therefore in principle objections to the proposed development as it directly conflicts with local plan policies.

Given the uncertainty around the deliverability of the site I am of the opinion that the benefits arising from this scheme are limited and therefore do not outweigh the negative impacts.

## **7.2. Highways Matters**

The position of highway colleagues, from both Highways England (HE) and DCC Highways (Highways) has remained clear and consistent during the life of this planning application. The application has continually attracted requests for additional information; requesting clarification on or further information on the same matters namely, capacity modelling, the proposed highway scheme and highway impact along with uncertainty over the Highways England land. The Local Highway Authority remains concerned over trip generation and the trip data used to assess the impacts of the scheme, particularly the commercial uses.

Highways England has continually responded to this application with holding objections requesting further information in respect of the arrangement with Highway land, the proposed highway scheme layout and highway impact assessment. The applicant has sought to address this request through addenda to their Transport



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Assessment however these have not been considered sufficient to address their questions/concerns.

In determining this application consideration must be given to the following national and local policies:

Paragraph 32 of the NPPF requires 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 cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”*

Policy CP23 ensures that people living, working and travelling within Derby have viable travel choices and effective, efficient and sustainable transport networks which meets the needs of residents and businesses while supporting competitive growth and competitiveness.

### **Highway land**

This application seeks to incorporate the existing A38 on slip into the proposed development. However through the life of the application the applicant has failed to demonstrate suitable progress with Highways England that this is achievable. Without certainty over the land swap/stopping up it is difficult to ascertain the exact make-up of the scheme and its deliverability. Furthermore Highways England has confirmed that they cannot provide a substantive response to the planning application.

Highways England has maintained a position where they have sought clarification over the exact extend of land which will be stopped up and what land will be offered back to Highways England. The applicant has failed to satisfactorily progress this matter. In order to offer assistance HE has broadly set out the process that the applicant needs to go through and suggest that they contact the Highways England's Land Department.

In circumstances such as this *“Any disposal of surplus land would have to accord with the Crichel Down Rules which requires us to offer the surplus land back to the original owner before placing it on the open market. We understand that the applicant has now confirmed that the previous owners of Rough Heanor Farm were the landowners prior to the construction of the A38 and that therefore this land should be made available to the applicant...”* The applicant has indicated that the current owners of Rough Heanor Farm were the owners prior to the construction of the A38 and therefore this may in fact be an achievable solution. However *“Clarification as to the specific land which the applicant is seeking to obtain should be provided including drawings of land ownership pre and post scheme as the proposed 'land swap' may*

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*involve sections of land of differing value. Highways England therefore need to obtain market values for the land to understand potential contribution requirements to make up for the differences in value.”*

Whilst I accept that the site could progress without the inclusion of this on slip into the scheme this would not be the preferred option. Furthermore it would result in the application site remaining as an island site within a trunk road most likely exacerbate concerns relating to air quality and noise. In addition, the retention of the on slip would serve as a barrier between the proposed and existing dwellings, those properties on and served off Partridge Way to the south and potentially pedestrian connectivity to the hospital gyratory and the amenities that lie beyond.

However the applicant has failed to demonstrate through the life of the application that they have made suitable progress with HE to determine whether or not this would be achievable. HE has been clear that until such a time as there is further clarity and understanding in respect of the land they would be unable to provide a substantive response to the planning application. Their recommendation that planning permission not be granted remains.

### **Transport Assessment/Modelling**

The applicant has provided a Transport Assessment which has been duly reviewed by Highways England and colleagues in Highways, both of whom have continued to request additional information. This has led to numerous addenda. The most recent being submitted in December 2017 however this has not been formally consulted upon as a result of the applicant/agent lack of cooperation with the LPA and their reluctance to formally work to an agreed end date (to enter into an extension of time). DCC Highways have provided initial comments but not undertaken a detailed assessment of the submission and remain of the opinion that it lacks the required information and fails to address the concerns previously raised.

Whilst HE have accepted the position within the submitted transport information they do not consider that the assessment has been robust and in part considers that the assessment requires refinement. They remain to have concerns over the capacity of the new roundabout junction which shows that the RFC increasing to 0.86. Further assessment work, following amendments to the site access roundabout and consideration of the new hospital car park extension (some 600 spaces), at the request of the LHA, shows that the roundabout would operate over capacity with RFC values of 0.86 and 0.89 respectively in the AM peak.

The submitted information acknowledges that an RFC value of 0.85 on an approach is considered as operating at practical capacity. However as this is a new junction it is not considered to be sufficient to have a new junction, that through its construction will result in significant highway works and disruption, that *“...upon opening will operate over capacity”* in the opinion of the HE. Therefore the applicant is failing to demonstrate that these mitigation works are adequate; *“...Where the network operates within capacity prior to development, the applicant must demonstrate that any proposed highway changes sufficiently mitigate the impacts of the proposed development such that they do not cause the network to operate over capacity. If already over capacity, the mitigation proposed should not result in further detrimental performance of the network.”*

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As Highways England have been unable to provide substantive comments on the proposed scheme and arrive at a recommendation this has meant that the LHA has equally been unable to progress their comments to a final position.

The LHA echoes the concerns of HE in respect of a new junction operating at capacity at the day of opening and remain concerned as to what impacts this would have on the operation of the A38/A516 gyratory. For example, would cars back through the new junction to the gyratory? Whilst the LHA have expressed such concerns with the applicant these remain unanswered. Therefore they remain of the opinion, following consideration of the information submitted to date, that the proposed scheme offers very little comfort that the proposed traffic management is capable of sufficiently and effectively accommodating the high volume of traffic in the peak periods or provides sufficient evidence to suggest that stacking traffic would not impede the operation of the hospital gyratory.

Concerns also remain in respect of the trips generated by the proposed commercial uses. TRICS provides very little comparative data for land uses such as drive thru coffee shops but local knowledge and understanding suggests that they operate above the levels predicated. Therefore further consideration would need to be given to the trips generated by this element of the scheme.

### **Proposed Highway Scheme**

HE has considered the amendments to the scheme in respect of forward visibility and considers this arrangement to now be acceptable. However concerns remain in respect of capacity on the new network. Whilst some amendments have been made the application, as currently submitted, fails to provide the sufficient capacity. HE made a request during the October meeting for the capacity to operate with an RFC of 0.7 whereas the submitted scheme operates in the sensitivity test at 0.89 which is not considered to be sufficient.

Without HE confirming that they accept the design of the proposed highway works colleagues at DCC Highways have been unable to provide final comments or assess the impact of the proposed development on the existing hospital gyratory.

Highway officers note that HE have assessed the proposed roundabout but acknowledge the concerns raised in respect of spare capacity, particularly on the approach from the A38. This is coupled with the concerns over the predicted level of traffic at the proposed roundabout, which will be discussed below.

Overall Highways note that the application proposed significant changes which include alterations to the A38 on-slip, a new normal roundabout which will form a second access to the development site and hospital car park which includes alterations to the car park and installation of barriers. It is noted that these substantial and significant works are to be funded by a relatively small development. Highways consider until such a time as HE have confirmed that they accept the changes to the Strategic Road Network colleagues can offer very little to progress the application from a Local Highway Authority point of view. That being said, the LHA have set out their concerns and are yet to receive a satisfactory response from the applicant.

In respect of pedestrian and cycle connectivity the application has considered the following to be destinations residents may make on foot:

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- Uttoxeter Road Bus Stop – inbound stop 430 metres away and the outbound stop 530 metres away
  - Aldi footstore/Pub/Restaurant – via the hospital side of the gyratory 460 metres and the opposite way 315 metres

The submitted information indicated that the number of pedestrians would be relatively low, some 27 pedestrian trips and therefore formal crossing points would not be required. However the number of pedestrians could be increased as a result of residents working at the hospital.

The applicant has expressed that the nearest area of open space would be the soon to be constructed green wedge park forming part of the Manor Kingsway development. Pedestrians would be required to navigate the hospital gyratory or move through the hospital car park to access this. The attractiveness of either route around the hospital gyratory is questionable with the possibility of increased trips arising as a result of the unsustainable location of the proposal and its poor connectivity with amenities.

The LHA also raise concerns over the development site in respect of it being able to accommodate the proposed development, particularly in respect of the A3 uses. Any application would need to demonstrate that they have a suitable internal arrangement and a suitable level of car parking. For both uses it is estimated that 87 car parking spaces would be needed for both commercial buildings – this does not include staff car parking as the number of staff is currently unknown. The local plan also states that *'The layout of the development site should ensure that delivery and service vehicles can park and manoeuvre safely off the highway'*. Consideration of this matter is crucial to ensure that no vehicles block back through the application site and onto the public highway affecting its operation. However I am mindful that this application is in outline format and therefore these matters can be dealt with during the determination of any reserve matters application(s).

### **Conclusion**

The application and its proposed mitigation straddles highway under the control of the HE and a LHA which does complicate matters. However both consultees have consistently provided clear comments that set out what is required to overcome their holding objections. The situation is further complicated as the matters are intrinsically linked; without further understanding and progression of the land swap the actual proposal is not sufficiently clear. Without agreement of the trips neither consultee can confirm they are content with the modelling work. Without HE being satisfied that the proposed scheme and modelling are adequate the LHA cannot comment. Without final comments from either the LPA cannot progress the application to a positive determination on highway grounds.

Throughout the determination of this application the applicant has failed to provide sufficient information to address the above and therefore the application fails to demonstrate that a *"safe and suitable access to the site can be achieved for all people"* and that *"improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development."*

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For the reasons set out above I consider that the application, in its current form, when considering all submitted information, fails to satisfy Paragraph 32 of the NPPF and policy CP23 of the DCLP Part 1 for the following reasons:

- that the proposed development can achieve a safe and suitable access for all people,
- through traffic modelling that the improvements undertaken within the transport network would cost effectively mitigate the impact if the proposed development,
- that the proposed highway works are deliverable through site assembly.

### **7.3. Other Material Considerations**

#### Air Quality

Following the initial submission of this application concerns were raised in respect of air quality and the impact on those proposed residential units. However the applicant has sought to address these matters through the submission of a mitigation strategy. The proposed mitigation strategy includes the inclusion of a 20 metre wide buffer along A38. The submitted Air Quality Mitigation letter suggests that only the facades of the properties should be more than 20 metres away and that residential gardens could be closer or within this buffer zone. Clarification on this matter would need to be resolved through a reserved matters application(s) and any approval of planning permission should include a condition that imposes the 20 metre wide buffer that should be measured from the closest edge of either the A38 or the slip road carriageway edge, whichever is the closer.

Environmental Health confirm that whilst the above would alleviate initial concerns over potential breaches of the EU Limit/National Objective for nitrogen dioxide (NO<sub>2</sub>), there has been insufficient consideration of health risks associated with fine particulate matter (PM<sub>2.5</sub>) within the proposals. The Department for the Environment, Food and Rural Affairs (DEFRA) updated their guidance on Local Air Quality Management (LAQM), which now requires all Local Authorities to take action to reduce the exposure of the public to PM<sub>2.5</sub>. Whilst there is an EU Limit Value and a National Objective set at an annual average of 25µgm<sup>-3</sup>, the updated LAQM regime is based on the principle that there is **no safe level of PM<sub>2.5</sub>**. Therefore Environmental Health have retained concerns as this site being largely unsuitable for future occupants and has suggested that further consideration be given, by the applicant, to the potential exposure of future occupants to **PM<sub>2.5</sub>**. This exposure should consider within dwelling and gardens, along footpaths/cycleways and in any public open space. Mitigation should be provided in respect of air quality through consideration of travel plans, electric vehicle charging points etc.

The applicant has failed to provide any further information in respect of air quality matters but I note that colleagues in Environmental Health would be happy for such mitigation to be secured by conditions and through the reserved matters application(s). As this application is specifically for the principle of 80 dwellings on this site I remain unconvinced that these constraints and this number are compatible to recommend approval.

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### Noise

Similar to air quality concerns were initially raised in respect of high noise levels as a result of the close proximity to the A38 and its slip road(s). However the applicant has sought to provide more detail in respect of noise and has sought to address the concerns raised by colleagues in Environmental Health.

Based on the updated information, the proposal does appear to comply with BS8233:2014 criteria and therefore it would be difficult to defend a refusal on noise grounds. However through the reserved matters application(s) the layout of the proposed residential development would need to ensure that the dwelling houses all benefit from the full protection of the proposed 4.5 metre high barrier. It is noted that the submitted information indicates that to ensure the maximum number of units on the site not all dwellings may benefit from the barrier and some residents would need to keep windows shut. Therefore there remain concerns over the residential amenity afforded to the future occupants of the site and colleagues remain of the opinion that the site is unsuitable for residential development as it is surrounded by major road.

Colleagues in Environmental Health have requested conditions be attached to any planning permission should planning permission be granted.

### Land Drainage

The application has been reviewed by colleagues at the Environment Agency and in Land Drainage team. Neither has raised any objections to the scheme but both have requested conditions in respect of groundwater contamination and the drainage strategy/scheme for the development site. There are therefore no objections in respect of this matter and the proposal is considered to be compliant with relevant policies.

### Ecology/ Trees

There are no Tree Preservation Orders (TPOs) on this site and the site is not within a Conservation Area. The Council's Tree Officer agrees with the findings of the submitted Tree Survey providing the development is carried out in accordance with the advice given/recommendation in Section 2/3 of the survey.

Further consideration will need to be given to trees during the determination of any reserved matters application(s). Given the time lapse between the submission of the application and any further reserved matters application(s) I would recommend the submission of an updated tree survey. It is also recommended that the trees lining the driveway to the farmhouse should be retained. Whilst further consideration needs to be given to trees I see no reason to resist the application on tree grounds.

The full comments from the Derbyshire Wildlife Trust are set out above and conclude that the application has failed to provide a sufficient and updated bat survey to allow an adequate assessment of the proposals impact on this protected species. Furthermore the application fails to provide details of any mitigation for this species and therefore the LPA cannot discharge its legal duties in respect of the requirements of the Habitat Regulations.

Furthermore the introduction of such a development would be contrary to policies CP16 and CP19 of the DCLP. Policy CP16 Green Infrastructure seeks to ensure the

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maintenance, enhancement and management of Derby's green infrastructure. Policy CP19 seeks to ensure biodiversity and geodiversity assets across the City will be protected, enhanced, managed, restored, strengthened and created in a manner appropriate to their significance. This proposal would result in the loss of and significant decline of green infrastructure with no mitigation, management or enhancement proposed as part of the proposal. The proposal therefore for the reasons set out above fails to comply with these policies.

### **Connectivity/Amenities**

There are no rights of way but additional links are welcomed. However I note the applicant has not confirmed that the additional links are shown on the indicative site layout plan are achievable as they require connections to land outside of the applicants control. Whilst I accept some of this land is under the control of Derby City Council the applicant has not entered into discussions with the Council to ascertain whether their proposals are achievable. Furthermore without agreement from the HE in respect of the current on-slip is it not clear as to whether or not these are actually deliverable.

Therefore I would raise concerns over whether or not the site is sustainable in respect of connections to the adjacent community and its facilities. Concerns have already been raised by colleagues in Highways in respect of the distance pedestrians will need to walk to reach the nearest bus stop and Aldi. I have expressed concerns with regards to connections to open space. Whilst I accept there is an area of open space to the south, off Dove Close and Swift Close, this is currently not accessible to the proposal site for reasons already set out above. Furthermore, there is uncertainty as to whether or not this will ever be accessible also for the reasons set out above. Whilst the indicative layout does identify an area of open space this again is subject to land currently not in the control of the applicant and failure to obtain this land would result in very limited, if any, open space being provided on this site.

In respect of providing open space, this matter remains largely unresolved, despite the Council's Implementation Officer trying to secure either suitable provision or contributions. The applicant considers that as the area of open space to the south is under used there should be no requirement for this development site to provide any open space – this simply isn't the case. Each application site should provide suitable mitigation in this instance incidental open space. In addition, the application has failed to demonstrate that suitable connections can be achieved to this open space, as discussed at length throughout this report. The position is similar with major open space; the applicant considers that the open space to be provided by the Kier Manor Kingsway Development should also be used to mitigate this site. However this open space is to mitigate the impact of and support that development. This major open space may also not be delivered for a number of years. Moreover I would question the connectivity to this open space which can only be reached by crossing the busy gyratory. This matter therefore remains unresolved and the application, as it stands, fails to provide adequate open space to serve the new population. It should be also noted that this wider locality of Mickleover is deficient of open space.

Failure to provide the links identified would result in the proposed development being disjointed and unconnected to other amenities including local schools. These

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concerns are echoed by colleagues in Public Health who “...stress the importance of a safe and pleasant pedestrian network that links the site to nearby community facilities, including local primary and secondary schools, recreational greenspace, local health services, and shops. If such facilities and amenities cannot be easily, safely and pleasantly accessed by foot and cycle the development will certainly increase traffic and associated pollution and noise, and may contribute to reduced physical activity and community coherence”. Overall they consider that the “...the balance of cost to benefits in terms of health does not appear favourable.”

The proposal therefore fails to have due regard Policy CP3 of the DCLP Part 1. Policy CP3 seeks to ensure that proposals of all scale embrace the principles of sustainable development and take account of best practice. In my opinion, the application fails to consider connectivity for future residents and users of the commercial units. When considering the criterion of this policy the proposals fails to satisfy a number of elements of policy including but not exclusive to optimising development densities, providing good standards of safety to create a pleasant safe, and secure environment and contributing to the creation of a vibrant community. The application furthermore fails to have due regard to urban design best practice through the failure to provide an acceptable level of connectivity to the wider area.

### **Residential Amenity**

Policy GD5 of the City of Derby Local Plan considers amenity and seeks to ensure that developments are only granted where they provide satisfactory levels of amenity within the site and buildings. Whilst colleagues in Environmental Health consider that they could not recommend refusal of the application, they have maintained concerns in respect of noise and air quality impacts as a result of the site location adjacent to and surrounded by a strategic road network. With this in mind and when considering policy GD5 of the CDLPR I consider that the proposal fails to satisfy this policy.

Whilst the proposal seeks to mitigate the impacts of noise through the installation of a substantial acoustic barrier, some 4.5 metres high, concerns remain that not all properties would benefit from this acoustic barrier. Furthermore the submitted details indicate that some properties would benefit from keeping their windows closed at all times. I question whether this would create a high quality living environment for future residents as a result of noise pollution from the road. I would also question the aesthetics of such an acoustic barrier on residential properties although such a matter will be considered during any reserve matters application(s).

Environmental Health has raised concerns but have not proposed refusal on these grounds, suggesting these matters be addressed at reserve matters. It is clear however from their comments that there are no safe levels of PM<sub>2.5</sub> and they have retained their concerns on this basis. It is not clear from the applicant's submission and given the nature of the site if these concerns could in fact be addressed at reserved matters stage. Policy GD5 also considers amongst other matters, air pollution. With growing concerns over air quality and the impact of air quality whether residential development in this location is acceptable is questionable.

The concerns of noise and air quality are amenity issues which are exacerbated by limited, if any, open space on the site, poor connectivity and access by foot to amenities such as schools, doctor's surgeries, shops etc.



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Overall, when considering all of the above matters, air quality, noise, connectivity, open space etc. I consider that the proposed development would not provide a high quality living environment for future occupiers and is therefore contrary to saved policies GD5 and H13 of the CDLPR and policies CP2 and CP3 of the DCLP Part 1.

### **Heritage Matters**

Located on the application site is the Rough Heanor Farm which is a locally listed building; the listing description is as follows:

#### **"UTTOXETER ROAD**

##### **Rough Heanor Farm**

*Late 18th C farmhouse. Three storey, three bays, red brick with a tiled roof. Front elevation has central entrance door with fanlight, and a 20 pane sliding sash window either side. First floor has two 20 pane sliding sash windows and one central 16 pane sliding sash window. Second floor has three 6 pane sliding sash windows. Haunched stone heads to all windows and projecting stone sills. The site was in use as a tenanted farm of Burton Abbey as early as 1125, and there was also a mill at what was then called Henovre (Heanor), according to the charters of the Abbey."*

The application has not attracted any objections from colleagues at the County Council in respect of archaeology and the Councils Built Environment Team has also raised no objections and no objections were raised by the Conservation Area Advisory Committee. The loss to the outbuildings is considered to be acceptable and the retention of the farmhouse is welcomed. However, questions still remain in respect of the amount of curtilage to be provided to the locally listed asset and how the proposed development will relate to the non-designated asset. In addition I also remain concerned about the impact of the new road and its supporting structures/embankments on the non-designated heritage asset as it is unclear how close the embankment and acoustic fence would be. Although I am mindful that these can be considered during any reserve matters application(s); this application is seeking permission for access and there is uncertainty around how the new access would impact on the setting of the non-designated asset. Whilst this has been discussed with the applicant, the applicant has failed to demonstrate that the proposal would not have a significant impact on its setting and therefore I consider Paragraph 134 of the NPPF to be relevant in the determination of this application. The NPPF states, *"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 securing its optimum viable use."* Given the lack of certainty around the impact of the proposal on the non-designated I cannot definitively determine the degree of impact on the non-designated asset however taking a pragmatic approach the applicant has confirmed that they are seeking retention of the asset and therefore any impact is therefore likely to be less than substantial.

When considering the proposal the public benefits that I consider are relevant to this application relate to job creation and the introduction of housing. However, the dis-benefits of the proposal far outweigh the benefits; the dis-benefits including loss of green wedge, impact on protected species, uncertainty over the number of units being provided on the site, poor residential amenity afford to those proposed units

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and retail impacts. In light of the above I consider that any impact on the non-designated heritage asset, arising as a result of the proposed development, would not be out-weighted by any public benefits it may offer.

### **Section 106 Agreement**

The scheme would be required to make contributions, either on-site or in lieu, towards affordable housing, education, open space, highways, health facilities, swimming pool facilities, public art and public realm. A viability appraisal has been submitted and assessed by the District Valuer. The DV report agrees with the applicant's appraisal that the scheme can only provide contributions of £357,000 and no affordable housing on site. At the time of writing this report, there have been no further discussions with the applicant on the details of how this contribution would be split between the requirements outlined above. Any S106 will need to include a review mechanism at Reserved Matters stage to ensure the viability of the specific scheme to be built is assessed, particularly in relation to the ability of a scheme to provide any on site affordable housing. The S106 will also need to include an overage clause to capture any uplift in profit over the life of the development.

## **7.4 Planning Balance**

Despite the application being with the Local Planning Authority since October 2015 there appears to be more questions than answers in respect of a number of fundamental material considerations particularly around mitigation for the proposal and access arrangements. The Local Planning Authority has sought additional information to progress the application and resolve a number of the outstanding matters however these have not been satisfactorily addressed by the applicant.

The proposal is unacceptable, in principle, as the proposal seeks the release of green wedge. The Council has a robust 5 year housing supply, an up to date Local Plan and therefore all policies can carry full weight. Whilst an argument could be made that the release of this green wedge site for housing would assist with housing delivery there is no justification to release the green wedge for commercial development, the KFC and coffee shop drive-thru elements of the proposal. Furthermore the number of dwellings proposed is not considered to be significant and would not dramatically assist in providing new housing. In addition, given the time lapsed and the applicant's failure to provide sufficient information and progress land ownership matters I question whether or not this site is actually deliverable.

The application has failed to satisfy the sequential test and identify a specific need for the food and drink uses in this location. Such uses are considered to be retail centre uses and therefore are not acceptable in this location. Whilst the submission makes reference to these uses enabling the development it is not clear how any cross subsidy would work and therefore this argument is considered weak. That being said, even if the Council were satisfied that these uses were cross subsidising the wider scheme this does not overcome the in-principle policy conflicts.

The application has also failed to demonstrate that a safe egress and access can be provided to the application site and that the mitigation works would not have significant impacts on the existing transport network. Concerns remain over the trip generation from the proposal, the workings of the proposed new road and land

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assembly for the development, all matters that are fundamental in determining whether or not the development accords with local and national policies. Holding objections remain in place from Highways England and DCC Highways.

The proposed development also fails to provide an adequate level of residential amenity for those proposed new residents in respect of air quality, noise and connections to local amenities. The application also fails to demonstrate the provision of or access to open space which is essential given the island location of this application site which is relatively disconnected from existing residential streets/communities. The proposal therefore would provide an unsatisfactory living environment for those future occupiers.

The benefits of the proposal and the adverse impacts must be considered in term of the overall planning balance. The proposal has the potential to deliver new housing, create jobs and provide an alternative access to the large hospital car park. However, the number of houses is relatively small and the number of jobs likely to be created is also likely to be limited.

The benefits must be considered against the adverse impacts. This requires considering the details of the proposal against place making, context, highway safety and amenity. This location is an island site and therefore compliance with these policies is more crucial.

It is also material to consider that although the development could contribute towards meeting housing needs, the limited number of units would not be considered to significantly contribute to the housing targets. The application is for up to 80 dwellings however the exact number of units that can be developed on this site once the necessary physical constraints, internal roads, buffer zone, sustainable drainage solutions and the like have been designed is not clear. With fewer dwellings the benefits also reduce.

Overall, the proposed mixed use development on land at Rough Heanor Farm is considered to be an unacceptable form of development for the reasons set out above. The benefits arising from the scheme do not outweigh the significant dis-benefits. The proposal would result in the loss of green wedge land for which there is no justification. The introduction of retail (food and drink uses) in this location is unacceptable. The proposal also fails to demonstrate the provision of a safe egress and access to the site and confirm that the significant highway works would not have a severe impact on the existing road network. Furthermore the application fails to provide a satisfactory level of residential amenity. In addition the application fails to provide a sufficient/updated bat survey and suitable mitigation in line with Habitat Regulations.

In light of the above I recommend planning permission is refused as the proposal does not constitute an acceptable form of development and would not comply with the National Planning Policy Framework, the Derby City Local Plan – Part 1 Core Strategy (Adopted 2017) and the saved policies within the City of Derby Local Plan Review (Adopted 2006).

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

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

**To refuse planning permission**

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

1. In the opinion of the Local Planning Authority the mixed used residential and commercial development of this site would be unacceptable in principle. Its location in a defined 'green wedge' would result in the erosion of its open character and the proposal would harm the role the site currently plays in separating and defining the character of the Mickleover/Littleover area, acting as a buffer between those existing neighbourhoods and significant planned development to the north. As such, the proposal would seriously compromise the role and function of the green wedge in this location, contrary to the aims of policy CP18 of the adopted Derby City Local Plan - Part 1: Core Strategy.
2. In the opinion of the Local Planning Authority the applicant has failed to demonstrate:
  - that the proposed development can achieve a safe and suitable access for all people;
  - through transport modelling, that the improvements undertaken within the transport network would cost effectively mitigate the impact of the development;
  - that the proposed highways works are deliverable through site assembly.

The proposal is therefore contrary to policy CP23 and MH1 of the adopted Derby City Local Plan - Part 1: Core Strategy and paragraphs 108 and 109 of the National Planning Policy Framework (July 2018).

3. In the opinion of the Local Planning Authority the applicant has failed to satisfactorily demonstrate compliance with the Retail Sequential Test. The submitted information fails to sufficiently justify the impact of the proposed commercial uses in this out-of-centre location. As such the proposal is contrary to policies CP12 and CP13 of the adopted Derby City Local Plan - Part 1: Core Strategy and paragraph 86-90 of the National Planning Policy Framework (July 2018).
4. In the opinion of the Local Planning Authority the proposed residential development is considered to provide an unsatisfactory level of amenity to future residents by virtue of the application sites location adjacent to and surrounded by a strategic road network. The submitted information demonstrates that there would be high levels of noise that may not be sufficiently mitigated for by the 4.5 metre high acoustic barrier and some residential units may need to keep windows shut at all times. The application site would be also be subject to high levels of air pollution. The application site also fails to provide open space for future residents either on site or contributions to this provision. In addition the application site provides limited connectivity to areas of open space and amenities and it would essentially

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function as an 'island site' disconnected from the existing residential streets/communities. As such, the proposal is contrary to policy MH1, CP17 and CP3 of the adopted Derby City Local Plan - Part 1: Core Strategy and policies GD4, GD5 and H13 of the adopted City of Derby Local Plan Review.

5. In the opinion of the Local Planning Authority there is insufficient information and details submitted with the application to consider the proposed development and the applicant has failed to provide an updated Protected Species Survey. The existing building has the potential to support roosting bats and without such assessment work the Local Planning Authority cannot assess the potential impact of the development on roosting bats; the presence of protected species and the extent to which they may be affected by the proposed development. In the absence of this information the Local Planning Authority cannot fulfil its legal requirements under the Habitat Regulations. Therefore, the proposal is contrary to policies CP16 and CP19 of the adopted Derby City Local Plan - Part 1: Core Strategy.
6. In the opinion of the Local Planning Authority the application fails to demonstrate that the proposed development would not have a significant impact on the setting of the non-designated heritage asset, 'Rough Heanor Farm'. Limited certainty has been provided within the submitted details of the proposed access, with its supporting structures/embankments and mitigation measures (buffer and fencing), and the associated impact on the setting of the non-designated heritage asset. The proposal is therefore contrary to policy CP20 of the Derby City Local Plan - Part 1: Core Strategy, saved policy E19 of the City of Derby Local Plan Review and paragraph 197 of the National Planning Policy Framework.

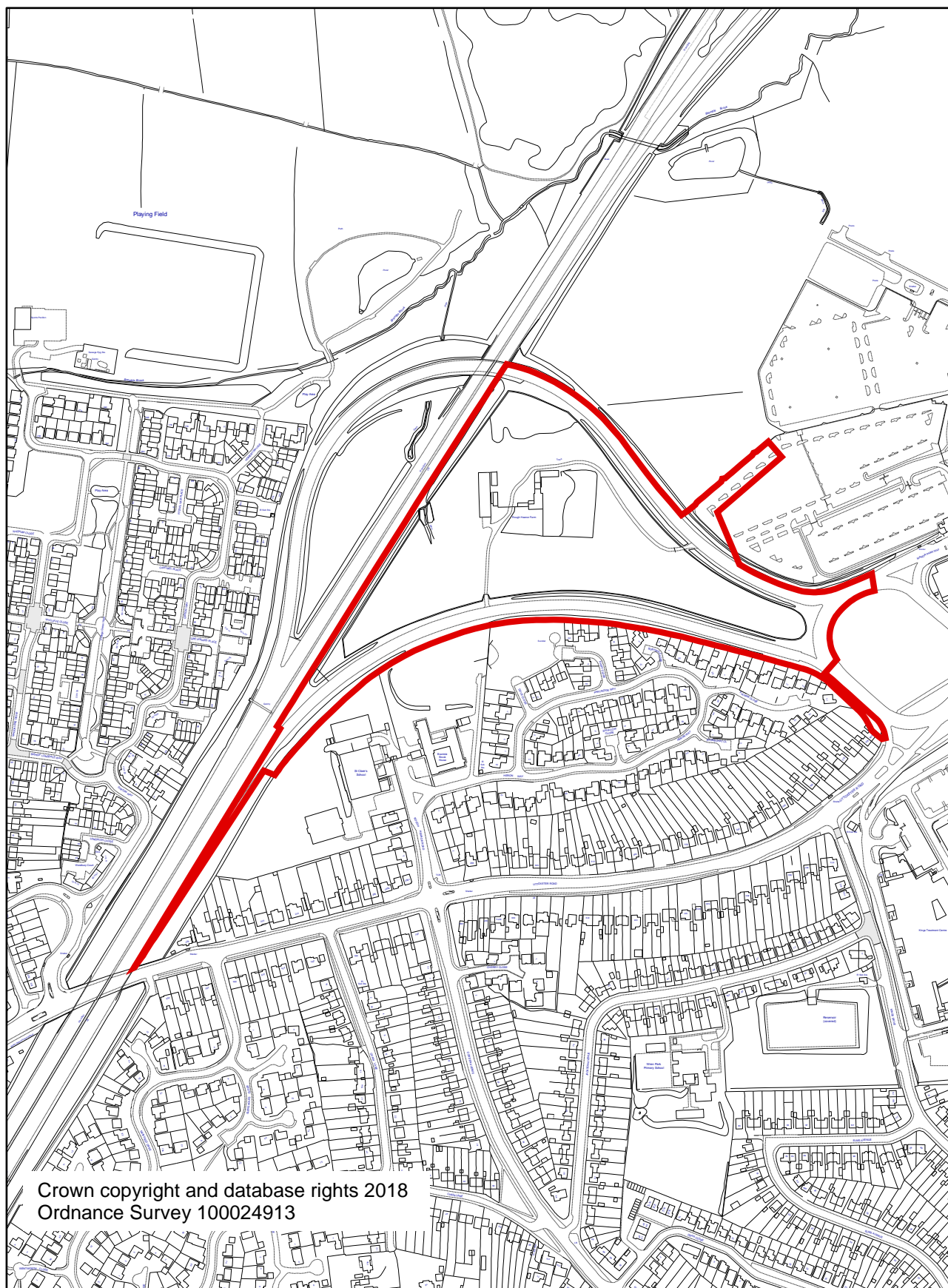
### **8.3. Application timescale:**

The application was submitted in October 2015 and despite various requests from the Local Planning Authority the applicant has failed to agree an extension of time.

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## Derby City Council

Delegated decisions made between 01/08/2018 and 31/08/2018

Application No.	Application Type	Location	Proposal	Decision	Decision Date
09/17/01243/PRI	Full Planning Permission	124 Osmaston Road, Derby	Alterations to include raising of the roof height and installation of new windows including dormers	Refuse Planning Permission	29/08/2018
11/17/01462/PRI	Outline Planning Permission	Garage Court, Marks Close, Sunnyhill, Derby	Demolition of garage block. Erection of replacement garages with two apartments above	Refuse Planning Permission	03/08/2018
12/17/01671/PRI	Variation/Waive of condition(s)	The Needles, Bembridge Drive, Alvaston, Derby	Erection of a single storey convenience store with associated car parking, landscaping, access arrangements and ATM on land adjacent to the Needles Public House - variation of condition 2 of previously approved planning permission Code No. DER/03/17/00291 to include the installation of three satellite dishes, louvres, canopy and acoustic screen	Granted Conditionally	29/08/2018
01/18/00017/PRI	Full Planning Permission	1 Newlyn Drive, Derby	Two storey side and first floor rear extensions to dwelling house (lounge, w.c., utility, kitchen/dining area, three bedrooms, en-suite and bathroom)	Granted Conditionally	22/08/2018
02/18/00224/PRI	Full Planning Permission	Site A, Pektron Ltd, Alfreton Road, Derby	Demolition of existing buildings. Erection of a replacement four storey research and development building	Granted Conditionally	14/08/2018
03/18/00427/PRI	Full Planning Permission	9 Dunsmore Drive, Oakwood, Derby	Single storey extensions to dwelling (shower room, utility room, kitchen/dining room and orangery) installation of a canopy to the front elevation and erection of a detached garage	Granted Conditionally	13/08/2018
04/18/00496/PRI	Full Planning Permission	Dovedale House, 73 Wilson Street, Derby	Change of use of ground, first floor and second floors from offices to two houses in multiple occupation (use class C4)	Granted Conditionally	02/08/2018



Application No.	Application Type	Location	Proposal	Decision	Decision Date
04/18/00497/PRI	Listed Building Consent - alterations	Dovedale House, 73 Wilson Street, Derby	Alterations in association with the change of use of ground, first floor and second floors from offices to two houses in multiple occupation	Granted Conditionally	03/08/2018
04/18/00520/PRI	Full Planning Permission	223 Blagreaves Lane, Littleover, Derby	First floor side and rear extensions to dwelling house (two bedrooms, en-suite and bathroom)	Granted Conditionally	01/08/2018
04/18/00525/PRI	Full Planning Permission	3 Swarkestone Road, Chellaston, Derby, (The Co-operative Food)	Retention of the installation of an ATM	Granted Conditionally	29/08/2018
04/18/00526/PRI	Advertisement consent	3 Swarkestone Road, Chellaston, Derby, (The Co-operative Food)	Retention of the display of internally illuminated ATM signage	Granted Conditionally	29/08/2018
04/18/00532/PRI	Full Planning Permission	16 Whitaker Street, Derby	First floor rear extension to dwelling house (bedroom)	Granted Conditionally	03/08/2018
04/18/00561/PRI	Advertisement consent	Unit 2a Meteor Centre, Mansfield Road, Derby	Display of one LED illuminated display board	Granted Conditionally	21/08/2018
04/18/00564/PRI	Full Planning Permission	Esso Service Station, Harvey Road, Derby	Retention of the installation of an ATM	Granted Conditionally	02/08/2018
04/18/00565/PRI	Advertisement consent	Esso Service Station, Harvey Road, Derby	Retention of the display of internally illuminated ATM signage	Granted Conditionally	02/08/2018
04/18/00566/PRI	Works to Trees under TPO	5 Queen Mary Court, Derby	Felling of a Yew tree protected by Tree Preservation Order no. 64	Refuse Planning Permission	03/08/2018
04/18/00567/PRI	Full Planning Permission	Site of the Former Coes (Derby) Ltd, Thirsk Place, Derby	Demolition of the existing industrial units. Erection of 15 industrial units (use class B2) and one MOT testing station and car wash facility (sui generis use)	Granted Conditionally	30/08/2018
04/18/00573/PRI	Full Planning Permission	17 Chesterton Road, Spondon, Derby	Two storey side and single storey front and rear extensions to dwelling house (w.c, covered way, enlargement of kitchen/family area, bedroom and en-suite)	Granted Conditionally	17/08/2018
04/18/00579/PRI	Full Planning Permission	7 The Spot, Osmaston Road, Derby	Installation of an extraction flue	Granted Conditionally	22/08/2018



Application No.	Application Type	Location	Proposal	Decision	Decision Date
04/18/00583/PRI	Full Planning Permission	18 Horwood Avenue, Derby	First floor rear and single storey front and side extensions to dwelling house (hall, bedroom and enlargement of dining room) and alterations to the appearance of the existing conservatory	Granted Conditionally	07/08/2018
04/18/00597/PRI	Full Planning Permission	52 Glendevon Way, Chellaston, Derby	Single storey side and rear extensions to dwelling house (living space and office/play room)	Granted Conditionally	15/08/2018
04/18/00607/PRI	Full Planning Permission	Century House, St. James Court, Friar Gate, Derby	Retention of the installation of six air conditioning units to the side elevation	Granted Conditionally	08/08/2018
04/18/00637/PRI	Full Planning Permission	147 Dale Road, Spondon, Derby	Two storey side extension to dwelling house (garage, utility, bedroom and en-suite)	Granted Conditionally	15/08/2018
05/18/00642/PRI	Full Planning Permission	78 Derby Road, Spondon, Derby	Single storey side and rear extensions to dwelling house (kitchen, sitting room, store room, bathroom and covered porch)	Granted Conditionally	13/08/2018
05/18/00648/PRI	Full Planning Permission	4 Briars Gate, Allestree, Derby	Single storey rear extension to dwelling house (shower room) with a raised platform	Granted Conditionally	02/08/2018
05/18/00656/PRI	Reserved Matters	Site of 93 - 95 and land at rear of 97 Wiltshire Road, Derby	Residential development (two dwellings) - approval of reserved matters of access, appearance, landscaping, layout and scale under outline permission Code no. DER/02/17/00196	Granted Conditionally	24/08/2018
05/18/00661/PRI	Works to Trees under TPO	12 & 14 Cloisters Court, Oakwood, Derby	Re-pollarding of an Ash tree, crown reduction by 3m of a Horse Chestnut tree and removal of one branch from a Scots Pine tree protected by Tree Preservation Order No. 124	Granted Conditionally	10/08/2018
05/18/00664/PRI	Outline Planning Permission	Land at 35 Wade Drive, Mickleover, Derby	Residential development (one dwelling)	Refuse Planning Permission	01/08/2018
05/18/00672/PRI	Works to Trees under TPO	2 Old Vicarage Close, Littleover, Derby	Felling of two Lime Trees protected by Tree Preservation Order No.37	Refuse Planning Permission	29/08/2018
05/18/00675/PRI	Prior Approval - Householder	60 Mortimer Street, Derby	Single storey rear extension to dwelling house (enlargement of kitchen and bathroom)	Invalid - Finally Disposed of	06/08/2018

Application No.	Application Type	Location	Proposal	Decision	Decision Date
05/18/00681/PRI	Full Planning Permission	10 Fairway Crescent, Allestree, Derby	Two storey side and single storey rear extensions to dwelling house (store, utility, wet room, kitchen/dining area, bedroom and en-suite)	Granted Conditionally	21/08/2018
05/18/00682/PRI	Full Planning Permission	Redwood Junior & Infant School, Redwood Road, Sinfin, Derby	Installation of replacement windows and door and four fire doors with access ramps	Granted Conditionally	03/08/2018
05/18/00696/PRI	Certificate of Lawfulness Proposed Use	27 Rosehill Street, Derby	Change of use of the ground floor from residential (use class C3) to cafe (use class A3)	Invalid - Finally Disposed of	06/08/2018
05/18/00711/PRI	Full Planning Permission	21 Woodsorrel Drive, Oakwood, Derby	Two storey rear extension to dwelling house (dining/kitchen area, bedroom and en-suite) and installation of a new first floor window to the side elevation	Granted Conditionally	31/08/2018
05/18/00721/PRI	Full Planning Permission	4 Gilbert Street, Alvaston, Derby	Single storey rear extension to dwelling (lounge and utility room) and roof alterations to form rooms in the roof space (two bedrooms)	Granted Conditionally	02/08/2018
05/18/00726/PRI	Full Planning Permission	Public Open Space, Oaklands Avenue, Derby, (linking Oaklands Avenue and Millennium Park)	Formation of a multi user path	Granted Conditionally	02/08/2018
05/18/00729/PRI	Full Planning Permission	3 Davids Close, Chellaston, Derby	Single storey rear extension to dwelling (enlargement of living room)	Granted Conditionally	02/08/2018
05/18/00732/PRI	Full Planning Permission	179 Kedleston Road, Derby	Change of use of part of ground floor to a micropub (Use Class A4)	Granted Conditionally	10/08/2018
05/18/00744/PRI	Full Planning Permission	20 Horwood Avenue, Derby	Two storey and single storey rear extensions to dwelling house (kitchen/family room, two bedrooms and three en-suites) with rooms in the roof space (three bedrooms, bathroom and storage) including installation of a new window to the first floor side elevation - amendments to previously approved planning permission Code No. DER/12/17/01642 to increase the size of the rear dormer	Granted Conditionally	21/08/2018

Application No.	Application Type	Location	Proposal	Decision	Decision Date
05/18/00766/PRI	Full Planning Permission	20 Kenilworth Avenue, Derby	Two storey and single storey extensions to dwelling house (porch, garage, granny room, w.c., utility, kitchen, lounge, two bedrooms, en-suite and bathroom) with rooms in the roof space (bedroom, dressing room, wardrobe and w.c.). Removal of existing boundary hedges and erection of 1.5m high walls/fences/gates on all site boundaries.	Granted Conditionally	17/08/2018
05/18/00783/PRI	Full Planning Permission	7 Harebell Close, Oakwood, Derby	Single storey side extension to dwelling house (kitchen and tv room) including the installation of a new bay window	Granted Conditionally	02/08/2018
05/18/00787/PRI	Full Planning Permission	Derwent House, 4 Gosforth Road, Derby	Erection of a bike store	Granted Conditionally	24/08/2018
05/18/00804/PRI	Full Planning Permission	5-6 Strand Arcade, The Strand, Derby	Change of use from restaurant (use class A3) to a mixed use of restaurant and drinking establishment (use classes A3 and A4)	Granted Conditionally	10/08/2018
05/18/00806/PRI	Full Planning Permission	Unit 1, Copeland Street, Derby	Demolition of the existing workshop building. Change of use of the land to a car park for a temporary period of two years	Granted Conditionally	24/08/2018
05/18/00808/PRI	Variation/Waive of condition(s)	Wyndham Street, Alvaston, Derby, DE24 0EP	Demolition of clinic building and erection of classroom block-Variation of condition No.2 of previously approved proposal Code No. DER/06/16/00708 to alter the appearance of the block.	Granted Conditionally	07/08/2018
05/18/00812/PRI	Full Planning Permission	Majority House, 51 Lodge Lane, Derby	Change of use from offices (use class B1) to four six bed flats in multiple occupation (use class C4) including a third floor roof extension	Granted Conditionally	07/08/2018
05/18/00815/PRI	Listed Building Consent - alterations	5-6 Strand Arcade, The Strand, Derby	Internal alterations to the first floor to create new toilets	Granted Conditionally	10/08/2018

Application No.	Application Type	Location	Proposal	Decision	Decision Date
05/18/00819/PRI	Full Planning Permission	63 Craddock Avenue, Spondon, Derby	Two storey side and single storey rear extensions to dwelling house (utility, wet room, two bedrooms, living/dining room and en-suite)	Granted Conditionally	02/08/2018
06/18/00821/PRI	Full Planning Permission	5 New Zealand Square, Derby	Single storey front extension to dwelling house (conservatory)	Refuse Planning Permission	07/08/2018
06/18/00829/PRI	Full Planning Permission	5 Gayton Avenue, Littleover, Derby	Two storey side/rear extension to dwelling house (kitchen and bedroom) and installation of a new window to the first floor side elevation	Granted Conditionally	24/08/2018
06/18/00835/PRI	Variation/Waive of condition(s)	Land at side of 25 Fairbourne Drive, Mickleover, Derby	Erection of dwelling house - approval of reserved matters of appearance, landscaping and scale under outline permission Code no. DER/03/12/00268/PRI - Variation of condition 1 of previously approved permission Code No. DER/01/15/00118 to form rooms in the roof space (bedroom, dressing room and store/study) including the installation of rooflights to the front, side and rear elevations and removal of a chimney	Granted Conditionally	03/08/2018
06/18/00839/PRI	Works to Trees under TPO	Asda, Derby Road, Spondon, Derby	Various works to trees protected by Tree Preservation Order no's 12, 174 and 407	Granted Conditionally	03/08/2018
06/18/00840/PRI	Advertisement consent	Car Dealership, Sir Frank Whittle Road, Derby (Bristol Street Motors)	Display of various signage	Granted Conditionally	16/08/2018
06/18/00841/PRI	Full Planning Permission	27 Sinfin Moor Lane, Chellaston, Derby	Raising of the roof height to form rooms in the roof space (bedroom, en-suite and storage), single storey front and rear extensions to dwelling house (porch and dining room) and formation of a raised patio	Granted Conditionally	22/08/2018
06/18/00846/PRI	Certificate of Lawfulness Proposed Use	21 Melbourne Close, Mickleover, Derby	Installation of a new roof with roof light to the existing single storey side projection	Granted	01/08/2018
06/18/00849/PRI	Full Planning Permission	34 Jubilee Road, Shelton Lock, Derby	Single storey side extension to dwelling house (w.c. and enlargement of kitchen)	Granted Conditionally	02/08/2018

Application No.	Application Type	Location	Proposal	Decision	Decision Date
06/18/00855/PRI	Full Planning Permission	Suite 3A, First Floor, 42 Friar Gate, Derby	Change of use from offices (use class B1) to a tutoring centre (use class D1)	Granted Conditionally	02/08/2018
06/18/00863/PRI	Full Planning Permission	109 Old Chester Road, Derby	Installation of replacement windows and door to the front elevation	Granted Conditionally	07/08/2018
06/18/00864/PRI	Listed Building Consent - alterations	6 Vernon Street, Derby	Installation of three vinyls to the existing bay windows	Granted Conditionally	03/08/2018
06/18/00868/PRI	Full Planning Permission	23 Charnwood Avenue, Littleover, Derby	Retention of the installation of a boundary fencing and gates and the erection of a detached garage	Granted Conditionally	02/08/2018
06/18/00872/PRI	Works to Trees under TPO	2 Rochley Close, Oakwood, Derby	Crown reduction by 2 to 3 metres of an Oak tree protected by Tree Preservation Order no. 477	Granted Conditionally	13/08/2018
06/18/00873/PRI	Full Planning Permission	17 Sinfin Avenue, Allenton, Derby	Erection of an outbuilding (shed)	Granted	10/08/2018
06/18/00875/PRI	Works to Trees under TPO	Derby Grammar School, Rykneld Road, Littleover, Derby	Various works to trees protected by Tree Preservation Order No.78. Maintenance works to be carried out for a period of 10 years	Granted Conditionally	10/08/2018
06/18/00876/PRI	Full Planning Permission	Derby College, The Roundhouse, Roundhouse Road, Pride Park, Derby	Erection of a catering marquee for temporary period (from 1 October 2018 to 7 January 2019)	Granted Conditionally	02/08/2018
06/18/00878/PRI	Full Planning Permission	41 Empress Road, Derby	Installation of a dormer with windows to the side elevation to form rooms in the roof space (bathroom and store)	Granted Conditionally	16/08/2018
06/18/00881/PRI	Full Planning Permission	50 Gisborne Crescent, Allestree, Derby	First floor side and single storey rear extensions to dwelling house (bedroom, canopy and living space) and formation of a raised patio area to the rear elevation	Granted Conditionally	29/08/2018
06/18/00885/PRI	Full Planning Permission	21 Ravenscroft Drive, Chaddesden, Derby	Single storey front extension to dwelling house (porch) and erection of an outbuilding	Granted Conditionally	08/08/2018
06/18/00891/PRI	Full Planning Permission	15 Wood Road, Spondon, Derby	Two storey side and single storey front and rear extensions to dwelling house (porch, bedroom, w.c., enlargement of store, kitchen/dining area and bathroom)	Granted Conditionally	16/08/2018

Application No.	Application Type	Location	Proposal	Decision	Decision Date
06/18/00894/PRI	Full Planning Permission	54 Harewood Road, Allestree, Derby	Single storey rear extension to dwelling (enlargement of kitchen)	Granted Conditionally	29/08/2018
06/18/00897/PRI	Full Planning Permission	6 Sandfield Close, Oakwood, Derby	First floor extension to dwelling house (bedroom and en-suite)	Granted Conditionally	31/08/2018
06/18/00898/PRI	Full Planning Permission	101 Uttoxeter Road, Mickleover, Derby	Two storey and single storey side extensions to dwelling house (garage, play room, two bedrooms and storage)	Granted Conditionally	16/08/2018
06/18/00899/PRI	Full Planning Permission	106 Brackensdale Avenue, Derby	Single storey side and rear extensions to dwelling house(kitchen/dining space, utility, sun lounge and bathroom). Demolition of existing garage and extension of raised patio area.	Granted Conditionally	10/08/2018
06/18/00902/PRI	Full Planning Permission	210 Uttoxeter Road, Mickleover, Derby	Single storey rear extension to dwelling house (conservatory)	Granted Conditionally	03/08/2018
06/18/00910/PRI	Full Planning Permission	Rosehill Business Centre, Normanton Road, Derby (Honey Bee Bakery)	Retention of the installation of an ATM	Granted Conditionally	31/08/2018
06/18/00911/PRI	Advertisement consent	Rosehill Business Centre, Normanton Road, Derby (Honey Bee Bakery)	Retention of the installation of internally illuminated ATM surround	Granted Conditionally	31/08/2018
06/18/00912/PRI	Full Planning Permission	42 Watson Street, Derby	Three storey rear extensions to dwelling house (kitchen/living space and two bedrooms)	Granted Conditionally	09/08/2018
06/18/00913/PRI	Full Planning Permission	78 Uttoxeter Road, Mickleover, Derby	Single storey rear to dwelling house (dining/living space)	Granted Conditionally	07/08/2018
06/18/00917/PRI	Full Planning Permission	6A Albion Street, Derby	Change of use from retail (use class A1) to a flexible use of retail/cafe/restaurant (Use Classes A1 and A3 )	Granted Conditionally	07/08/2018
06/18/00922/PRI	Certificate of Lawfulness Proposed Use	1 Troutbeck Grove, Littleover, Derby	Single storey rear extension to dwelling house (enlargement of kitchen/dining area and utility)	Granted	13/08/2018
06/18/00924/PRI	Full Planning Permission	31 Ravenscroft Drive, Chaddesden, Derby	Single storey side/rear extension to dwelling house (sun room)	Granted Conditionally	09/08/2018

Application No.	Application Type	Location	Proposal	Decision	Decision Date
06/18/00926/PRI	Full Planning Permission	6 Sale Street, Derby	Single storey rear extension to dwelling house (enlargement of shower room)	Granted Conditionally	13/08/2018
06/18/00927/PRI	Full Planning Permission	199 Ladybank Road, Mickleover, Derby	Two storey side and single storey front extensions to dwelling house (porch, utility, w.c., bedroom, bathroom and enlargement of kitchen)	Granted Conditionally	07/08/2018
06/18/00930/PRI	Full Planning Permission	40 Watson Street, Derby	Two storey side and single storey rear extensions to dwelling house (kitchen/living space, store two bedrooms with en-suites) and installation of a rear dormer to form rooms in the roof space (bedroom and en-suite)	Granted Conditionally	08/08/2018
06/18/00931/PRI	Full Planning Permission	14 Adwick Close, Mickleover, Derby	Two storey side extension to dwelling house (utility room, w.c., bedroom, bathroom and enlargement of kitchen/diner and hall)	Granted Conditionally	08/08/2018
06/18/00933/PRI	Prior Approval - Telecommunications	Land adjacent to 7-11 St. Peters Street, Derby	Installation of a telephone kiosk	Prior Approval Refused	09/08/2018
06/18/00934/PRI	Prior Approval - Telecommunications	Land adjacent to 15-16 Market Place (Nando's), Derby	Installation of a telephone kiosk	Prior Approval Refused	09/08/2018
06/18/00935/PRI	Prior Approval - Telecommunications	Land adjacent to 5-6 Market Place (Santander), Derby	Installation of a telephone kiosk	Prior Approval Refused	09/08/2018
06/18/00936/PRI	Prior Approval - Telecommunications	Land adjacent to 1 Royal Buildings, Victoria Street, Derby	Installation of a telephone kiosk	Prior Approval Refused	09/08/2018
06/18/00937/PRI	Prior Approval - Telecommunications	Land adjacent to 17-24 Victoria Street, Derby	Installation of a telephone kiosk	Prior Approval Refused	09/08/2018
06/18/00938/PRI	Prior Approval - Telecommunications	Land adjacent to 22-26 St Peters Street (Barclays), Derby	Installation of a telephone kiosk	Prior Approval Refused	09/08/2018
06/18/00939/PRI	Prior Approval - Telecommunications	Land adjacent to 52 St Peters Street (Argento) Derby	Installation of a telephone kiosk	Prior Approval Refused	29/08/2018
06/18/00940/PRI	Prior Approval - Telecommunications	Land adjacent to 93-95 St Peters Street, Derby	Installation of a telephone kiosk	Prior Approval Refused	13/08/2018
06/18/00941/PRI	Prior Approval - Telecommunications	Land adjacent to 117 St Peters Street (Pure Gym), Derby	Installation of a telephone kiosk	Prior Approval Refused	13/08/2018



Application No.	Application Type	Location	Proposal	Decision	Decision Date
06/18/00942/PRI	Prior Approval - Telecommunications	Land adjacent to 11 Exchange Street (Thomas Cook), Derby	Installation of a telephone kiosk	Prior Approval Refused	09/08/2018
06/18/00943/PRI	Prior Approval - Telecommunications	Land adjacent to 11-13 East Street, Derby	Installation of a telephone kiosk	Prior Approval Refused	09/08/2018
06/18/00944/PRI	Prior Approval - Telecommunications	Land at Morledge, Derby (Adjacent to 1 East Street)	Installation of a telephone kiosk	Prior Approval Refused	09/08/2018
06/18/00945/PRI	Prior Approval - Telecommunications	Land adjacent to The Old Post Office (Bar Soba), Victoria Street, Derby	Installation of a telephone kiosk	Prior Approval Refused	09/08/2018
06/18/00946/PRI	Prior Approval - Telecommunications	Land adjacent to 115 St Peters Street, Derby	Installation of a telephone kiosk	Prior Approval Approved	10/08/2018
06/18/00947/PRI	Prior Approval - Telecommunications	Land adjacent to 15 London Road, Derby	Installation of a telephone kiosk	Prior Approval Approved	13/08/2018
06/18/00948/PRI	Prior Approval - Telecommunications	Land in front of 1 and 2 East Street, Derby	Installation of a telephone kiosk	Prior Approval Refused	09/08/2018
06/18/00949/PRI	Advertisement consent	Land adjacent to 7-11 St. Peters Street (Tesco Metro), Derby	Display of an internally illuminated panel sign	Refuse Planning Permission	10/08/2018
06/18/00950/PRI	Advertisement consent	Land adjacent to 15-16 Market Place (Nando's), Derby	Display of an internally illuminated panel sign	Refuse Planning Permission	10/08/2018
06/18/00951/PRI	Advertisement consent	Land adjacent to 5-6 Market Place (Santander), Derby	Display of an internally illuminated panel sign	Refuse Planning Permission	10/08/2018
06/18/00952/PRI	Advertisement consent	Land adjacent to 1 Royal Buildings, Victoria Street, Derby	Display of an internally illuminated panel sign	Refuse Planning Permission	13/08/2018
06/18/00953/PRI	Advertisement consent	Land adjacent to 17-24 Victoria Street, Derby	Display of an internally illuminated panel sign	Refuse Planning Permission	08/08/2018
06/18/00954/PRI	Advertisement consent	Land adjacent to 22-26 St Peters Street (Barclays), Derby	Display of an internally illuminated panel sign	Refuse Planning Permission	10/08/2018
06/18/00955/PRI	Advertisement consent	Land adjacent to 52 St Peters Street, Derby	Display of an internally illuminated panel sign	Refuse Planning Permission	10/08/2018
06/18/00956/PRI	Advertisement consent	Land adjacent to 93-95 St Peters Street, Derby	Display of an internally illuminated panel sign	Refuse Planning Permission	13/08/2018



Application No.	Application Type	Location	Proposal	Decision	Decision Date
06/18/00957/PRI	Advertisement consent	1B Glencar Close, Derby Commercial Park, Derby (C H Robinson)	Display of one internally illuminated fascia sign	Granted Conditionally	31/08/2018
06/18/00958/PRI	Variation/Waive of condition(s)	Derwent Valley Medical Centre, 16 St. Marks Road, Derby	Single storey side extension to medical centre (office) - variation of condition 2 of previously approved planning permission Code No. DER/02/18/00183 to amend the internal layout and window and door positions	Granted Conditionally	22/08/2018
06/18/00959/PRI	Prior Approval - Telecommunications	Land adjacent to 27 East Street, Derby	Installation of a telephone kiosk	Prior Approval Refused	09/08/2018
06/18/00960/PRI	Advertisement consent	Land adjacent to 117 St Peters Street (Pure Gym), Derby	Display of an internally illuminated panel sign	Refuse Planning Permission	13/08/2018
06/18/00961/PRI	Advertisement consent	Land adjacent to 27 East Street, Derby	Display of an internally illuminated panel sign	Refuse Planning Permission	10/08/2018
06/18/00962/PRI	Advertisement consent	Land adjacent to 11 Exchange Street, Derby	Display of an internally illuminated panel sign	Refuse Planning Permission	10/08/2018
06/18/00963/PRI	Advertisement consent	Land adjacent to 11-13 East Street, Derby	Display of an internally illuminated panel sign	Refuse Planning Permission	08/08/2018
06/18/00964/PRI	Advertisement consent	Land at Morledge, Derby (Adjacent to 1 East Street)	Display of an internally illuminated panel sign	Refuse Planning Permission	08/08/2018
06/18/00965/PRI	Advertisement consent	Land adjacent to The Old Post Office (Bar Soba), Victoria Street, Derby	Display of an internally illuminated panel sign	Refuse Planning Permission	10/08/2018
06/18/00966/PRI	Advertisement consent	Land adjacent to 115 St Peters Street, Derby	Display of an internally illuminated panel sign	Granted	10/08/2018
06/18/00967/PRI	Advertisement consent	Land adjacent to 15 London Road, Derby	Display of an internally illuminated panel sign	Granted Conditionally	13/08/2018
06/18/00968/PRI	Advertisement consent	Land in front of 1 and 2 East Street, Derby	Display of an internally illuminated panel sign	Refuse Planning Permission	10/08/2018
06/18/00969/PRI	Certificate of Lawfulness Proposed Use	67 Brackens Lane, Alvaston, Derby	Single storey rear extension to dwelling house (lounge and enlargement of kitchen)	Granted	15/08/2018

Application No.	Application Type	Location	Proposal	Decision	Decision Date
06/18/00970/PRI	Full Planning Permission	2 Ferrers Way, Derby	Single storey side extension to dwelling house (kitchen and utility)	Granted Conditionally	22/08/2018
06/18/00978/PRI	Outline Planning Permission	Land at the rear of 7 Western Road, Mickleover, Derby	Residential development - one dwelling (use class C3) - Principle of development and access.	Granted Conditionally	22/08/2018
06/18/00979/PRI	Full Planning Permission	15 Victoria Street, Derby	Change of use from retail (use class A1) to restaurant (use class A3) including installation of an extraction flue and air conditioning units	Withdrawn Application	17/08/2018
06/18/00983/PRI	Certificate of Lawfulness Proposed Use	4 Weirfield Road, Darley Abbey, Derby	Two storey rear extension to dwelling house (living room and bedroom)	Granted	17/08/2018
06/18/00988/PRI	Full Planning Permission	66 Gladstone Street, Derby	Demolition of existing Garage. Two storey side and single storey rear extensions to dwelling house (living room, bedroom, en-suite and kitchen/dining area)	Granted Conditionally	10/08/2018
06/18/00991/PRI	Variation/Waive of condition(s)	Land to the rear of 397-399 Burton Road and adjacent 141 Whitaker Road, Derby (access via Whitaker Road)	Erection of dwelling house and boundary wall - Variation of condition 2 of previously approved permission code no. DER/07/15/00877 - to increase the size of the house and amend the approved floor plans and elevations	Granted Conditionally	20/08/2018
06/18/00996/PRI	Full Planning Permission	71 Chapel Lane, Spondon, Derby	Single storey front extension to dwelling house (w.c. and enlargement of hall)	Granted Conditionally	13/08/2018
06/18/00998/PRI	Full Planning Permission	Site of 14a Longley Lane, Spondon, Derby	Demolition of dwelling house. Erection of a replacement dwelling house (use class C3)	Granted Conditionally	10/08/2018
06/18/00999/PRI	Reserved Matters	Land at Hackwood Farm, Radbourne Lane, Mickleover, Derby (access from Starflower Way)	Erection of a primary school, and associated infrastructure and landscaping pursuant to conditons 1(a) and (b) on previously approved application Code No. DER/06/15//00847.	Granted Conditionally	23/08/2018
06/18/01003/PRI	Full Planning Permission	Derby Delivery Office, Midland Road, Derby	Retention of change of use to mixed uses of storage and distribution (use Class B8), general industrial (use class B2) and retail (use class A1)	Granted Conditionally	22/08/2018

Application No.	Application Type	Location	Proposal	Decision	Decision Date
06/18/01004/PRI	Full Planning Permission	49 Prescott Close, Mickleover, Derby	Two storey side and single storey front and rear extensions to dwelling house (kitchen, utility room, garage and two bedrooms)	Granted Conditionally	16/08/2018
07/18/01006/PRI	Advertisement consent	35 Victoria Street, Derby	Display of two internally illuminated fascia signs	Granted Conditionally	17/08/2018
07/18/01014/PRI	Full Planning Permission	Rebecca House complex, Uttoxeter Old Road, Derby	Formation of four additional parking spaces	Granted Conditionally	20/08/2018
07/18/01016/PRI	Works to Trees under TPO	9 Park Wood Close, Allestree, Derby	Felling of an Ash tree protected by Tree Preservation Order no. 471	Granted Conditionally	29/08/2018
07/18/01019/PRI	Full Planning Permission	36 Devonshire Avenue, Allestree, Derby	Two storey side and single storey rear extensions to dwelling house (garage, utility, kitchen, lounge, bedroom and bathroom) - amendments to previously approved planning permission Code No. DER/01/18/000029 to change a side elevation window to a door and replace the roof tiles	Granted Conditionally	31/08/2018
07/18/01021/PRI	Full Planning Permission	27 Longford Street, Derby	Change of use of outbuilding to form two bedsits (use class C3)	Granted Conditionally	22/08/2018
07/18/01022/PRI	Certificate of Lawfulness Proposed Use	2 Leafenden Close, Darley Abbey, Derby	Single storey rear extension to dwelling (enlargement of dining area) and conversion of part of the existing garage to a utility room	Granted	29/08/2018
07/18/01024/PRI	Full Planning Permission	34 Hartington Way, Mickleover, Derby	Two storey side and single storey side and rear extensions to dwelling house (snug, utility room, w.c., en-suite and enlargement of kitchen and bedroom) - amendments to previously approved planning permission Code No. DER/02/18/00211 to amend the first floor element	Granted Conditionally	23/08/2018
07/18/01025/PRI	Certificate of Lawfulness Proposed Use	46A Middleton Avenue, Littleover, Derby	Formation of rooms in the roof space including installation of two rooflights and an internal staircase	Granted	29/08/2018
07/18/01027/PRI	Full Planning Permission	145 Boulton Lane, Derby	Formation of a driveway	Granted Conditionally	31/08/2018

Application No.	Application Type	Location	Proposal	Decision	Decision Date
07/18/01028/PRI	Prior Approval - Householder	9 Vicarwood Avenue, Darley Abbey, Derby, DE22 1BX	Single storey rear extension (projecting beyond the rear wall of the original house by 6m, maximum height 3m, maximum height to eaves 3m) to dwelling house	Prior Approval Approved	02/08/2018
07/18/01033/PRI	Full Planning Permission	3 Hanover Square, Derby	Single storey rear extension to dwelling house (enlargement of kitchen)	Granted Conditionally	24/08/2018
07/18/01039/PRI	Full Planning Permission	9 Heathcote Close, Alvaston, Derby	Single storey side extension to dwelling house (kitchen/dining room)	Granted Conditionally	29/08/2018
07/18/01042/PRI	Full Planning Permission	75 Brackensdale Avenue, Derby	Single storey rear extension to dwelling (bedroom and en-suite)	Granted Conditionally	29/08/2018
07/18/01043/PRI	Advertisement consent	Odeon Cinema, Meteor Centre, Mansfield Road, Derby	Display of various signage	Granted Conditionally	31/08/2018
07/18/01046/PRI	Full Planning Permission	52 Sinfin Moor Lane, Chellaston, Derby	Demolition of dwelling house. Erection of a replacement dwelling house, double garage and boundary wall (use class C3)	Granted Conditionally	31/08/2018
07/18/01085/PRI	Prior Approval - Householder	11 Elmwood Drive, Breadsall, Derby	Single storey rear extension (projecting beyond the rear wall of the original house by 6m, maximum height 3.6m, height to eaves 2.8m) to dwelling house	Prior Approval Not required	20/08/2018
07/18/01100/PRI	Prior Approval - Householder	14 School Lane, Chellaston, Derby	Single storey rear extension (projecting beyond the rear wall of the original house by 5m, maximum height 3m, height to eaves 3m) to dwelling house	Prior Approval Not required	23/08/2018
07/18/01117/PRI	Prior Approval - Householder	36 Dairyhouse Road, Derby, DE23 8HL	Single storey rear extension (projecting beyond the rear wall of the original house by 5.7m, maximum height 2.85m, height to eaves 2.85m) to dwelling house	Prior Approval Not required	23/08/2018
07/18/01128/PRI	Certificate of Lawfulness Proposed Use	30 Hilltop, Oakwood, Derby	Erection of an outbuilding (workshop and garden room)	Granted	31/08/2018
07/18/01130/PRI	Prior Approval - Householder	8 Cadgwith Drive, Derby, DE22 2AE	Single storey rear extension (projecting beyond the rear wall of the original house by 3.5m, maximum height 3.7m, height to eaves 2.5m) to dwelling house	Prior Approval Not required	23/08/2018

Application No.	Application Type	Location	Proposal	Decision	Decision Date
08/18/01168/PRI	Non-material amendment	226 Blagreaves Lane, Littleover, Derby	Single storey front, side and rear extensions to dwelling house (porch, bedroom with en-suite, wc, utility room and kitchen/dining area) - non-material amendment to previously approved planning permission DER/12/17/01588 to amend the external materials	Granted Conditionally	22/08/2018
08/18/01169/PRI	Non-material amendment	38 Blagreaves Lane, Littleover, Derby	Side and rear extensions to dwelling, raising of the roof height and installation of dormers (utility room, study, four bedrooms, two en-suites and enlargement of lounge/kitchen and bedroom) and erection of boundary wall and gates - non-material amendment to previously approved planning permission DER/11/17/01546 to include obscure glazed windows to the side gables	Granted	22/08/2018