



PLANNING CONTROL COMMITTEE
18 August 2016

ITEM 9

Report of the Director of Strategic Partnerships,
Planning and Streetpride

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:

Legal officer Financial officer Human Resources officer Estates/Property officer Service Director(s) Other(s)	Ian Woodhead
For more information contact: Background papers: List of appendices:	Ian Woodhead Tel: 01332 642095 email: ian.woodhead@derby.gov.uk None Appendix 1 – Development Control Monthly Report

Index
Planning Control Committee

Item No.	Page No.	Application No.	Address	Proposal	Recommendation
1	1-5	04/16/00472	43 Ingleby Avenue, Derby, DE23 8DL	Crown clean, crown reduction by 2 metres and crown lift to 5 metres to Ash tree protected by Tree Preservation Order No. 275	To grant consent with conditions
2	6-11	03/16/00374	82 Sitwell Street, Spondon, Derby, DE21 7FG	Change of use from hairdressers (use class A1) to hot food takeaway (use class A5)	To grant planning permission with conditions

Committee Report Item No: 1

Application No: DER/04/16/00472

Type: Works to trees under TPO

1. Application Details

Address: 43 Ingleby Avenue, Derby.

Ward: Normanton

Proposal:

Crown clean, crown reduction by 2 metres and crown lift to 5 metres to Ash tree protected by Tree Preservation Order No. 275

Further Details:

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan/04/16/00472>

Brief description

The proposed tree works relate to a protected Ash tree situated in the front garden of number 43 Ingleby Avenue; a semi-detached dwelling. The tree is a mature and a prominent feature and is clearly visible within the streetscene making a positive contribution to the character of the area. Its canopy dominates the front garden of the dwelling and extends a fair distance above the height of the adjacent dwellings.

The supporting information with the application states that the tree is in poor condition with significant die back. Epicormic growth is also present within the crown indicating a tree under stress. The works are proposed to enable the tree to be retained and manage neighbours expectations and concerns regarding the tree.

2. Relevant Planning History:

Application No:	08/09/00938	Type:	Works to Trees under TPO
Status:	Granted conditionally	Date:	30/09/2009
Description:	Crown Thinning by 20% and removal of deadwood of Ash Tree protected by Tree Preservation Order 2001 No.275 (19,31,35 and 43 Ingleby Avenue)		

Application No:	10/06/01584	Type:	Works to Trees under TPO
Status:	Granted conditionally	Date:	14/11/2006
Description:	Crown thinning of ash tree covered by Tree Preservation Order No. 275 (2001 19,31,35 and 43 Ingleby Avenue)		

3. Publicity:

Site Notice

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

4. Representations:

None

5. Consultations:

Environmental Services (Trees):

The tree works specified are within the scope of the British Standard, will not adversely affect the amenity the tree provides, and will extend the safe useful life expectancy of an over-mature tree which currently appears to be in a state of decline.

6. Relevant Policies: *Saved CDLPR policies*

E9 Trees

The above is a list of the main policies that are relevant. Members should refer to their copy of the CDLPR for the full version or access the web-link.

<http://www.cartogold.co.uk/DerbyLocalPlan/text/00cont.htm>

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 key issue is the acceptability of the proposed tree works in terms of their impact on the health and amenity value of the tree.

The tree has a large, mature canopy and there is a tight relationship with the application property and neighbouring properties. It is therefore understandable that regular pruning work will need to be undertaken to avoid any conflict. The tree is also clearly in need of some maintenance to enable its future retention.

The Arboricultural Officer has raised no objections to the proposed works which are considered to be within the scope of the British Standard. He is in agreement that the tree currently appears to be in a state of decline, that the works proposed will not adversely affect the amenity the tree provides, and will extend the safe useful life expectancy of an over-mature tree.

Subject to the imposition of appropriate conditions it is recommended that permission is granted for the tree works proposed.

8. Recommended decision and summary of reasons:

To grant planning permission with conditions.

Summary of reasons:

The proposed tree works are considered to be acceptable in terms of their impact on the health and amenity value of the tree.

Conditions:

1. The work authorised shall be carried out within 2 years of the date of this consent unless the Local Planning Authority has agreed a written variation.
2. All tree works shall be carried out in accordance with the guidance and recommendations detailed within British Standards 3998:2010 'Tree Work - Recommendations'.
3. Any bough agreed to be removed or shortened shall be cut back to a suitable point such as a branch collar or suitably positioned secondary branch and the branch collar shall be left intact. Climbing irons or "spikes" shall not be used.
4. Crown reduction shall be by a maximum of 2 metres. This work shall comprise a reduction in both height and spread over the whole crown by shortening or removing peripheral branches in a uniform and systematic manner. The amount of crown reduction shall be measured as a percentage of the crown of the tree and not as a percentage of its height. Where branches are to be shortened they shall be cut back to a suitably positioned secondary branch.

Crown reduction shall not be construed as "lopping" or "topping" and shall result in a tree of typical form for the species and of balanced appearance. Climbing irons or "spikes" shall not be used.

5. Crown lifting shall be to a maximum of 5 metres. This work shall involve the removal of low branches to the height specified and result in a tree of balanced appearance. Those branches to be pruned shall be cut at their origin and all branch collars shall be left intact or branches should be pruned to a secondary growth point, whichever is the lesser, in order to attain the specific height. Climbing irons or "spikes" shall not be used.

Reasons:

1. Beyond that period the health and visual appearance of the tree would need to be reassessed.
2. In the interests of visual amenity and tree health and for the avoidance of doubt.
3. In the interests of visual amenity and tree health and for the avoidance of doubt.
4. In the interests of visual amenity and tree health and for the avoidance of doubt.
5. In the interests of visual amenity and tree health and for the avoidance of doubt.

Classification: OFFICIAL

Committee Report Item No: 1

Application No: DER/04/16/00472

**Type: Works to trees
under TPO**

Informative Notes:

None

S106 requirements where appropriate:

N/A

Application timescale:

The target date for determination of this application was the 13th June 2016. An extension of time has been sought. The application is being considered by the Committee because the applicant is a City Council Arboricultural Officer.

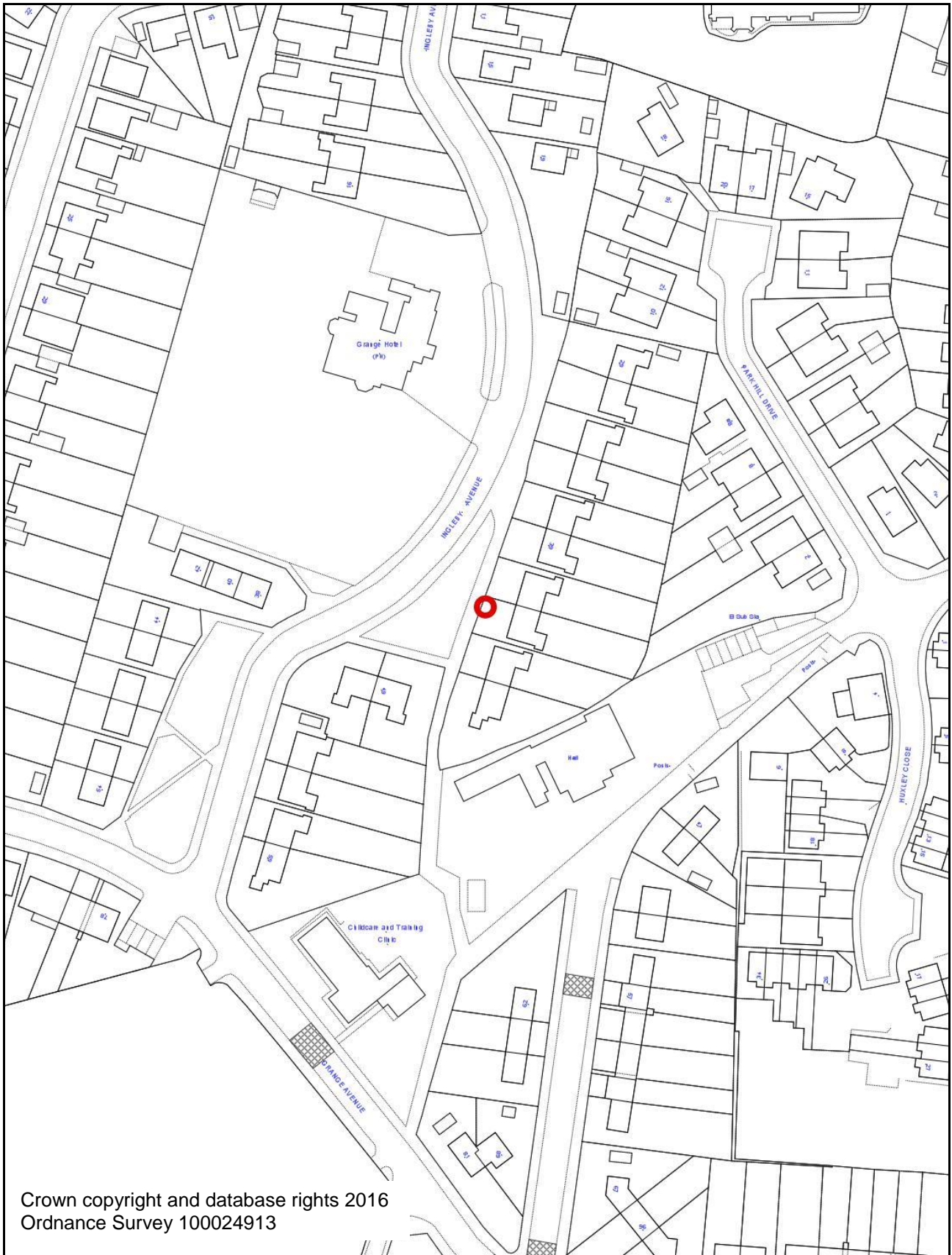
Classification: OFFICIAL

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Committee Report Item No: 1

Application No: DER/04/16/00472

Type: Works to trees
under TPO



Classification: OFFICIAL

1. Application Details

Address: 82 Sitwell Street, Spondon.

Ward: Spondon

Proposal:

Change of use from hairdressers (Use Class A1) to hot food take-away (Use Class A5)

Further Details:

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan/03/16/00374>

Brief Description:

Planning permission is sought for a change of use from a hairdresser's salon to a hot food takeaway on Sitwell Street in Spondon. The application property is situated within the designated Spondon District Centre. It is situated on the north-western side of Sitwell Street to the south of its junction with Chapel Street and there is a pedestrian crossing directly outside the unit. The application property is a terraced two storey property. The application seeks permission for the change of use and, at this stage, no physical alterations are proposed to the property.

Relevant Planning History:

Application No:	02/91/00193	Type:	Full Planning Permission
Status:	Withdrawn Application	Date:	08/04/1991
Description:	CHANGE OF USE OF 1ST FLOOR FLAT TO OFFICES		
Application No:	10/90/01376	Type:	Full Planning Permission
Status:	Granted	Date:	22/10/1990
Description:	INSTALLATION OF SHOP FRONT		
Application No:	06/89/01064	Type:	Full Planning Permission
Status:	Unknown	Date:	24/08/1989
Description:	PROVISION OF EXTERNAL STAIRS TO EXISTING FLAT		

2. 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.

3. Representations:

In total 21 objections have been received as a result of the neighbour notification process. In summary the main grounds for objection are:

- Fast food outlets make up a considerable proportion of units in the district centre.
- There will be an increase of noise, litter, traffic, pollution and odour.
- A take-away in this location will attract anti-social behaviour and increase of the potential for congregation of users to the front of the premises.
- An A5 use would reduce the vitality of the neighbourhood district centre and diversity of shops.
- The proposal would increase the need for on-street parking.
- Access for deliveries would be dangerous given the pedestrian crossing opposite the unit.
- Pedestrians using the crossing could be dangerously affected from the highway by the increase of users of the take-away and the congregation on the pavement.

4. Consultations:

Highways Development Control:

Parking opportunities are available to customers within walking distance of the property and Sitwell Street is also served by a regular bus service. The central location of the property will also help encourage customer visits to be made on foot.

Environmental Services (Health – Pollution):

In order to protect the local amenity, a comprehensive acoustics survey is recommended, assessing the proposals against the criteria contained within BS4142, or other relevant methodology which has been agreed by the Local Planning Authority. Should this indicate that mitigation works are required; a scheme must be submitted by the developer for approval by Derby City Council before the development commences.

Alternatively, a scheme for minimising the impact of noise from the development may be submitted for approval by the Local Planning Authority.

All agreed mitigation measures must be incorporated into the development before occupied.

Police Liaison Officer:

Any comments will be reported orally at the meeting.

5. Relevant Policies:

Saved CDLPR policies:

E24	Community Safety
GD5	Amenity
S3	District and Neighbourhood Centres
S12	Financial and Professional Services and Food and Drink Uses
T4	Access, Car Parking and Servicing.

The above is a list of the main policies that are relevant. Members should refer to their copy of the CDLPR for the full version or access the web-link.

<http://www.cartogold.co.uk/DerbyLocalPlan/text/00cont.htm>

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.

6. 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.

- The vitality and viability of the designated neighbourhood district centre including the potential concentration of A5 uses and area character.
- Pedestrian access and parking provision.
- Residential amenity

The main planning policy issues are compliance with S3 and S12. S3 allows for complementary uses serving a local need in District Centres provided that the use is compatible with the general scale and function of the centre and would not detract from the centre's vitality and viability by means of reducing A1 frontage, separating important shop units or introducing uses not open to the public. S12 also allows for food and drink type uses (including A5 uses) within centres provided that it would not lead to a concentration of such uses likely to undermine the vitality and viability of the centre. This could be through noise, smells and disturbance or general impacts upon the quality of the environment. The policy also seeks to ensure that a shop front or display of visual interest is maintained. Ultimately, the factors highlighted by S3 and S12 all relate to the vitality and viability of the centre, so this is the key consideration.

There are a number of stores that continue to anchor the primary shopping function of the centre, including a Co-operative and a Lloyds Pharmacy. The implementation of this proposal would partly lead to the loss of an A1 frontage as its previous use was A1. However it is felt that there is a sufficient amount of A1 uses in the District Centre to not negatively impact on the primary retail function. Conversely, the proposal may in fact boost the vitality and viability of the centre as it will bring a vacant unit back into use. The specific frontage containing the unit in question has a range of units within it and is not dominated by food and drink uses. The existing composition of the frontage comprises of an Opticians (Use Class D1) and a Florists

(Use Class A1). No.72, 74 and 76 Sitwell Street are set behind the application property and consist of two A1 retail units and an A5 fish and chip shop. The application property sits opposite three A1 retail units and one A3 café unit at no.95 Sitwell Street. Therefore it is felt that the use would be compatible with the general scale, nature and function of the centre. In my opinion the proposal would not lead to an over concentration of food and drink uses within this specific frontage and it would not separate important shop units.

Whilst some objectors have commented that there is a proliferation of food and drink uses in Spondon, the actual proportion of different uses tells us a different story. The most recent Spondon District Centre survey highlighted that there were 67 units within the centre of which around 10 (15%) were used for food and drink uses, whilst 37 (55%) were in A1 use. Only 4 (6%) of the food and drink uses were in use as A5 operations. 11 (16%) of the units account for residential, sui-generis uses, financial services, banking services, non-residential institutions and assembly and leisure facilities. There are currently 5 units (7%) vacant.

In terms of access to the application property the site is well positioned in the heart of the Spondon District Centre and colleagues in our Highways Team raise no over-riding objections to the proposal, given its sustainable location.

In terms of the assessing the residential amenity impact of the proposal colleagues in our Noise and Pollution Team have recommended conditions for noise mitigation and an hours of operation condition is also reasonable and necessary.

Therefore, on the basis of this analysis, it is felt that the proposal would not undermine the vitality and viability of the centre provided that potential amenity issues can be satisfactory addressed through ensuring that efficient ventilation systems are installed and appropriate opening hours are conditioned.

Having considered the proposal and all relevant material matters, I am drawn to conclude that the proposed change of use to a hot food takeaway would be acceptable in highway, amenity, and policy terms and accords with the relevant saved Local Plan Policies. Therefore, a recommendation to grant conditional planning permission is given.

8. Recommended decision and summary of reasons:

To grant planning permission with conditions.

Summary of reasons:

The proposal has been considered against the relevant policies of the adopted City of Derby Local Plan Review 2006 and all other material considerations, and it is considered that the proposed use as a hot food take-away and residential accommodation is an appropriate use within Spondon District Centre.

Conditions:

1. Standard condition 03 (3 Year Expiry)
2. Standard condition 100 (Approved Plans)
3. Unique condition for noise mitigation and fume extraction/ventilation details
4. Standard condition 50 (Opening Hours)

Reasons:

1. Standard reason E56 (Time limit for planning permissions)
2. Standard reason E04 (For the avoidance of doubt)
3. Standard reason E25 (Residential and environmental amenity of policy GD5)
4. Standard reason E27 (Amenities of adjacent residential properties of GD5)

Application timescale:

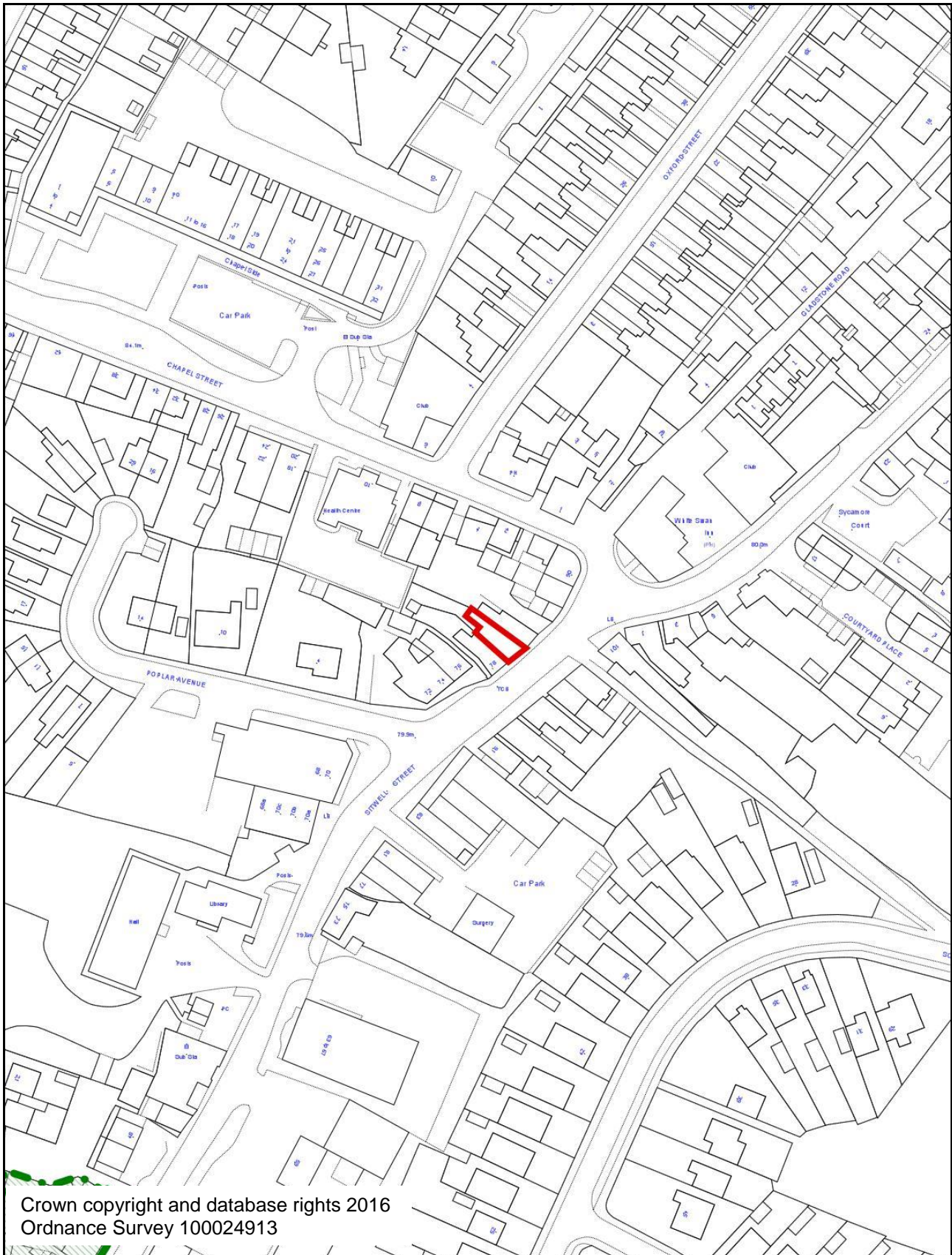
The application target expiry date was 1 June 2016 and extension of time has been sought.

Classification: OFFICIAL

Committee Report Item No: 2

Application No: DER/03/16/00374

Type: Full



Classification: OFFICIAL