



Derby City Council

**PLANNING CONTROL COMMITTEE**  
**23 February 2017**

**ITEM 8**

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:

<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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2	31 - 43	12/16/01518	Land off City Road, Chester Green, Derby.	Demolition of existing garages and change of use to a secure car park area.	<b>To grant</b> planning permission with conditions
3	44 - 54	11/16/01371	Public Open Space land, Rawdon Street, Derby.	Change of use of public open space to car park (sui generis use).	<b>To refuse</b> planning permission.
4	55 - 90	12/15/01516	Vacant land, Uttoxeter New Road/Talbot Street, Derby. (access off Uttoxeter New Road)	Erection of foodstore (Use Class A1) with access, car parking, landscaping and associated works.	<b>To refuse</b> planning permission.

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**Committee Report Item No: 1**

**Application No: DER/10/16/01291**

**Type: Full Planning Application**

**1. Application Details**

**Address:** Land at the rear of St. Peters House, Gower Street, Derby.  
(Fronting St. Peters Churchyard)

**Ward:** Arboretum

**Proposal:**

Erection of five storey 65 bedroom student accommodation

**Further Details:**

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan/10-16-01291>

**Brief description**

This full planning application seeks permission for the erection of a five storey building on land to the rear of St Peters House, Gower Street. However the proposal would be viewed from St Peters Churchyard rather than Gower Street. The proposed development would consist of 65 student bedrooms split between studios and cluster apartments. The five floors would be linked by an interior stairwell that projects slightly to the rear and a centrally located lift.

The ground floor of the development comprises of one cluster apartment with four bedrooms and living space, two studios one of which would be accessible for a wheelchair user. The ground floor would also provide a common room with outdoor seating, lobby, and reception with office space, laundry room, plant room and sub-station with outdoor access.

The first, second and third floor have a similar layout and comprise of two cluster apartments with six bedrooms and living space and four studios one of which would be accessible for a wheelchair user.

The fifth floor, which is set back from the front and side elevation by approximately 1.5 metres, comprises of four studios and two cluster apartments, one with four bedrooms and one with three bedrooms.

The proposed building would be located to the front of the application site adjacent to St Peters Churchyard. To the rear of the proposal the application seeks to provide a small landscaped area, cycle store and bin store. Outdoor seating from the ground floor common room will encompass the north-eastern corner of the building.

The proposal has a rectangular footprint of approximately 12.8 metres by 27.6 metres with an overall height of approximately 15 metres; the parapet wall partially screening the recessed upper floor has a height of approximately 13.2 metres. The proposed elevations would be punctured by a series of regimented windows and a large area of glazing to the ground floor serving the common room. The land levels to the rear are higher than those to the front elevation resulting in smaller windows and a raised landscaped area. The elevations would be finished in sandstone/buff brick with grey cladding to the recessed upper floor, rear corners and the rear projecting stairwell. The submitted elevations also suggest a canopy detail over the outdoor seating however limited details have been provided in respect of this.

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The application site is located on and accessed off St Peter's Churchyard, before the pedestrian only area and is within the curtilage of St Peters House. St Peters House is a prominent 8 storey building which is currently being converted into apartments over a T shaped footprint which projects to the rear of this application site. The application site is subject to 8 Tree Preservation Orders and is located within the Green Lane and St Peter's Street Conservation Area.

Within the locality of the application site are a series of Statutory Listed Buildings including the Hippodrome (Grade II), The Old Courthouse (Grade II), Old Hall (Grade II\*), Church of St Peter (Grade II\*), Ryans Public House (Grade II\*) and 45 St Peters Street (Grade II).

The application is accompanied by a Design and Access Statement, Heritage Statement, Transport Statement, Tree Report, visuals, elevations and floor plans. During the life of the application amendments have been made to the Transport Statement and the Design and Access Statement due to the original making references to a retail unit – there is no retail element proposed as part of this application.

**2. Relevant Planning History:**

No planning history on the application site. The applicant has previously had preliminary application discussions with officers in respect of the re-development of this site. The submitted details proposed a mixed use 4 storey building comprising of 18 apartments and a retail unit on the ground floor. The proposed development had a block formation with a recessed ground floor, recessed residential balconies and benefited from floor to ceiling height windows. That proposal included a varied red brickwork palette.

The adjacent St Peters House is currently being converted into apartments:

**St Peters House, Gower Street**

<b>Application No:</b>	04/15/00555	<b>Type:</b>	Prior Approval
<b>Status:</b>	Prior Approval Approved	<b>Date:</b>	15/06/2015
<b>Description:</b>	Change of Use Offices to Residential – first, second, third, fourth, fifth, sixth and seventh floors from office space (Use Class B1) to residential accommodation (Use Class C3) comprising of 147 apartments		
<b>Application No:</b>	07/15/00892	<b>Type:</b>	Prior Approval
<b>Status:</b>	Prior Approval Approved	<b>Date:</b>	25/08/2015
<b>Description:</b>	Change of Use Offices to Residential – Conversion of part of the ground floor from offices (use class B1) to 8 apartments (use class C3)		
<b>Application No:</b>	01/16/00044	<b>Type:</b>	Full Planning Permission
<b>Status:</b>	Granted Conditionally	<b>Date:</b>	23/03/2016
<b>Description:</b>	Change of use from offices (use class B1) to non-residential institution (use class D1)		

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**Application No: DER/10/16/01291**

**Type: Full Planning Application**

**Application No:** 11/16/01369

**Type:** Full Planning Permission

**Status:** Granted Conditionally

**Date:** 04/01/2017

**Description:** Change of use from financial and professional services (use class A2) and ancillary operational space to 2 self-contained flats (use class C3)

**3. Publicity:**

Neighbour Notification Letter sent on 16 November 2016 and 21 December 2016

Site Notice displayed on 17 November 2016

Statutory Press Advert published on 25 November 2016

*This publicity is in accordance with statutory requirements*

**4. Representations:**

The application has attracted 7 letters of representation, 2 letters of comment and 5 letters of objection. The letters of representation are summarised as follows:

- The proposals should respect the character and setting of the nearby Listed Buildings,
- The rounded corner is a welcomed feature,
- The proposed development will increase activity into this locality,
- The loss of the green open space and established trees would be detrimental to this area,
- The loss of the open space would have an impact on ecology,
- There are other development plots that would be more suitable for such development,
- The proposed development would be over development of the plot,
- Limited consideration/justification is given to the loss of the trees,
- The development is not in-keeping with the scale of the surrounding buildings particularly the listed buildings,
- There is regeneration occurring in this locality, on St Peters Street, Green Lane and Gower Street however the proposed development is no regeneration,
- The proposed development will have an impact on the amenity of the neighbouring property, Sally Montague hair salon, due to massing of the boundary and overlooking of treatment rooms.

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**5. Consultations:**

**Highways Development Control:**

As a result of Highway Authority Observations of 16/12/2016, the applicant/developer has submitted a revised transport statement which responds to the points raised.

The Transport Statement refers to a later revision of drawing "16048-A-2101" (Revision P03 rather than P02 which is on the planning portal). This response is based upon the details shown on revision P03.

1. Refuse Collection - The Transport Statement (para 33) confirms that refuse collection "will be undertaken privately", which means that smaller vehicles than the Council's standard can be utilised to service the site, Drawing "ADC1476/001 shows tracking information to demonstrate that the site is accessible by such vehicles, although the applicant/developer should note that due to parked vehicles on St Peters Churchyard, at certain times of the day this manoeuvre may not be achievable.

2. Servicing for maintenance - The Transport Statement (para 38) advises that "one car parking space will be provided for disabled use and one will be provided for maintenance vehicles to use.." None of the application drawings appear to show this parking provision; however, this can be dealt with by an appropriate condition.

3. Cycle parking - The Transport Statement (para 38) also advises that "Secure cycle parking will be provided with space for 16 bicycles". The complies with the suggested 25% cycle parking provision, although no design details of the proposed storage have been provided. This can be dealt with by an appropriate condition.

4. Student intake - The Transport Statement (para 35) details measures to mitigate the impact of the influx of students at the start of the new intake year.

**Recommendation:**

The Highway Authority therefore considers that the proposals will not have a severe impact upon the adjacent highway network, and has no objections subject to conditions relating to servicing, parking, cycle parking and management of student arrivals and departures to the limited on-street parking and the pedestrianised area.

**Environmental Services (Trees):**

Based on the data within the tree survey and the prominence of the trees within the street scene I object to the proposal. The trees provide significant amenity value to a part of the city that does not have many mature trees. The trees have not been fully considered as per BS 5837: Tree Constraints Plan, Tree Protection Plan, and an Arboricultural Impact Assessment have been omitted.

**Natural Environment (Tree Officer):**

Looking at the information submitted, they have supplied a tree survey which identifies that eight of the trees are A2 and two are C2. Category A is for trees of high quality with an estimated remaining life expectancy of at least 40 years. The number 2 signifies trees of mainly landscape quality.

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No other tree information has been submitted, such as an Arboricultural Impact Assessment (AIA) and Arboricultural Method Statement (AMS), I am assuming because they intend to fell the majority of the trees, although some trees to the rear of the site are supposedly going to be retained so an AIA and AMS should have been submitted for these trees at the very least.

In relation to the Design and Access Statement, I can find no justification for the loss of trees. Paragraph 5.12 Landscape seems to sum the situation up with the statement “but we feel the development outweighs the loss of green open space by bringing vitality to this area of the city” and “the proposal will also incorporate a new landscaping scheme which will include new trees and planting.”

Based on the submitted Proposed Site Plan it is not clear how many of the ten existing trees are proposed to be retained, but from what I can work out only tree 8 will be retained. Tree 9 is outside the application boundary.

If this development were to go ahead, the loss of these mature trees, I believe, will impact significantly on the public visual amenity provided along St Peter’s Churchyard and its setting within the Green Lane and St Peter’s Street Conservation Area.

**Historic England:**

The site of the proposed development fronts St. Peters Churchyard, to the immediate west of the grade II\* listed Church of St Peter and the adjoining grade II\* listed Old Grammar School. The grade II\* listed Green Man Inn stands approximately 40 metres to the south-east. The site is located at the core of Derby and is within the Green Lane and St Peter’s Street Conservation Area. The site was historically part of the churchyard of the Church of St Peter.

The proposal is for a five storey (65 bedroom) building to provide student accommodation. The principle issue for consideration by Historic England is the impact of the proposed development on the significance the Old Grammar School, the Church of St Peter and the Green Man Inn derive from their settings and the character and appearance of the Green Lane and St Peter’s Street Conservation Area. It will be for your authority to access the potential impact of the proposed development on Grade II listed buildings and non-designated heritage assets.

As the proposal affects the setting of listed buildings and the conservation area the statutory requirement to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses (section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act, 1990) and to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area (s.72, 1990 Act) must be taken into account by your authority when making your decision.

In our view, the proposal would constitute an inappropriate and intrusive development that would result in a high level of harm to the significance that the Old Grammar School and St Peter’s Church derive from their settings. The proposal would also have a considerable adverse impact on the character and appearance of the conservation area as outlined below.

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Page 97 of your authority's Conservation Area Management Plan identifies the site as an important open space and goes on to state –

*The appraisal identifies one significant open space - St. Peter's Churchyard. This includes the current churchyard, the historic churchyard which lies to the north of St. Peter's House, and the streets and alleys on either side of the church.*

*Planning permission should not be granted for any development within the important open space or that is detrimental to the setting of St. Peter's Church and churchyard.*

Historic England supports the view that this is an important open space within the conservation area and that development of this site is therefore unacceptable in principle.

It will be for your authority to weigh all planning considerations and our advice below in determining the application, in line with Government legislation, policy and guidance concerned with the historic environment.

Historic England objects to the application on heritage grounds. We consider the application does not meet the requirements of the NPPF, in particular paragraphs 131- 134. In determining this application you should bear in mind the statutory duty of section 66(1) and 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 to have special regard to the desirability of preserving a listed buildings or its setting or any features of special architectural or historic interest which it possesses and pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation areas.

#### Significance

The Church of St Peter, including the attached boundary walls is listed grade II\* in recognition of its more than special architectural and historic interest, placing it within the top 8% of listed structures in the country. It is a multi-phased medieval parish church which sits in a prominent position on the corner of St Peter's Street and St Peters Churchyard. The west tower with its battlemented parapet and pinnacles dates is a prominent landmark from St. Peter's Churchyard. The chancel was restored in 1851-53 by G G Place and the remainder in 1859 by G E Street, subsequent alterations were undertaken in 1865 and 1898. The attached church hall was added in 1970. The church is located within the Green Lane and St Peters Street Conservation Area.

The church is an important landmark building within this part of the conservation area and forms the nucleus of an early part of the medieval expansion of Derby. By the C17 there were a number of important buildings surrounding the church and within the churchyard including with the former Old Grammar School located to the south-west which dates from the late C16 and the Green Man Inn built in 1671. Both of these buildings are listed grade II\* in light of their more than special interest and make an important contribution to the conservation area.

Historically the associated churchyard extended beyond its current boundary and embraced the current application site. Whilst the current churchyard is significantly reduced in size, the imposing C19 stone churchyard wall remains and runs along the north side of the church, continuing along St Peters Churchyard to the entrance of St Peter's House. This denotes the boundary of the historic churchyard. The grassed

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open space behind the stone wall contains several mature lime trees which make an important contribution to the character and appearance of the conservation area. Consequently, the application site is an important remnant of the original churchyard and is a key open space within the conservation area.

The site and boundary wall makes a significant contribution to the setting of both St Peters Church and the Old Grammar School, both aesthetically, as a green open space with mature trees and through its former historic association as a churchyard/amenity space and facilitates important views of the listed buildings from the west.

The importance of St Peter Church, the surrounding heritage assets, and the application site within the conservation area is highlighted in your authority's own Conservation Area Appraisal and Management Plan (January 2013). Page 31 of the appraisal describes the site in more detail along with its former use.

#### Impact

The proposal is for a five storey (65 bedroom) building to provide student accommodation. The proposed development would fill the site and require the removal of several mature trees to accommodate the development. This would result in the loss of this important remnant of the historic churchyard and a key green space, which forms part of the significance of the surrounding heritage assets derive from their settings and is a key open space within the conservation area contributing to both its character and appearance and the streetscene.

The scale and mass of the proposed development would be overbearing in relation the adjacent former Old Grammar School and it's siting, in extremely close proximity to the school, would leave this highly graded listed building in a narrow slot overshadowed and dominated by the adjacent proposed development, eroding its setting. When looking east from St Peter's Churchyard (identified on page 97 of the Conservation Area Management Plan as an important view) the development would be highly intrusive, blocking and partially obscuring key views of the church tower and wholly obscuring views of the Old Grammar School.

In our view the proposed development would therefore be visually intrusive and would severely compromise the setting of the Grammar School and St Peter's Church, resulting in a high level of harm to the significance that these highly graded assets derive from their settings. It would also have a considerable adverse impact on the character and appearance of the conservation area.

In relation to the impact of the development on the significance the Green Man Inn derives from its setting, we believe the harm would be to a lesser extent due to the intervening screening provided by St Peter's Church and the Old Grammar School.

We draw your authority's attention to page 97 of your Conservation Area Management Plan (2013) which identifies the site as an important open space and goes on to state - *The appraisal identifies one significant open space - St. Peter's Churchyard. This includes the current churchyard, the historic churchyard which lies to the north of St. Peter's House, and the streets and alleys on either side of the church. Planning permission should not be granted for any development within the important open space or that is detrimental to the setting of St. Peter's Church and churchyard.*

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Historic England supports the view that this is an important open space within the conservation area and that development of this site is therefore unacceptable in principle.

The site lies within an area of high archaeological potential. We recommend the archaeological potential of the site should be assessed with the benefit of advice from Steve Baker the County Council Archaeologist.

#### Policy and Context

As the proposal affects the setting of listed buildings and the conservation area the statutory requirement to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses (section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act, 1990) and to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area (s.72, 1990 Act) must be taken into account by your authority when determining this application.

Significance can be harmed or lost through development within a heritage asset's setting and any harm or loss to significance 'should require clear and convincing justification' (paragraph 132, NPPF). Your authority should also aim to achieve the objective of sustainable development, which in this context means guiding the development towards a solution which achieves economic, social and environmental gains - and this includes the conservation of the historic environment, one of the twelve core principles of sustainable development (paragraph 8, NPPF).

The NPPF is clear in the requirement to take account of the desirability of sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness. (paragraph 131 NPPF).

In determining the application your authority will need to consider whether any public benefits associated with the scheme outweigh the harm caused by the impact of the proposed new development, as per the NPPF paragraphs 131- 134.

Further useful guidance is contained within Historic Environment Good Practice Advice Note: The Setting of Heritage Assets (GPA 3)

#### Recommendation

Historic England objects to the application on heritage grounds. We consider the application does not meet the requirements of the NPPF, in particular paragraphs 131- 134. In determining this application you should bear in mind the statutory duty of section 66(1) and 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 to have special regard to the desirability of preserving a listed buildings or their setting or any features of special architectural or historic interest which they possess and pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation areas.

#### **Derbyshire County Council Archaeologist:**

The proposal site is within the historic medieval core of Derby as defined by the City Council's Archaeological Alert Area (Local Plan Saved Policies). The site is adjacent to the Grade II\* Listed St Peter's Church, dating from the 12th century onward (although generally considered to be one of the six Derby churches mentioned in the

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Domesday Book), and to the Grade II\* Listed Old Grammar School, dating from the 16th century. The site is also close to the site of Babington Hall (Derbyshire HER 32005) a late medieval hall demolished in the 18th or early 19th century. The site seems on map evidence to fall outside the medieval churchyard associated with St Peter's, although given the proximity it is possible that burials are present; the site may also fall within 18th/19th graveyards associated with the neighbouring Wesleyan Chapel. The site is also within the Green Lane and St Peter's Conservation Area.

The proposed development will undoubtedly result in harmful impacts to the significance of the adjacent listed buildings through their settings, and to the Conservation Area. In these matters, the local planning authority should be guided by the advice of its conservation officer, and of Historic England.

With regard to below-ground archaeological remains, there is a high potential for remains of medieval and post-medieval date to survive within the site, and these could potentially include burials.

National Planning Policy Framework (NPPF) para 128 requires that the significance of heritage assets (including below-ground archaeological assets) be established as part of the planning application process. Local Plan Policy E21 requires an archaeological evaluation to be submitted as part of a planning application within the Archaeological Alert Areas.

I advise that the application at present does not meet the requirements of NPPF para 128 or Local Plan Policy E21 with regard to below-ground archaeological remains. In order to establish significance the applicant should submit the results of archaeological field evaluation of the site (trial trenching), carried out to a specification agreed with the local planning authority by a suitably accredited archaeological organisation (ClfA registered).

I therefore object to the application in its present form, because of a lack of information to establish archaeological significance (NPPF paras 128/9 and Local Plan Saved Policy E21).

**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).

The proposal site lies within the Green Lane and St Peter's Conservation Area and the former churchyard of St Peter's Church (grade II\* listed), which historically lay at the heart of medieval Derby. It is also immediately adjacent to the Old Grammar School also listed grade II\* and within the curtilage of St Peter's Church, where it has been located since the late 16th century. The site is still bounded by the monumental 19th century stone wall, which despite some later openings, provides a clear visual link between site and church in views along St Peter's Churchyard.

To the west of the application site is the former Wesleyan Chapel (Green Hill Chapel in the 19th century), which although not listed and with facade compromised by a

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late-20th century extension to its frontage, is a significant historic building within the Conservation Area. It is thought that the application site was used by the former school until it relocated in the mid-19th century and was then used by both churches as a graveyard.

The Conservation Area Appraisal (DCC, 2014) for the area identifies the application site as the one significant open space in the Conservation Area: "the difference in building height between the adjacent properties and the churchyard wall creates a natural focal point and the sensation of an open public space" (4.4.1) and "the grassy open space behind this wall, now within the grounds of St Peter's House is particularly important as the last remaining fragment of the original churchyard. It is a foil to the historic buildings, the church & the free school" (p.31). As an open space it both continues to read as the former graveyard and together with the four tall lime trees identified in the Appraisal as "the largest and most important in the conservation area", provides a brief breathing space and leafy setting in the approach towards the listed church and Old Grammar School along St Peters Churchyard.

Directly opposite the site is a further grade II listed building, the former County Court, a redbrick and terracotta grade II listed building. This forms part of a terrace of 3 and 4 storey buildings on the north of St Peters Churchyard of late-19th century civic and commercial character, which contrast with and accentuate the open and ancient character on the south side of the street and its ecclesiastical context.

The view east along St Peters Churchyard, taking in the churchyard, church, chapel, school, former County Court and terrace, was identified in the Appraisal as a significant view that should be protected from harmful development (p.72).

On the opposite side of the former church yard, facing it tight across a narrow alley is The Green Man Inn, also listed grade II\* for its distinctive gabled early 17th century brick facade.

The proposal to site this five-storey building within the former churchyard is considered harmful to the settings and significance of these entire heritage assets, for a number of reasons:

- The loss of a surviving part of the historic churchyard which is integral to the significance of the listed church in terms of functional and historical association.
- The loss of the space as a visual and contextual link between the ecclesiastical buildings and former school.
- The loss of the green setting, including the 4 important lime trees, which contribute aesthetically to the settings of the listed church, former Grammar School, former County Court and Green Man Inn.
- The loss of the green space in terms of its contribution to the character and appearance of the conservation area and an identified important view along St Peters Churchyard.
- The close proximity to the grade II\* former Grammar School, screening a historic elevation from view and creating a hemmed in character together with

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the late-20th century extension to the church and forward extension on the building itself.

- The close proximity to the former Wesleyan Chapel, screening the tall arched windows of its east elevation that can currently be seen in tree filtered views.
- The bulk of the building which would dominate the low single-storey form of the former Grammar School, compete with the scale of the historic buildings along St Peter's Churchyard and the alley, and challenge the sense of importance and presence of the grade II\* listed church within the street scene. The step back of the top storey is acknowledged as reducing its visual height in closer views, but it would still challenge the existing buildings.
- The proposed predominantly yellow brick elevations which would fail to complement the architectural character and materials of the conservation area.

Although the churchyard has already been partially developed, and the setting of the heritage assets already compromised by the 8 storey St Peters House, this should not be used to justify further harmful development. I disagree that it would provide a better screen of St Peter's House from St Peter's Churchyard than the existing trees, which add to the sense of context and space around the church. From street level, St Peter's House is reasonably recessive, with the focus being on the existing wall and trees in the foreground.

Finally, the Management Plan within the Conservation Area Appraisal clearly states: "Planning permission should not be granted for any development within the important open space or that is detrimental to the setting of St. Peter's Church and churchyard" (p.71).

Note: No visuals have been provided to illustrate how the building would sit as a backdrop to views down the south alley adjacent to the churchyard or taking in the Green Man Inn, or sections to accurately demonstrate the relative height of the building to the 3 & 4 storey 19th century buildings on the north side of St Peter's Churchyard. The harm to the setting of listed buildings and character and appearance of the Conservation Area, however, is clear.

### Conclusion

For the reasons set out above there would be clear harm to the setting of a number of listed buildings, and the character and appearance of the Green Lane and St Peters Conservation Area, contrary to NPPF 132 and 137, and Local Plan Policies E18 & 19. Furthermore, any development on this site would be against the adopted Management Plan for the Conservation Area.

The test as to whether harm is 'substantial' or 'less than substantial' is a high one, but can apply where "the adverse impact seriously affects a key element of its special architectural or historic interest" and "may arise from works to the asset or from development within its setting" (PPG 017). There is evidently a sliding scale of harm, but I do consider that the green space makes a particularly important contribution to the settings of the grade II\* listed former Grammar School and St Peters Church, which would be seriously harmed by the proposed development. If not classing as 'substantial' in terms of the NPPF, the harm would be serious and I consider could not be outweighed by any public benefit as required by either para 133 or 134.

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**Urban Design:**

The proposal for a 5-storey student accommodation block within the Green Lane and St Peters Conservation Area and on the site of the former churchyard of the grade II\* listed St Peter's Church which historically lay at the heart of medieval Derby.

The old churchyard space is important to the city centre and the Conservation Area, and therefore the proposal in principle to site a 5-storey building in this space is detrimental;

The trees, in particular the 4 lime trees, are important features as part of this green space, and frame the churchyard space. The tree survey shows a 40+ lifespan and so there is no justification for their removal in terms of their useful life. As they are an important part of the character and context of the area, any development should respect this through ensuring their retention.

The view to the East along St Peters churchyard is deemed important in the CA Appraisal, and the visual number 3 does not make a good case for the development which appears incongruous in a street characterised by mostly small grain development. The existing buildings on this side of the street are also characterised by a rhythm of strong varied roofscape with roof pitches notable. The proposed building does not respect that character in its large footprint and flat roof-line;

The visuals show a building which does not succeed in referencing any of the characteristics of the setting: it neither uses design clues from the context to achieve harmony between the old and the new, nor uses high quality modern architectural style as a deliberate foil. The yellow-toned bricks have no rationale and the building style "could be anywhere", particularly inappropriate in such a sensitive setting.

I consider that the design of this proposal is of insufficient quality. Under the NPPF "it is proper to seek to promote or reinforce local distinctiveness", and "permission should be refused for development of poor quality that fails to take the opportunities for improving the character and quality of an area...."

**Conservation Area Advisory Committee:**

The Conservation Area Advisory Committee object to the planning application and recommend that planning permission is refused as the proposal would have a harmful effect on the character and appearance of the St Peters Street and Green Lane Conservation Area as well as the setting of a number of listed buildings. Furthermore the proposal would be constructed on an important parcel of open space. In their opinion the proposal would not preserve or enhance the character and appearance of the conservation area.

**Crime Prevention Officer:**

This application hasn't been referred for comment, so I don't have access to an online response via your website.

My reasons for picking up on the application were initially the scale and location of the development, now additionally having seen the site the evident misuse the current site experiences.

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Regulated and regular use of the site should help to reduce misuse, but I'm concerned about the prospect of pedestrian access the rear of the site, also about the apparent shared access provision with vehicles for the adjacent St Peters House site.

The access control and boundary provisions aren't clear.

Visualisations show a recessed railing for the western access, with gating for pedestrians and vehicles.

The design statement indicates control by continued use of the existing raised arm barrier. No plans are definitive in either location or form. There looks to be no control of access to the narrow piece of land between the site and neighbouring hairdressers, where existing access is closed off by a 1.8m high welded metal mesh fence.

Within the land to the rear of the building are cycle storage and bin storage, sited very close to St Peters house, some would consider too close to be acceptable to limit the risk of fire spreading to the neighbouring building in the event of a rubbish fire.

To mitigate risks and threats connected to each of these points my advice is to make approval conditional upon a clear and effective set of boundaries and access provision to ensure that the site is as secure as possible.

The main entrance to the west requires the indicated railings to a height of 2m, with access control provision for controlling residents and visitors to both the application and St Peters House sites, assuming that there is not to be any physical separation of these two sites. Similarly the access between the site and neighbouring hairdressers requires a 2m high barrier of similar form.

As informatives to the applicants

Both overhangs to the front corners of the building are likely to attract rough sleepers. Uneven landscaping/ground treatment would mitigate.

As primarily residential the building will require all communal entrances, single apartment unit doors and accessible windows to meet the Technical specifications set out in building regulations approved document Q (Security of Residential Buildings).

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**6. Relevant Policies:**

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

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

- CP1(a) Presumption in Favour of Sustainable Development
- CP2 Responding to Climate Change
- CP3 Placemaking Principles
- CP4 Character and Context
- CP6 Housing Delivery
- CP7 Affordable and Specialist housing
- CP12 Centres
- CP16 Green Infrastructure
- CP19 Biodiversity
- CP20 Historic Environment
- CP22 Higher and Further Education
- CP23 Delivering a Sustainable Transport Network
- AC1 City Centre Strategy
- AC2 Delivering a City Centre Renaissance
- AC4 City Centre Transport Accessibility
- AC5 City Centre Environment
- MH1 Making it Happen

**Saved CDLPR policies:**

- GD5 Amenity
- GD8 Infrastructure
- H13 Residential Development – General Criteria
- E17 Landscaping Schemes
- E18 Conservation Areas
- E19 Listed Buildings and Buildings of Local Importance
- E21 Archaeology
- E24 Community Safety
- E25 Building Security Measures
- 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)

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

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

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

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

The proposal is within a conservation area and could impact on buildings of historic significance and importance. As such special regard should be had to relevant heritage policies in the Framework. These include the Core Planning Principles, Design policies including paragraph 65 and in particular section 12 (from paragraph 126) “Conserving and Enhancing the Historic Environment”.

## **7. Officer Opinion:**

### **Key Issues:**

- **Policy Context**
- **Impact on the Conservation Area**
- **Impact on surrounding Listed Buildings**
- **Residential Amenity**

### **Policy Context**

This application proposes the erection of a five storey building which would accommodate 65 student bedrooms either in studios or cluster flats along with ancillary facilities such as common rooms, reception areas etc.

Although the site is located to the rear of St Peter’s House it fronts onto St Peter’s Churchyard and therefore any development in this location would have a stronger relationship with St Peters Churchyard rather than Gower Street. The application site has not been previously developed and is considered to be green field in its nature. Furthermore the site forms a landscaped area within the City Centre which according to historical maps has been retained as an open space. The site is also fronted by the wall which forms part of the historical churchyard. There does not seem to be any formal recreational value to the land but it provides a gap between St Peter’s House and St Peter’s Churchyard providing a pleasant green amenity space in the city centre which has significant visual amenity.

This location is commercial in nature however some residential uses are located in the upper floors of surrounding properties and is currently being brought forward in St Peters House. Building heights in this location are largely consistent at 3-4 storeys with the exception of the Old Hall and St Peters Church, however this still contribute to the strong frontage of St Peters Churchyard. The land levels in this location vary

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from the west running downhill to the east and from the south to running downhill to the north. This is noticeable within the street scene and the design of surrounding buildings.

The Local Planning Authority has previously considered the re-development of this site during preliminary application discussions, as detailed above. However the scheme promoted at that time was fundamentally different to that being proposed as part of this application. The previous scheme proposed retail on ground floor and C3 residential uses on the upper floors. This application proposes no retail and therefore would complement the vitality or viability of the City Centre to a lesser degree than a mixed scheme including retail. Furthermore the living accommodation proposed as part of this application is purely student whereas the previous scheme sought residential; there are also differences between the scale and appearance of the proposals.

#### General Principles

The site is not allocated for any specific purpose in the saved policies of City of Derby Local Plan Review (CDLPR) or in the Adopted Core Strategy. It sits within the Central Business District (CBD) and the City Centre and therefore policies AC1 (City Centre Strategy), AC2 (Delivering a City Centre Renaissance), AC4 (City Centre Transport and Accessibility) and AC5 (City Centre Environment) are relevant.

The thrust of these policies sets out the vision and aspirations for the City Centre and its component areas (Quarters) and focuses on delivering a renaissance for the City Centre and reinforcing its economic, cultural and social role. The Core Strategy sets a target for the delivery of 2,200 new homes in the city centre over the plan period (2011-2028). This target includes a need for around 1,000 new homes outside the strategic allocations of Castleward and the Former DRI which form part of the city centre. This means that around 1,000 new homes are expected be provided broadly within or around the inner ring road area of the CBD.

Policy AC2 identifies the proposal site as being within both the 'Core Area' and the 'St Peters Quarter'. The Core Area is the focal point for non-food retailing and both of these designations give emphasis to maintaining and enhancing the retail function within the area.

In terms of the general principles, Core Strategy policies CP1(a), CP2, CP3, CP4 and saved policies GD5 and H13 of the CDLPR are all relevant. These are general policies which seek to ensure that a sustainable and acceptable form of development is provided. They include requirements to ensure that the design, layout, siting, scale and mass etc. of a new development is appropriate in the environment in which it will sit. Policy GD5 of the CDLPR is a saved policy which seeks to ensure that the amenity of the development site and buildings and that of nearby areas is not unacceptably harmed by the proposal. In this context the sensitivity of the area is noteworthy, as is the close proximity of St Peter's House to the rear of the proposal. Policy H13 sets out criteria which must be met where residential development is proposed.

Policy CP2 (Responding to Climate Change) seeks to ensure that the location, layout and construction of new buildings delivers the most sustainable form of development that it is feasible and viable to achieve. The policy also seeks best practice in energy

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use and water efficiency. CP2 also sets out requirements for flooding and drainage matters.

Being in the City Centre, the site is very well located in close proximity to a range of services and facilities and to public transport nodes. Therefore the principle of the location for residential uses in this context is acceptable. The City Centre is an excellent location for residential uses in seeking to achieve the aspirations of reducing the need to travel by private car.

However, the sustainability of the location must also be measured by the way in which the proposal sits in the immediate environment and the degree to which complements the surrounding uses. In particular the place making, design and historic environment policies come into play and require careful consideration.

The proposal is for student apartments and although this is a residential use it would not meet the C3 'dwelling' class. This type of use is sui-generis and is more akin to C2 uses such as hostels. In principle, the use could be acceptable in this location but it would not meet more general C3 housing needs. Therefore the degree to which it could contribute to meeting Derby's objectively assessed housing needs is limited and this is discussed further below.

The site is greenfield in nature as it has not been previously developed and appears to be maintained in order to form an area of green land providing some relief from the built environment of the city centre. The benefits of the open space are limited as the land does not appear to be publicly accessible. Nonetheless, it has amenity value. There is no 'in principle' restriction on residential development of greenfield land but the benefit of the open land and its consequential loss if the site were to be developed is a material consideration.

There are a number of important trees on the site and some of these would be lost through the development. They provide visual amenity as well as contributing in responding to climate change.

Policy CP16 (Green Infrastructure) seeks to maintain, enhance and manage Derby's green infrastructure, which includes trees. The policy requires that new residential development should provide improvements to the public green space network and should ensure that where development has an adverse impact on green infrastructure, the impact should be clearly understood, minimised and mitigated. As a last resort the impacts should be compensated for either on-site or off-site.

#### Higher and Further Education Uses

Policy CP22 of the Adopted Core Strategy sets out the Council's commitment to support the growth and development of higher and further education establishments within the city. The policy supports development associated with the university, particularly in sustainable locations. Criterion d of the policy sets out that the Council will support and encourage the development of student accommodation, particularly where this could lead to the release of existing accommodation for family/market housing. The development of 65 student apartments in this location could lead to such a release of homes in the wider housing market and particularly in the private rental sector in residential locations around the edge of the city centre. In considering how many market homes could be released to the market by the development of new

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student accommodation, research has indicated that on average, 3 students would share a house in the private rented sector. This would mean that for every 3 student apartments provided, a single house would be released to meet wider housing needs. Therefore this proposal for 65 apartments would release about 22 homes from the market.

#### Historic Environment

A primary consideration in determining the application is the potential adverse impacts of the proposal on the historic environment. In this case this is a particularly important consideration due to the scale and height of the building and the location of the site within a Conservation Area. There are also a number of listed buildings in the vicinity of the site. Heritage Impacts will be considered later in this report.

Saved CDLPR Policy E18 in respect of Conservation Areas requires that within Conservation Areas developments should preserve and enhance the character of the Conservation Area, encourage physical and economic revitalisation and ensure that new buildings enhance the Conservation Area in terms of the siting and alignment of the buildings and the mass, scale, and design of them.

Also of importance is Saved Policy E19 (Listed Buildings and Buildings of Historic Importance). The policy states that proposals will not be allowed which would have a detrimental effect on the special architectural or historic interest of a statutory listed building or its setting. Given that the proposed building's height and close proximity to listed buildings this matter requires very careful consideration. A number of listed buildings are located in close proximity. In particular, St. Peters Church is very close and as the road (St. Peter's Churchyard) rises uphill from the church, the impact of the height of the proposed apartments upon the church may be exacerbated.

The saved CDLPR policies above are complemented by Policy CP20 in the Adopted Core Strategy. This policy relates to the Historic Environment and, similarly to the saved CDLPR built environment policies, seeks that development serves to preserve and enhance the Conservation Area.

Policy AC5 (City Centre Environment) supports the construction of tall buildings in appropriate gateway locations, where these are of high quality design and do not adversely affect the setting of heritage assets and the character of the City Centre. Tall buildings are defined as those of 5-7 storeys (20 metres). The site is right at the heart of the city centre and is not a gateway location. Furthermore, the building is on a hill, in a conservation area and in close proximity to a number of listed buildings.

The site also falls within an archaeological alert area and saved policy E21 of the CDLPR sets out specific requirements in this respect. The policy requires an archaeological evaluation and mitigation strategy to ensure that any remains of archaeological significance are not unduly disturbed. As the site is greenfield and most probably has an historical relationship with the churchyard, this is an important consideration. It may be necessary to secure further investigations or recording or management/preservation of any remains.

#### Residential Uses and Housing Supply

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Generally, proposals for residential development in the City Centre are welcomed in principle subject to being consistent with other relevant policies. Furthermore they meet the objectives of the Council's City Centre Living Initiative.

The City Centre has been designated as a Housing Zone and the Council has a City Living Initiative which seeks to boost residential uses in the City Centre. The Core Strategy identifies the City Centre as a strategic location to deliver a minimum of 2,200 new homes during the plan period. Around 1,200 of these are expected to be delivered on the Castleward and Former DRI strategic allocations. Therefore it is expected that a minimum of about 1,000 new homes should be provided in the city centre outside these two strategic sites.

Residential uses in this location would be consistent with the objectives of the Core Strategy and the saved policies of the CDLPR in principle. However, the detailed matters discussed in this report must be carefully considered and satisfied to ensure that the development is acceptable.

Policy CP7 seeks to meet needs for affordable and specialist housing. While the type of residential use proposed could be considered to be 'specialist', there is no specific target set in the local plan in order to meet needs for student housing. However the development of new student dwellings, including halls of residence, can provide bespoke accommodation which will release dwellings in the private rented sector and therefore make them available to meet general market needs. Student accommodation can therefore count towards the housing target set in the local plan and in this case specifically towards the target to deliver 2,200 new homes within the City Centre. The Planning Practice Guidance indicates that numbers of student dwellings should only count towards the housing supply based on the number of dwellings that they would release from the market. Therefore, if permitted and delivered the development could provide about 22 dwellings towards the housing supply.

Policy H13 (Residential Development – General Criteria) is a saved CDLPR policy and should be considered in terms of the consistency of the proposal with each of the criteria set out in the policy. This requires that a high quality living environment can be formed, particularly in terms of the layout of buildings and open spaces.

#### Highway and Access Issues

Policy CP23 (Delivering a Sustainable Transport Network) sets out requirements relating to developments in the context of transport and access matters. The City Centre generally provides a very sustainable location for residential uses in that the need for car ownership and use can be significantly reduced. This policy seeks to promote active walking and cycling and to achieve better safety and security.

Policy AC4 (City Centre Transport and Accessibility) complements CP23 and sets out more specific ambitions and requirements for development in the City Centre.

#### Infrastructure

Policy MH1 (Making it Happen) is the policy in the Core Strategy which sets out requirements for appropriate supporting infrastructure to be provided with new development. The development of 65 apartments in this location would trigger the

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requirement for certain mitigation to be provided. Details of the mitigation package, Section 106 Agreement, are provided in Section 8 of this report.

**Policy Context Summary and Conclusions**

The City Centre is a sustainable location for development and the principle of residential development in the City Centre is acceptable. However, there are detailed matters and specific policy requirements which must be met in order for a proposal to be considered acceptable.

The benefits of the proposal and the adverse impacts must be considered in terms of the overall planning balance. The proposal has the potential to meet several policy objectives including providing new development associated with the University, delivering 'city living', meeting some of the Derby's assessed housing needs and contributing to delivering a minimum of 2,200 new homes in the city centre between 2011 and 2028. The development of such a residential use could also contribute to increasing vibrancy in the area.

However, the benefits must be considered against the adverse impacts. This requires considering the details of the proposal against the place making, character and context and design principles, as well as the amenity and residential development policies, GD5 and H13 of the CDLPR. This is a sensitive location and the height, scale, massing, design of the building etc. must meet the policy objectives set out in the saved policies of the CDLPR, the Adopted Local Plan and the NPPF.

Particular care is required in considering the adverse impacts on the historic environment including nearby listed buildings and the Conservation Area. Indeed a building of this scale and impact must be designed carefully to sit in the street scene and complement the surrounding buildings.

It is also material to consider that although the development could contribute towards meeting housing needs, the accommodation proposed is not for general C3 type housing and is specifically designed for students. There is no specific target to provide student dwellings in the local plan and although the development may provide bespoke, high quality student accommodation, the main types of housing need identified for the city (C3) would not be met directly.

The loss of the small area of green space is also material. Although it only provides visual amenity, it provides some value to the local environment and its loss should be part of the balance.

**Impact on the Conservation Area and surrounding Listed Buildings**

The application site is located within the medieval historic core of the City and benefits from a number of Listed Buildings and Conservation Area status. With the exception of additions to the St Peters Church and changes to ground floor shop fronts the street scene appears largely unchanged. Whilst it is accepted that the street scene is mixed, the northern side characterised by the three and four storey buildings and the south side characterised by the Church and the former school house, now used as a beauty salon and three storey buildings and vehicular access points.

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In considering this proposal one of the main areas of concern is the potential impact the proposed development would have on a number of statutory listed buildings, the conservation area and buildings of local historical importance, these include:

- St Peters Church Grade II\* Listed
- Old Hall Grade II\* Listed (Former School House currently Sally Montague's Salon)
- Former County Court Grade II Listed (which forms part of a terrace of 3 and 4 storey buildings which are locally distinctive)
- Green Man Inn (Ryans) Grade II Listed
- 45 St Peters Street (Costa Coffee) Grade II Listed
- Wesleyan Chapel Non-Designated Heritage Asset
- St Peters Street and Green Lane Conservation Area

The application is accompanied by a Heritage Statement and visuals however the preparation of these visuals has not been discussed with Council Officers. The visuals, in my opinion, are potentially misleading showing the scheme from various heights and angles that distort the true view. Colleagues and I consider that all visuals should be provided from 1.5 metres above ground level to show the true perspective and the view of a pedestrian. In the instance of this application I would suggest that visuals from Green Lane and the junction of St Peters Street/East Street would have also been useful along with sections clearly showing the land level differences. The visuals would serve as a guide to the relationship between the proposed development and the aforementioned listed assets and locally distinctive buildings along with the St Peters House. The Heritage Statement considers the neighbouring listed assets and conservation area but not those locally distinctive buildings or no. 45 St Peters Street and the Hippodrome, although the distance between the application site and these listed buildings is greater, there could potentially be an impact on their wider setting and views of which they form a part, and noting the listed designation and considering the potential impact would have at least shown a clear understanding of the local context.

In considering the application Sections 66(1) and 72(1) of the Planning and Listed Building and Conservation Areas) Act 1990 require the authority to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses and pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

The authority must also have regard to the guidance on heritage assets in the National Planning Policy Framework in particular paragraphs 131 – 134.

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

- great weight should be given to the asset's conservation;

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

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

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

Whilst accepting that the proposal will not result in loss or substantial harm to designated heritage assets the impact to the heritage assets for the reasons as described by Historic England and the Built Environment earlier in this report would be significant. The presumption therefore should be against granting permission unless there is a clear and convincing justification to demonstrate that there are public benefits from the development and that those benefits outweigh the harm to the significance of the designated heritage asset.

Of particular concern is the impact the proposal would have on the adjacent Old Hall and St Peters Church. The Old Hall sits hard up to its boundary and at the closest point will be some 0.98 metres from the side elevation of the proposed. Therefore the eastern side elevation of the proposed would have a direct impact on the setting of this Grade II\* Listed Building. The proposed development would extend to the front and eastern side of its plot and as a result of its scale, mass and siting would have an overbearing impact on the adjacent Old Hall resulting in overshadowing and a dominance of its setting. In respect of the Church whilst the proposal is further away, I remain of the opinion, that the proposed development would be visually intrusive and would compromise the setting of both the Church and the Old Hall, particularly as a result of the proposals siting to the front of the application site. The proposal would be clearly visible from longer range views such as from Green Lane and St Peters Street therefore it would be viewed within the setting of the Church. Furthermore, the proposal would also result in the removal of established vegetation and open space that positively contributes to the character and setting of the Conservation Area and the aforementioned listed buildings.

The current open space and the established trees also positively contribute to the character and setting of the street scene and its heritage assets. The trees, from various vantage points, provide a setting to views of the Old Hall, church and the County Hall opposite. The removal of this vegetation and open space would be, in my opinion, detrimental to the setting of these heritage assets and the conservation area.

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Furthermore this open space is noticeably un-developed, when considering the submitted historic maps, the long established green field nature of the site and its historic importance in this location are confirmed. The Councils Conservation Area Management Plan (2013) clearly identifies open space within the Green Lane and St Peters Conservation Area, making specific reference to the current churchyard and the historic churchyard that lies to the north of the St Peters House – this application site. The management plan also states that planning permission should not be granted for any development within the important open space or that is detrimental to the setting of St Peters Church. This open space is considered to be of historic value and should be retained to support the visual amenity of designated and non-designated heritage assets and the conservation area.

In terms of the buildings proposed design, Derby is largely characterised by traditional red brick buildings with very few buildings being finished in buff brick. Whilst residential developments have been granted with some light coloured render, this material type and lighter colours have largely only been supported in the context of commercial buildings, ensuring distinction between the different uses. Residential developments have therefore explored alternative materials and architectural techniques to provide relief to the mass and scale of their buildings. In light of this proposal the external appearance and elevational treatment offers very little by way of reference to this historic location in terms of materials, external appearance and overall design. The street scene of St Peters Churchyard is predominantly characterised by strong frontages with well-proportioned windows and horizontal banding and stone detailing. The proposal seeks a 5 storey building: whilst the upper floor would be recessed it would still be visible from a number of viewpoints, particularly as a result of the changing land levels. Therefore the recessing of this upper floor offers very little in terms of reducing the 5 storey scale. Given the nature of surrounding properties I am of the opinion that a 4 storey building, notwithstanding other material considerations, would be more appropriate in this location within the context of St Peters Churchyard street scene.

Furthermore, the chosen design and external appearance of the scheme offers little in terms of contextual references and in fact would sit at odds with the surrounding properties leading to the introduction of an incongruous feature within an historic street scene. I fail to understand the reasoning behind the design choices made. The submitted Design and Access Statement offers very little in terms of design justification and material choices. For example, the proposal seeks to curve the north-eastern corner of the proposal retaining; this would, in my opinion, sit at odds with the angular street scene showing limited consideration of the immediate and local context. Furthermore the impact of the proposal on the street scene would be worsened by the colour of the materials palette.

The proposal, in my opinion, would result in the overdevelopment of this site leaving little visual space between listed buildings. There would be little opportunity for replacement planting and landscaping to the further detriment of the setting of the listed buildings. The harm on the Old Hall, St Peters Church, the Wesleyan Chapel and former County Court, in my view which is shared by consultees, would be significant and the loss of their setting irreversible.

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I note the submitted Heritage Statement makes reference to public benefits and the need to weigh in the balance the potential public benefits however little information has been provided within the submission to explore or set out the potential public benefits provided by the proposal. I fail to see a level of public benefit arising as a direct result of the proposal that would outweigh the direct and significant harm the proposal would have on the aforementioned designated and non-designated heritage assets.

In respect of public benefits, the proposal would not substantially contribute in terms of use to the vitality or viability of the City Centre. Although it could be argued that the 65 students residing within the building would use local amenities; the level of footfall resulting from such a development would not be significant and would not underpin the economic upturn of this area. The application site is an established albeit private open space that contributes to this locality and the heritage assets within it. Historic England advised that these paragraphs of the NPPF should be carefully considered prior to determining the application.

Furthermore whilst the Planning Practise Guidance does state that student accommodation can be considered towards the local housing target, the Council following the adoption of the Core Strategy has a five year housing supply and the limited number of units that could be included from this development would not be considered significant. For every 3 student rooms 1 house can be counted, therefore this development would equate to 22 houses which is insignificant to the housing needs of the City. I therefore do not feel there are any public benefits arising directly as a result of this proposal that would outweigh the detrimental impacts the proposed scheme would have on designated and non-designated heritage assets.

#### Summary

Whilst the proposal is considered to result in less than substantial harm in terms of applying the tests in the NPPF the harm is still considered to be significant. There are no obvious public benefits that would outweigh the likely harm to be caused to the heritage assets as a result of the proposal and a clear and convincing justification for permitting such harm has not been provided. The proposal does not satisfy the policy set out within paragraph 134 of the NPPF and planning permission should be refused.

Notwithstanding my above conclusion it is appropriate to advise that where the NPPF test is satisfied, in establishing that the public benefits arising from the proposal outweigh the harm being caused to the heritage assets, these are in addition to the appropriate of design and loss of trees other material matters would then need to be considered and addressed, namely:

#### Residential Amenity

Whilst I raise no concerns to the living environment afforded to over half of the proposed bedrooms, those that have an outlook to St Peters Churchyard, those bedrooms located to the rear and to a lesser degree those to the side, in my opinion, would have a poor standard of living environment as a direct result of the close proximity of St Peters House and the Old Hall. St Peters House is a 8 storey building with undercroft parking to the rear elevation providing an elevation more akin to 9

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storeys. The proposal would be located some 3.9 metres at the closest point and 11.4 metres at the furthest point from the rear projection of St Peters House.

In my opinion the internal layout of the proposal coupled with the siting of the proposal a short distance from St Peters House would have a direct and detrimental impact on 28 of the proposed bedrooms and 1 of the common rooms. The large scale and oppressive nature of St Peters House would result in an overbearing impact on the residential amenity of these units resulting in the potential loss of light, overshadowing and massing of the bedrooms leading to an unacceptable living environment for future occupiers.

I would also suggest that there would be an element of overlooking as a direct result of the close relationship between the two buildings. St Peters House is currently being converted, under a Prior Notification to residential, St Peters House benefits from windows that encompass the rear corners of the building. As a result of the prior notification process the LPA do not have details of the floor plans but as no planning application has been received this would suggest that the external appearance of the building will not be altered. Therefore as these windows will serve living accommodation they will be in close proximity to and have a line of sight into the proposed bedrooms resulting in perceived overlooking and direct overlooking.

The application seeks to provide an area of outdoor amenity space to the rear, adjacent to the rear projection of St Peters House. St Peters House, in my opinion, would have a clear impact on the quality of this amenity space resulting in the massing and overshadowing of this amenity space to the detriment of the overall quality of the living environment afforded to future occupants of the proposal.

As previously stated, St Peters House is currently being converted into residential apartments. Whilst I appreciate this was dealt with by way of a Prior Notification which only allows the LPA to consider traffic implications, noise, flooding and land contamination, the removal of this open space would remove any potential private amenity space for the future residents of the St Peters House scheme. Furthermore the close proximity of the proposed development would have a direct impact on the residential amenity of those apartments within the rear projection of St Peters House resulting in potential overlooking, perceived overlooking and massing of the corner windows. Although I am of the opinion that a refusal on this ground alone would not be reasonable.

Saved Policy GD5 of the CDLPR states that planning permission will only be granted where a satisfactory level of amenity within the site or the building itself is achieved. In the instance of this application I consider that as a direct result of the relationship and close proximity of the proposed with St Peters House the proposal would result in a loss of privacy, be overlooked and overshadowed to the detriment of its future occupants. The principles of saved Policy H13 are similar in that a high quality of living environment should be provided prior to planning permission being granted. I therefore consider that the proposed development is unacceptable and does not satisfy saved policies GD5 and H13 of the CDLPR.

#### Highways and Parking

My colleagues in Highways Development Control (HDC) and Transport Planning have duly considered the proposal; their full comments are set out in Section 5 of this

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report. No concerns have been raised in respect of the proposal, particularly as the proposal is car free and seeks to provide cycle parking within the site.

A car free development in this location, within walking distance to amenities and sustainable modes of transport is considered to be acceptable. Cycle storage is also proposed and a condition can be attached to any permission to ensure that one cycle space is provided for each bedroom, a total of 65 cycle parking spaces.

The application states that the refuse will be collected by a third party and therefore the distance of the bin storage has not been considered by my colleagues. However it should be noted that the bin store is outside of the man carry distances set by Derby City Council Refuse Operatives. The refuse collections of this site would therefore be a private matter for the management company.

The application site is located at the edge of one of the City Centre pedestrianised zones whilst some vehicle movements are allowed during set times. My colleague in HDC has recommended a condition securing details of the management of student drop off and pick, as the arrival of some 65 cars at any one time in this location would have a detrimental impact on the highway safety and pedestrian safety. St Peters Churchyard is split into a pedestrianised location and public highway for vehicles. On street parking is provided for disabled badge holders, only, and there is no turning facility. Whilst the movement of students is only likely to take place at the start and end of a term the proposal, as a result of its scale, accommodating 65 students, has the potential to have a significant impact on highway safety and pedestrian safety at these times. The submitted application does not consider the management of students moving in and out. In my opinion the proposal would be contrary to policy CP23 of the Core Strategy.

#### Environmental Issues

The implementation of the proposed development would result in the removal of a large number of prominent trees, a total of 8 trees would be felled. These trees positively contribute to the setting of various listed buildings, the Conservation Area and the street scene and their removal would have a significant impact on the visual amenity of this historic location. Particularly as this application site is one of the few remaining open green spaces within the City Centre and primary shopping area.

The submitted tree report categorises 6 of these trees as Category A trees which are of a high quality and have a life expectancy left of some 40 years. The application offers very little in way of justification for the removal of the category A and Category C trees. The Council's Natural Environment Officer wishes for these trees to be retained and I agree that there is limited justification for their removal and their loss would be significantly detrimental to this location. I have not explored the retention of these trees with the applicant as the retention of these trees would result in the building being pushed further into the site worsening the impacts on residential amenity, as set out above, or would result in future pressures for pruning or felling these trees. I have therefore not sought further information from the applicant in respect of the trees as in my opinion the trees and the proposal would constantly compete with each other.

Whilst the removal of trees for development is sometimes acceptable, re-planting would be secured of a specific quantity and in a location that would still provide an

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adequate level of visual amenity to the area and the street scene. In the instance of this proposal, such re-planting would not be achievable. Any planting to the rear of the proposal, within the private amenity space, would not allow an adequate quantity to be replaced or if planting were to take place in this location the replacement trees would be under pressure for future pruning due to the limited area and close proximity to the proposal and St Peters House. Furthermore any visual amenity afforded by the replacement trees would not be afforded to the surrounding listed buildings, conservation area and wider street scene as the trees would be screened by the proposal and the Old Hall.

In light of the above I consider the proposal to be unacceptable due to the unjustified loss of well-established trees that contribute positively to this location, the proposal would therefore be contrary to Policy CP16 'Green Infrastructure' and CP19 'Biodiversity' of the Core Strategy and saved Policy GD5 of the CDLPR. As the proposal does not seek to protect, enhance or maintain the trees and associated open space.

#### Archaeology

The application has not provided an archaeological evaluation including trial trenching in accordance with saved policy E21 of the CDLPR and Policy CP20 of the Core Strategy and para. 128 of the NPPF. The application has also received an objection from the County Archaeologist. Further weight can be given to preserving the area of open space under the Planning (Listed Building and Conservation Areas) Act 1990.

In addition a number of the historic maps delineate this open space as a grave yard therefore there is a high potential for medieval and post-medieval remains along with burial sites.

#### Conclusion

The proposed development of 65 student bedrooms on land to the rear of St Peters House is considered an unacceptable form of development for the reasons set out above. The proposal would have a significant and irreversible impact on the character and setting of a number of designated and non-designated heritage assets along with the conservation area and street scene resulting in less than substantial harm to these heritage assets. The proposal would also result in the loss of a number of protected trees and a historic area of open space to the detriment of visual amenity of the street scene and designated heritage assets.

In light of the above I recommend planning permission is refused as the proposal does not constitute a form of development that respects its context and setting and would not comply with the duties of The Planning (Listed Building and Conservation Areas) Act 1990, The National Planning Policy Framework, the Derby City Local Plan – Part 1 Core Strategy (Adopted 2017), the saved policies within the City of Derby Local Plan Review (Adopted 2006) and the Conservation Area Management Plan (2013).

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

**To refuse** planning permission

**Reasons:**

1. In the opinion of the local planning authority the proposed development, by virtue of its siting, external appearance, scale and mass would have a detrimental and significant impact on the setting and character of the Grade II\* Listed St Peters Church, Old Hall Grade II\* Listed Former School House (currently Sally Montague's Salon), Grade II Listed Former County Court and the St Peters Street and Green Lane Conservation Area. The proposal would also have an impact on the setting of the locally distinctive Wesleyan Chapel and the 3 and 4 storey terraced properties opposite, although this impact would be to a lesser degree. The proposal would dominate the setting of the aforementioned designated and non-designated heritage assets resulting in irreplaceable harm. Furthermore the application has failed to adequately address the potential for below-ground archaeological remains. The proposal is therefore contrary to Paragraphs 128 and 131-134 of the National Planning Policy Framework, policies CP3, CP4 and CP20 of the Derby City Local Plan, Part 1: Core Strategy (Adopted 2017), saved policies GD5, E18, E19 and E21 of the City of Derby Local Plan Review (Adopted 2006) and the Conservation Area Management Plan (2013).
2. The proposal would result in the loss of 8 trees which are covered by a Tree Preservation Order. The application provides little justification for their removal and little opportunity for adequate replacement planting. The protected trees are located to the front of the application site and contribute positively to the character, setting and visual amenity of the street scene and the St Peters Street and Green Lane Conservation Area along with designated and non-designated heritage assets. Furthermore the proposal would result in the loss of an historic area of open space that according to historic maps is associated with the Grade II\* Listed St Peters Church. The land has been previously undeveloped and is therefore Greenfield in its nature. This area of open space along with the protected trees and vegetation positively contribute to the overall character, setting and visual amenity of the street scene, the Grade II\* Listed St Peters Church, Old Hall Grade II\* Listed Former School House (currently Sally Montague's Salon), Grade II Listed Former County Court and the St Peters Street and Green Lane Conservation Area. The proposal is therefore contrary to policies CP3, CP4, CP16, CP19 and CP20 of the Derby City Local Plan, Part 1: Core Strategy (Adopted 2017) and saved policies GD5, E17, E18 and E19 of the City of Derby Local Plan Review (adopted 2006) and the Conservation Area Management Plan (2013).

**Refused Plans:**

The development hereby refused relates to the following plans:

Drawing No. 16048-A-0101 Revision P01 Site Location Plan

Drawing No. 16048-A-2101 Revision P02 Proposed Site Plan

Drawing No. 16048-A-3101 Revision P02 Proposed Ground Floor Plan

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Drawing No. 16048-A-3102 Revision P02 Proposed First Floor Plan

Drawing No. 16048-A-3103 Revision P02 Proposed Second Floor Plan

Drawing No. 16048-A-3104 Revision P02 Proposed Third Floor Plan

Drawing No. 16048-A-3105 Revision P02 Proposed Fourth Floor Plan

**S106 requirements where appropriate:**

Should planning permission be granted the Local Planning Authority would seek to secure a Section 106 to mitigate the impacts of the proposed development. The applicant has agreed to make contributions towards incidental & major open space, public realm, community facilities and swimming pool provision. The agreed contributions are compliant with the adopted Supplementary Planning Document: Planning Obligations.

**Application timescale:**

The statutory target date for determination of this application expired 15<sup>th</sup> February 2017. An extension of time has been secured until 3 March 2017 in order to allow sufficient time for the application to be considered by Planning Control Committee.

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**Committee Report Item No: 2**

**Application No: DER/12/16/01518**

**Type: Full Planning Application**

**1. Application Details**

**Address:** Land off City Road, Chester Green, Derby

**Ward:** Darley

**Proposal:**

Demolition of existing garages and change of use to a secure car park area

**Further Details:**

Web-link to application:

<https://docs.derby.gov.uk/paserver/index.aspx?caseref=12/16/01518>

**Brief description**

This full planning application seeks permission to demolish a number of garages and change the use of the land to a secure private car park on land off City Road. The application site and wider garage complex is currently owned by the City Council.

The application site is accessed off City Road and bounded by properties on City Road, Marcus Street and Chester Green Road and is located within the Little Chester Conservation Area. The application is accompanied by a planning statement which considers heritage and flooding matters, along with demolition details, protected species survey, tree survey and the relevant plans.

Following the submission of revised plans, ducting and service run information and an amendment to increase the number of trees to be felled, the application has been re-publicised in accordance with the details set out in Section 3 of this report. Further amendments have been made in respect of the siting of the lighting column.

Amendments have been sought in respect of the position of the lighting column and the proposed boundary treatment. The application initially proposed a green weldmesh fence with similar gate. The revised application now proposes a vertical black post fence similar to that along Handyside Bridge. The height of the fence remains the same at 2 metres.

The garages that form part of this application are of very little design or historic interest and are of a rundown appearance. The application seeks to demolish 10 garages and re-surface the land to provide secure car parking. The proposed car park will be bounded by a 2 metre high boundary fence with a 4 metre wide electric entrance gate. The gate will be controlled by a key fob and keypad system. In order to facilitate the proposal 11 trees are proposed to be felled, all trees affected by this application are Leyland cypress trees.

The wider garage site consists of a total of 33 garages and a surface car park providing parking for approximately 32 cars, 65 car parking spaces in total. The garages, including those forming part of this application, are of relatively low architectural value with limited design or heritage interest and are of a flat roof construction. A number of the garages are a poor quality and require repair and maintenance. The garages subject to this application are not visible from the public domain of City Road, Marcus Street or Chester Green Road and the trees at the entrance to this site will be retained and unaffected by the proposal.

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The application seeks to demolish 10 garages and replace with 12 car parking spaces. Two further garages will be used in conjunction with the secure car park. 13 garages will be retained some of which are under lease, as detailed below. The surface car park will remain unchanged, providing approximately 32 car parking spaces.

#### Background Information

The garage site is owned by Derby City Council with some of the garages leased to local residents. The garage complex accommodates 33 garages and surface parking for approximately 32 vehicles. This planning application relates to only part of the garage site. Across the wider garage site 2 garages have been sold, 10 garages are currently under lease and 21 garages are vacant. This application affects 3 garages current under lease with 7 of the garages already being vacant. Those tenants affected by the proposal have been offered alternative garages within the garage complex and all 3 tenants have, in principle, agreed to relocations within the garage complex.

The application has been submitted in order to provide replacement car parking for a local business, Aida Bliss, which will be affected by the Our City Our River flood defence scheme. Whilst Aida Bliss no longer work from the main factory on City Road they maintain offices at the junction of St Pauls Road and City Road and currently benefit from parking at the factory site, at the southern end. In delivering such large scale projects, particularly where there is an impact on a third party, the Council must take reasonable steps to work with the relevant land owners. In the instance of this application, the Council is negotiating the purchase of Aida Bliss, in order to deliver a long section of flood defence that cuts through the rear of the Aida Bliss factory site. The car parking currently used by the Aida Bliss office employees would form part of the land to be acquired, as part of the negotiations Aida Bliss has sought replacement parking within the locality of their offices. Aida Bliss is seeking secure parking in order to guarantee parking spaces for employees and tenants of their offices. Whilst they would be eligible for parking permits in Chester Green, parking would not be guaranteed for employees particularly as non-residents, those without permits, can park subject to a two hour parking limit.

The OCOR project assumes that some of the flood defences will be brought forward as part of regeneration projects, on such sites as Aida Bliss. However no such redevelopment schemes have been proposed on the Aida Bliss site. The flood defences on Aida Bliss are within Package 1 works which are currently under construction. Failure to provide the flood defence on Aida Bliss, within the shortest time period, will result in a hole in the flood defences in Chester Green. Therefore the Council is negotiating the purchase of the Aida Bliss factory site in order to deliver a long section of flood defence that runs through a number of the Aida Bliss buildings – this section of flood defence currently has outline planning permission under the previously approved application. The OCOR project will then deliver the flood defence along with considering the re-development opportunities of the remaining site.

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

No relevant planning history

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**3. Publicity:**

Neighbour Notification Letter sent to 29 residents on 3 January, 10 January and 23 January 2017

Site Notice displayed on 6 January 2017

Statutory Press Advert published on 6 January 2017

*This publicity is in accordance with statutory requirements.*

**4. Representations:**

The application has attracted 14 letters of objection from local residents in the Chester Green Area. The letters of objection have been received from local residents, the Little Chester Residents Association and the Derbyshire Archaeological Society. Their objections are summarised as follows:

- The removal of any trees is unacceptable, particularly in a Conservation Area,
- The loss of the garages will displace car parking and result in more on-street parking congestion,
- The private company, that will use the car parking, should have to apply for permits like the residents of Chester Green and/or use the car parking available,
- The publicity should be extended as additional information has been provided,
- The proposal will have an impact on existing residents,
- The proposal and loss of trees will have an impact on local wildlife,
- The security and fencing proposed is unacceptable and unnecessary,
- Impact on the conservation area and archaeological remains,
- The proposal is unnecessary,
- It is not clear who the car parking will be for and who will pay for the proposal. The proposal is an unacceptable use of flood defence funding, particularly as there is a deficit in the Our City Our River project,
- The application is not accompanied by an archaeological impact assessment,
- The watching brief should not be conditioned, information relating to trial trenching should be provided in advance of making a decision. This would be best practice,
- The Council has never improved the garages for local residents,
- Residents have not been using the garages since lease rents were increased in 2013,
- Little is being done to protect our natural environment, particularly in the Chester Green area.

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**5. Consultations:**

**DCC Estates:**

We have now reached written agreement to relocate all 3 affected tenants and are in the process of implementing the arrangements.

**Highways Development Control:**

The site is serviced off a driveway which is not "highway maintained at the public expense). The proposals will therefore have no material effect upon the adjacent highway network.

The Highway Authority has No Objection to the proposals.

**Land Drainage:**

I do not consider that this development will have a substantial impact on flood risk due to its scale and the development will not affect the existing vulnerability of the site. Therefore I have no objections.

**Derbyshire Wildlife Trust:**

**Initial Comments:**

The following comments are aimed at providing accurate and up to date information on the nature conservation issues associated with the proposed development.

The application seeks permission for the demolition of garages and removal of eight trees to facilitate a secure car park. We have reviewed the supporting information, including the WYG Ecology report and OCOR Ecology Report, and, in summary, advise that there are unlikely to be any ecological issues and constraints associated with the proposed development.

Given the low ecological value of the site we would advise that opportunities to achieve a net gain for wildlife should be incorporated within the scheme in line with the objectives of the National Planning Policy Framework. We would therefore recommend that bird boxes are installed on the retain trees.

**Further Comments made on 2<sup>nd</sup> February:**

With reference to the above application, I am responding as the Wildlife Site Officer responsible for work relating to the Service Level Agreement, which the Council and the Trust have signed. The following comments are aimed at providing accurate and up to date information on the nature conservation issues associated with the proposed development.

The application seeks permission for the demolition of garages and removal of eight trees to facilitate a secure car park.

We have reviewed the supporting information, including the WYG Ecology report and OCOR Ecology Report, and, in summary, advise that there are unlikely to be any ecological issues and constraints associated with the proposed development.

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**Natural Environment (Tree Officer):**

Application 12/16/01518 is for the demolition of existing garages and change of use to a secure car park area at land off City Road, Chester Green.

There are no Tree Preservation Orders (TPOs) within the curtilage of the application site, but the site is located within the Little Chester Conservation Area where all trees are automatically protected.

The trees within the application site are also Council owned.

The proposal will require the removal of eight Leyland cypress trees because of a reduction in levels where these trees are located. It is considered though that the trees to be removed have limited public visual amenity value because of their location and also the fact that they were reduced in height by 8 to 10 metres in 2014.

If we are minded to approve this application, I would recommend that an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) be submitted for approval in relation to the trees to be retained, in particular trees 15 and 16 as their root protection area (RPA) will be compromised by the proposed works.

Further to the comments made on 5 and 9 January:

The submitted Tree Survey originally identified under paragraph 3.3 that the proposed removal of trees 17 to 24 to facilitate the reduction of soil level may also require the removal of trees 14, 15 and 16 due to the incursion into the root protection area (RPA) of trees 15 and 16 and the fact that tree 14 forms part of a group with 15 and 16.

It is noted on the amended Demolition and Construction Works – City Road plan that it is now proposed to remove the three Leyland cypress trees, identified as 14, 15 and 16 in the Tree Survey.

Having discussed the situation with our arboricultural officers, it is considered that these three trees have limited public visual amenity and as such I have no objection to their removal.

I have no further comments to make, other than reiterating that where any proposed works may impact on trees to be retained that an Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) be submitted to demonstrate how the works will be implemented without impacting on these trees.

**Derbyshire County Council Archaeologist:**

Following the submission of information relating to service runs and ducting the County Archaeologist has confirmed that the intrusive groundworks should be covered by archaeological monitoring to ensure recording of the archaeological remains in accordance with paragraph 141 of the NPPF. Therefore the standard archaeological condition is recommended.

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**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 Derby City Council Local Plan Part 1 Core Strategy, and relevant Local Plan Review January 2006 saved policies).

The proposal site lies within the Chester Green Conservation Area in an area of land behind City Road and Chester Green Road, where the railway line formerly ran. In more recent times it has been in use as a car park with informal parking and a range of flat roofed garages.

The garages are of no historic or design interest, so there is no objection to their demolition. The proposal includes removal of a number of Leyland cypress trees adjacent to the access road, which are not of particularly strong amenity value in themselves, but do assist to soften an area of otherwise negative character in terms of the Conservation Area.

The proposed amendment to the design of the fencing to simple traditional vertical railings with a painted finish is a substantial improvement to the proposed scheme and would be more appropriate to the historic character and appearance of the Conservation Area.

The proposed lighting column has been relocated close to the gate to the site, where it would have less conflict with the existing 'heritage style' lighting columns on the existing footpath. Nevertheless I would recommend a condition to secure a good quality design to the new lighting column to achieve further visual enhancement.

It is regrettable that no additional planting has been proposed to soften the appearance of the enclosure. However, I note that this is a back land site with a former industrial use, and consider that the amendments to the scheme are sufficient to address the concerns previously raised, such that the overall impact on the character and appearance of the conservation area would be neutral.

**Conservation Area Advisory Committee:**

Concerns were raised in reference to the disturbance of archaeology (Roman Fort/Saxon Cemetery), especially in relation to new lighting column and posts for new fencing. The design of the proposed fencing is inappropriate for the conservation area, and loss of trees harmful to character of the area and unnecessary.

The Conservation Area Advisory Committee objects and recommend refusal of the application.

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**6. Relevant Policies:**

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

**Derby City Local Plan Part 1 - Core Strategy:**

CP2	Responding to Climate Change
CP3	Placemaking Principles
CP4	Character and Context
CP16	Green Infrastructure
CP19	Biodiversity
CP20	Historic Environment
CP23	Delivering a Sustainable Transport Network
AC7	The River Derwent Corridor
AC8	Our City Our River

**Saved CDLPR policies**

GD5	Amenity
E18	Conservation Areas

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

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

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

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

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

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

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**7. Officer Opinion:**

**Key Issues:**

- **Demolition of Garages**
- **Impact on the Conservation Area and Design**
- **Environmental Issues**
- **Highways Impacts**
- **Residential Amenity**

**Principle of Development**

The application seeks permission to provide secure parking for a local business, within the Chester Green area, that will be affected by the implementation of the Our City Our River Flood Defence Scheme. The parking currently used by this business will be displaced as a result of the flood defence scheme, as detailed above.

The application seeks to provide a designated car park within an area that has been and is currently being used for the purposes of car parking. I therefore see little difference, in land use terms between the current use and proposed use.

Our Estates team have confirmed the number of garages currently under lease and those that will be affected by the proposal. In total 3 garage tenants will need to be relocated as a result of the proposal. All 3 of these tenants have agreed, in principle, to be relocated within the existing garage complex. Therefore, the proposal will not result in the displacement of any resident car parking due to the limited up taken of local residents to lease the garages and a number being empty.

In light of the above and the limited usage of the garages I do not consider that the proposal will result in a displacement of car parking. Furthermore I consider that the application, in land use terms, is no different to the existing use being undertaken on the site.

**Impact on the Conservation Area and Design**

The demolition of the garages is considered to be acceptable as they offer very little to the character and/or setting of the Chester Green Conservation Area. Furthermore the application site is not readily visible from the public domain and/or street scene of City Road, Marcus Street or Chester Green Road albeit there is a view of the roofs of the garages from the adjacent footpath. The loss of these garages and the formation of a car park with associated boundary treatment in my opinion would have a neutral impact on the character and setting of the Little Chester Conservation Area.

The initial comments from my colleague in the Built Environment Team expressed objections to the proposal and stated that the proposal would lead to less than substantial harm to the setting and character of the Chester Green conservation area. Following the submission of the aforementioned amendments my colleagues has provided a further consultation response, as set out above.

Following the amendments to the scheme namely the relocation of the lighting column and the improvements to the boundary treatment they now consider the impact on the conservation area to be neutral. However concerns are still expressed

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in respect of the loss of trees and the absence of a landscaping scheme or replacement planting.

It is important to consider that *impact* does not necessarily equate to *harm*. Whilst I accept that the proposal will have some impact on the setting and character of the Chester Green Conservation Area, in terms of a small scale change in form and layout, I do not consider this impact to constitute 'harm'.

Paragraphs 132 – 134 of the National Planning Policy Framework should be considered when determining applications in the context of heritage assets where harm, of some degree, is caused. However, as I do not consider that the proposal would result in any harm to the Conservation Area the tests within the NPPF are not triggered.

However if Members consider that the proposal will have more than an impact on the Conservation Area and determine that the proposal will result in less than substantial harm to the Conservation Area the following public benefits should be considered.

The public benefits associated with this proposal would be the implementation and completion of the Our City Our River flood defence scheme which without the relocation of the affected car parking may not take place. The implementation and completion of the flood defence scheme would benefit a wide area including residential and commercial properties in the Chester Green area. A further public benefit, subject to the Council completing the purchase of Aida Bliss, would be the re-development opportunities of the former factory site. This would bring back into use a prominently located building that has been vacant for a considerable period of time.

The applicant has considered the views expressed by consultees and objectors and has sought to address their points through the relocation of the lighting column along with the reconsideration of its design to reflect that of the existing column. The precise details of the lighting column will be secured by way of a condition.

Concerns have been raised during the statutory consultation period in respect of the proposed boundary treatment. The amended boundary treatment has been chosen as it allows views into and out of the car parking, is lightweight in appearance and already features in the conservation area, albeit in more prominent locations than this one.

Additional information has been provided during the life of the application in respect of the below-ground archaeology, duct and service runs. The County Archaeologist has requested the standard written scheme of investigation condition but raises no over-arching objection to the proposal in respect of potential impacts on below-ground archaeology. I note the concerns raised by local residents but I have weighed these in accordance with the comments of the consultee.

The proposal, in my opinion, will be barely visible from the public domain. The application site does not, in my opinion, form any of the key and important views of the Conservation Area and is considered to have a neutral impact on its setting and character. The applicant has taken reasonable steps to mitigate, where practically possible, the impacts of the proposal on the surrounding area and conservation area and I therefore considered the application to be acceptable in terms of Derby City

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Local Plan Part 1 policy CP20 and saved policies GD5 and E18 of the adopted City of Derby Local Plan Review.

### **Environmental Issues**

The garage court accommodates 24 Leyland cypress trees a number of which are located outside of the application area. These trees, particularly those at the entrance to the garage court will not be affected by this proposal.

The trees affected by the proposal are categorised as being B2 and at the mature end of their life at a height of between 8 - 10 metres. These trees are visible, from some viewpoints, within the wider area but primarily contribute to the setting of the garage site from private viewpoints, within the garage site itself and from the public footpath. Whilst these trees are not protected by a Tree Preservation Order they are protected by their location within the Chester Green Conservation Area. This type of tree would not be protected under a standalone Tree Preservation Order. The application seeks to remove 11 trees as a result of the demolition of the garages and the regrading of the land resulting in changes to the land levels. The removal of these trees, whilst regrettable, would not have a significant impact on the character and setting of the conservation area due to the limited views from the public domain. Furthermore no objections have been raised by my colleague in the Natural Environment team in respect of the removal of these trees. The proposed drainage strategy of the proposal will integrate with the existing drainage. This is considered to be acceptable and no objections have been received by colleagues in Land Drainage. There are no concerns with regards to land drainage and the drainage of the scheme in accordance with the comments from the Councils Land Drainage scheme. The drainage of the site will remain as existing.

Derbyshire Wildlife Trust has provided a consultation response in respect of the proposal and raise no objections subject to the use of a condition securing the installation of bird boxes into the remaining trees. Bird boxes are only effective when birds have a clear line of sight into the bird boxes and therefore their installation into leylandii will not be acceptable. This matter has been discussed with Derbyshire Wildlife Trust who agrees with this position and has removed the requirement for bird boxes to be provided. As the Trust considers this site to have a relatively low ecological value no other conditions have been requested. The proposal is therefore broadly compliant with policies CP16 and CP19 of the Derby City Local Plan Part 1.

In light of the above I see no reason to resist the proposal in respect of environmental grounds.

### **Highways Impacts**

The full comments of my colleague in Highways Development Control as set out above. No concerns have been raised in respect of the proposed development as the access to the application site is private and not maintained by the Highway Authority. The level of vehicular trips associated with the proposed will not have a detrimental impact on the surrounding highway network and therefore there are no highway objections to the proposal. Furthermore no concerns have been raised in respect of displaced car parking onto the public highway. The application therefore satisfies policy CP23 of the Derby City Local Plan Part 1.

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### **Residential Amenity**

The application site can be viewed from the curtilage of surrounding domestic properties on City Road, Marcus Street and Chester Green Road. I do not consider that the proposal would result in a detrimental impact on the amenity of these surrounding properties. Whilst a number of objections have been raised these are not in respect of residential amenity, overlooking, massing or overshadowing etc.

As stated the proposed car park will be used a local business and is therefore likely to be in regular use, this will offer a level of natural surveillance of this area and the rear boundaries of properties on Marcus Street and Chester Green Road.

Concerns have been raised in respect of the publicity undertaken. The publicity undertaken is set out in Section 3 of this report and includes three sets of neighbour notification letters, the display of a site notice and the publication of a press notice. This publicity is in beyond statutory requirements and in my opinion is sufficient when considering the application and additional information received.

Concerns have also been raised in respect of funding the proposal. The means of funding a development are not a material planning consideration and are therefore not considered within this report. All other material matters raised by objectors have, in my opinion, been addressed within the main body of this report.

### **Summary**

The proposal, including the demolition of the existing garages and erection of boundary fence, resurfacing and the felling of 11 trees, is in my opinion acceptable. The application has sought to address concerns and mitigate the impacts of the proposal through amendments to the position of the proposed lighting column and the provision of a landscaping scheme. Whilst the proposal will have some impact on the character and setting of the Chester Green Conservation Area this will constitute a neutral impact and no 'harm' will be caused in this case.

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

**To grant** planning permission with conditions.

### **Summary of reasons:**

The demolition of the garages is considered to be acceptable as they offer little to its setting or character. The re-grading of the land and formation of car parking area is considered to be acceptable in policy terms. The proposal erection of the lighting column and boundary treatment following amendments is considered to be acceptable and will integrate with the character and setting of the Chester Green Conservation Area. Whilst the proposal will result in the loss of 11 trees this is not considered to be detrimental to the setting of the Chester Green Conservation Area.

### **Conditions:**

1. Standard condition 100 (Approved Plans)
2. Standard condition 03 (Time Limit)
3. Non-Standard condition (Demolition Method Statement)
4. Non-Standard condition (Lighting Scheme)
5. Standard Condition (Archaeological Scheme of Investigation)

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6. Standards Condition (Landscaping Scheme)
7. Standard Condition (Landscaping maintenance)

**Reasons:**

1. Standard reason E04 (For the avoidance of doubt)
2. Standard reason E56 (Time Limit Reason)
3. Standard reason E07 (Preserve Residential Amenity)
4. Standard reason (Preserve Residential Amenity and Conservation Area)
5. Non-Standard reason (to preserve below-ground archaeology)
6. Standard reason (Preserve Residential Amenity and Conservation Area)
7. Standard reason (Preserve Residential Amenity and Conservation Area)

**Application timescale:**

The statutory target date for determination of the application was 17 February. An Extension of Time has been agreed with the applicant until 3 March 2017.

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**Application No: DER/11/16/01371**

**Type: Full**

**1. Application Details**

**Address:** Public Open Space, Land off Rawdon Street, Derby.

**Ward:** Normanton

**Proposal:**

Change of use of public open space to car park (sui generis use)

**Further Details:**

**Web-link to application:**

<https://eplanning.derby.gov.uk/online-applications/plan/11/16/01371>

**Brief Description:**

This proposal comprises of the creation of 80 car parking spaces (which includes 4 disabled car parking bays) on public open space situated off Rawdon Street.

The area of public open space land proposed to be re-developed for car parking is approximately 0.23 hectares which is 33% of the total public open space of 0.64 hectares. The proposed development would provide car parking bays on either side of a centralised access/egress arrangement onto Rawdon Street. It would involve the loss of a group of trees from the open space and hard surfacing of the car park with tarmac. The proposal includes new trees to be planted within the car park layout and erection of new lighting and CCTV columns, provision of ticket machines and bins for users of the parking area.

The overall rationale of the project, as outlined in the Design and Access Statement (DAS) is to... 'to provide a safer area from which the community can be benefit' because there are 'issues with parking in the area and this is more so on temple days due to the number of visitors and the lack of off street parking in the area.' The proposal is intended to provide car parking for both the community centre and Sikh Temple which are adjacent to the open space. The DAS states that there are currently 'issues caused by the increase in cars parked on the highway, such as access for public services such as waste collection and Emergency Services.'

The DAS also states that the site is poorly maintained and is an uninviting area to be in and at night the area is poorly lit. The agent highlights anti-social behaviour and vandalism as existing problems which have occurred within the part of the open space to be developed.

Overall, the agent promotes the proposal on the basis it will offer additional car park spaces, which can be used not only by the local residents but also visitors and that would help to address the car parking issues which are evident in the area, especially the case on temple days, due to the amount of visitors and local residents using the limited parking in the local area. It is also claimed that the area is not well used by the public and there is a need for the development in terms of improving community safety.

To support the application, in addition to the Design and Access Statement, the agent has included photographs of the application site and Arboricultural Survey Report & Method Statement which analyses the existing trees on the site the

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application. The trees are all identified as being category B, which is of moderate quality. This will be analysed in more depth in the body of the report.

**2. Relevant Planning History:**

None

**3. Publicity:**

Neighbour Notification Letter – 32 letters sent on 17/11/2016

Site Notice – Displayed on 18/11/2016

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

**4. Representations:**

There are 24 objections received to the application to date. These raise the following concerns:

- the loss of open space in Normanton, Rosehill and Peartree,
- the many families who use the site for recreational activities,
- increase and the effects of pollution,
- The area is designated as an Air Quality Management Area,
- need for more trees and
- Preferences for improvements to the area.

The application has also generated 1 supporting comment on the grounds of the application site being used for anti-social behaviour. The supporter agreed with the police design officer's comments.

**5. Consultations:**

**Highways Development Control:**

The Highways Development Control Team analysed the submitted highway information and offered the following comments.

It is difficult to see how the availability of a private pay car park (which could legitimately be closed off at times to suit the owners) would be likely to be used by local residents, since they would naturally wish to park their vehicles near their homes and where they are overlooked by other residents; especially if on-street parking is available. It appears from the Design & Access statement that the car park is intended to attract custom which would not normally be anticipated to be parked on Rawdon Street.

Whilst the Design & Access Statement suggests that the proposals will reduce highway parking on Rawdon Street, this is not considered to be likely to be the case; as human nature is generally that if parking (on the highway) is available without charge, or is available at a fee elsewhere; that generally the on-street parking would be likely to be taken up first; thus there would in this respect be no change in the level of on-street parking.

Further, at the present time, potential opportunities for parking on Rawdon Street are likely to be well known and limited, thus leading to less vehicles attempting to access and park on the road.

The Highway Authority therefore considers that an additional 80 parking spaces will accordingly be likely to attract additional vehicles to the street and suggests that the Design & Access Statement fails to justify how the proposals will not result in an increase in vehicular trips along Rawdon Street.

Rawdon Street has a full width of approximately 6.5 metres, however as the residential properties on the western side have no off-road parking, it is heavily parked on that side, with further parking (with vehicles parked part on-part off the footway) occurring on the eastern side. This gives a useable width of approximately 3.0 metres in places.

At busy times (and in the evenings and at weekends), it may therefore be difficult for vehicles to pass. The need to do so would be exacerbated by an increase in vehicular movements due to the proposed car park.

Further, whilst the immediate junction radii at Lower Dale Road have a waiting restriction (double yellow lines); junction visibility falls below advised standards. Lower Dale Road is traffic calmed and is subject to a 30mph speed limit (the traffic calming means that vehicle speeds may be lower than 30mph ~ though no data is available to corroborate this).

At 2.4m set-back from the junction; measured visibility (to a point 1m offset of the nearside kerb edge) to the left on egress is approximately 37m, and to the right on egress is 25m. To the right on egress visibility is actually substantially reduced from this at certain times of the day due to parked vehicles.

Table DG4 of the 6C's Design Guide (6C'si) gives advice upon the advised visibility splays for junctions. In this instance, to the left on egress, assuming that vehicle speeds along Lower Dale Road are 21-25mph due to the proximity of the traffic calming feature, some, 6C's advises that 33m of visibility should be achieved. In excess of this is available.

However, to the right on egress, assuming an approach speed of 26-30mph (due to the distance from the traffic calming feature), 6C's advises that 43m should be achieved. With only 25m (less if vehicles are parked up to the junction), this cannot be achieved. Even if vehicle speeds fall within the 21-25mph range, 25m still falls short of the minimum of 33m advised.

If the applicant/developer were able to provide an independent speed survey (taken at the point at which vehicles come into view) which demonstrates that the 85th percentile speed of traffic approaching from the right is 20mph or less, the available visibility would be acceptable. However the situation at present means that emerging vehicles are forced to "nose out" into oncoming traffic before they are able to determine fully whether it is safe to manoeuvre.

The Highway Authority is therefore of the view that the proposals will lead to the intensification in use of a highway junction which has substandard visibility when set

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against current standards. This will lead to increased conflict and thereby risk of an accident occurring.

Further, the proposals will be likely to attract additional vehicles into the Rawdon Street; this will lead to additional conflict as at times carriageway width is limited due to parked vehicles.

**Arboricultural Officer:**

The Arboricultural Officer has assessed the trees on the site and calculated the asset value of the trees.

It is quite hard to get trees established in the urban environment so would have concerns about the trees being removed, however if the benefits of the additional car parking outweighs the benefits of the trees then the assessment of asset value of the trees would need to be calculated. We do have some outstanding works to the trees; trees Nos. 15, 63 and 22 (east) are scheduled for removal, due to poor condition or being unsuitable for their location.

If the tree assets were to be destroyed to allow the development then the asset value must be provided as compensation. Details have not been submitted by the applicant with regards to the amenity that the existing trees provide.

To successfully incorporate trees into hard landscaped areas, trees must be installed into tree pits with root deflectors and appropriate levels of soil volume. These details have not been supplied; the tree pit design and specification must be agreed prior to any approval.

The replacement trees must ultimately replicate the existing canopy volume. Details of replacement trees must be supplied and agreed prior to approval. Standard landscaping conditions would be applicable.

Tree 64 is adjacent to the site (north) and is shown as being retained however details of surfacing within the RPA have not been submitted. Changes in soil level must not happen within the RPA and non-dig construction with a porous final surface over must be used within the RPA. A Method statement must be supplied and agreed detailing how the tree will be retained. The applicant could approach the tree owner (Derby Homes) and seek permission to remove the tree. If this is the case the asset value of tree 64 should be paid to the tree owner as compensation.

Trees being retained should be protected as per BS5837 and the appropriate condition applied.

**Crime Prevention Team:**

The change of use is acceptable to us in principle.

As mentioned within the supporting design and access statement the existing site does have some problems with anti-social behaviour, which a more regulated and regular use should help to alleviate. Some of these problems are compounded by casual access being gained into the site through private grounds belonging to the neighbouring Fairdene site and there currently being a messy arrangement of permanent and temporary fencing erected in an attempt to stop this.

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The proposed development will introduce an additional risk to the equation if this situation isn't fully resolved and consequently advice would be to make approval conditional upon an agreed form of secure enclosure for the whole of the north western site boundary. The details submitted for lighting and CCTV provision look acceptable, but more detail would be needed to ensure that the combined scheme has an adequate specification for public reassurance and efficacy of CCTV definition.

The lighting scheme should be specified to control the level of illumination and these requirements should be set as conditions of approval or form part of approved plans/documents.

**Landscape and Parks Officer:**

Comments to be reported.

**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
- CP16 Green infrastructure
- CP17 Public green space
- CP19 Biodiversity
- CP23 Delivering Sustainable Transport Network

**Saved CDLPR policies**

- GD5 Amenity
- E17 Landscaping Schemes

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

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

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

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

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

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

**7. Officer Opinion:**

**Key Issues:**

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

- **Parking need and rationale for this proposal**
- **Highway safety**
- **The loss of public open space and landscaping**

**The demand for car parking and the rationale for this proposal**

The application seeks to demonstrate that parking in the local area is an issue that concerns local residents and, therefore, it needs to be tackled. The provision of a car park on part of the public open space is claimed to be required due to a lack of available parking in the local area, in particular for the users of the adjacent temple and community centres. The proposal is to provide 80 additional car parking spaces on a pay and display car park, which would be hard surfaced and have lighting and CCTV columns.

Policy CP23 of the new adopted Derby City Local Plan (Part 1) is applicable and replaces the previous Policy T5, which dealt with off-street car parking. CP23 is a general transport policy, which supports proposals which manage down traffic impacts and promote sustainable transport. Under this policy off-street parking proposals are covered as part of the transport network, rather than specifically dealt with. The policy requires that the circumstances of the proposal are taken into account, "including the realistic requirements of the user, accessibility of the area by different transport modes and the possible impact of the parking on the transport network". The policy recognises that car parking is essential for many new developments, however the level of parking to be provided should not undermine the Council's objectives to promote sustainable transport.

The Council's Highways Officer has raised concerns about the impact of the additional car parking on the parking demand in this locality and on Rawdon Street in particular. I concur with this view that there is unlikely to be a high level of local residents using the car park, due to the parking charges and the desire for parking outside peoples homes. It is reasonable to presume, that the provision of a large car park in this densely built up urban location is likely to generate vehicle trips to this area and significantly increase traffic on Rawdon Street, which is currently a short residential street. The car park would result in additional traffic using Rawdon Street to access the community facilities nearby, although as the Highways Officer has identified, the road network in this locality is not ideal for the potential increase in traffic. In this case, it is the opinion of Local Planning Authority that there is not reasonable justification for the proposed additional parking in the area in the context of the case which is being put forward by the applicant and the stance of the Local Highway Authority. It is considered that the scale of additional parking proposed and

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its siting on an area of public open space is not appropriate, based on the justification which has been submitted by the applicant. For these reasons, the provisions of CP23 have not been satisfied by the proposed car parking due to the likely impacts on the local road network in terms of increased car borne traffic. The proposal is therefore contrary to the intentions of the policy to support sustainable transport modes and manage traffic demand. This is an important consideration in determining whether it is appropriate to release open space in this area.

#### **Highway safety**

The Highways Officer has raised concerns about potential vehicle conflict as a result of the additional traffic using Rawdon Street, on the grounds of the character of the current highway and limited visibility which is afforded at the junction of Rawdon Street and Stanhope Street. I acknowledge these concerns would impact on local residents and other users of the highway, however I am not convinced that these would amount to severe impacts which could justify a refusal of the proposal on highway safety grounds.

There are separate associated design and layout elements of the proposed car park that would need to be addressed under highways powers but these fall outside the remit of the Local Planning Authority.

#### **The loss of public open space and landscaping**

The site forms part of a wider allocation of public open space and policies CP16 and CP17 of the adopted Derby City Local Plan (Part 1) have replaced saved Policy L1, which dealt with the protection of public open space within the city. Policy CP17 provides for the provision and delivery of public green space and this states that 'Council is committed to ensuring that everyone has access to a network of multi-functional public green spaces. It will seek to ensure that this network provides a diverse range of spaces to meet city-wide needs.' Policy CP16 is a strategic policy which seeks to protect and maintain the city's green infrastructure which includes open spaces and trees. It reflects the NPPF and the Council's aspiration to create a healthy environment, in this case, through access to high quality open space. Whilst the applicant has highlighted that the site is poorly maintained and attracts anti-social behaviour, it still forms part of the City's green infrastructure network and provides, based on the findings of the Council's Open Space Study, a valuable resource in an area of deficit.

Policy CP17 which relates to public open spaces also reflects national policy in providing criterion for determining an application for the loss of open space. The policy goes further than the previous Policy L1 of the Local Plan Review, since it still requires that an assessment of open space is undertaken which clearly shows that the space is surplus to requirements. However it goes further, reflecting paragraph 74 of the NPPF, by requiring that the loss resulting from the proposed development would be replaced by an equivalent or better provision in terms of quantity and quality in a suitable location.

The applicant asserts in the Design and Access Statement that the scheme complies with saved Policy L1. However in my opinion this statement is incorrect as a robust open space assessment of the site has not been undertaken.

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In support of the application the agent has sought to demonstrate that the quantitative loss of this area of open space can be justified in the context of the overall supply and availability of open space in this part of the city. The submitted Design and Access Statement argues will help to improve the parking situation by addressing current parking issues, especially for the temple and community centre. The provision of additional parking must be weighed against the loss of the public open space in the planning balance. The provision of the car park in this location is contrary to the requirements of Policies CP16 and CP17 and should have been subject to an open space assessment to demonstrate if the space is surplus to requirements.

The Council's Open Space Study does, in lieu of the lack of information provided by the applicant, provide robust evidence to assist in determining this application. The Study provides a detailed analysis of open space in the City, highlighting areas of deficiency and areas of surplus and provides standards for quality, quantity and accessibility; looking at all types of open space in the City above 0.2 hectares. The Council's Open Space Study divides the City into five distinct areas and the application site falls within the central area which is made up of three wards - Abbey, Arboretum and Normanton.

The application site is defined by the Open Space Study as Amenity Green Space. The Study recommends a quantity standard for Amenity Green Space of 0.83 hectares per 1000 people and highlights that, when implementing the standard, the central area has an overall deficit of 21.3 hectares. Focussing on Normanton Ward itself, the Open Space Study indicates that there are only four areas of Amenity Green Space. The 2011 Census indicates that the population of Normanton is 17,071 people and the Open Space Study indicates that there is 2.52 hectares of Amenity Green Space in the ward; this equates to 0.142 hectares of Amenity Green Space per 1000 people, a figure which is under the adopted standard. Even if we consider the provision of all open space in Normanton, the current provision of 1.8 hectares per 1000 people falls substantially below the Council's aspiration of 3.8 hectares per 1000 people. Whilst it would be wrong to impose the Council's standards for the provision of open space in such a densely developed area, it is hard to ignore the fact that the Open Space Study shows that there is very little accessible open space in Normanton and that any loss would exacerbate the current situation.

It could also be argued that the local community could access other areas of open space in the wider area such as The Arboretum, Sunnydale Park and the Sunnyhill Recreation Ground. In this instance, the Open Space Study's accessibility standard comes into play. The standard set out in the Open Space Study of 480 metres (equivalent to a 10 minute walk time) shows that there are significant areas of the ward, including the area surrounding the application site, which falls outside of the accepted walking distance to the three neighbourhood parks. It could also argued that Burton Road, the A511, Osmaston Road and the railway line can act as a potential physical barrier to residents who wish to access open space in the wider St Luke's, Osmaston and Littleover areas. In addition to the neighbourhood parks, it could be suggested that there are other types of open space in the area such as pitches and allotments which could meet the needs of the community. However, it

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should be acknowledged that, although both are classed as open space, access to allotments is restricted to plot owners and the use of pitches may be limited.

One final aspect considered by the Open Space Study is quality of the open space. Reflecting national policy, it is the aspiration of the Council in the Local Plan Review, which is carried forward into the adopted Local Plan – Part 1, that everyone should have access to high quality open space. The applicant, in the Design and Access Statement, states that the site is poorly maintained; attracting anti-social behaviour and drug use. The applicant argues that the implementation of the proposal would make the site more attractive and provide a deterrent. Unfortunately the applicant's arguments given are not a valid to justify the loss of open space.

Notwithstanding the situation concerning the quantitative supply of public open space it also very important to note that the application site forms part of an integral component of landscaped open space within this part of Normanton. As members will be aware Normanton is an inner city urban area, characterised by high density Victorian housing and commercial premises, which is interspersed with isolated areas of open space, such as this one off Rawdon Street. There is recognised deficiency of green space in this part of the city and it is also difficult to identify locations where new open space could be provided.

This area of green space plays an important role in providing the local community with space for recreation and visual amenity. In my opinion, the application site forms an important area of public open space in this neighbourhood, where there is a quantitative shortage of such areas within this part of Normanton.

When considering development proposal in design terms, the NPPF embraces good design as part of its core planning principles. As part of this design consideration, Policy CP3 of the Derby City Local Plan (Part 1) is applicable as it includes criteria aimed at promoting high quality design to ensure that Derby evolves as a healthy, modern City; all proposals for new development will be expected to make positive contribution towards the character, distinctiveness and promote the positive identity of our neighbourhoods.

The proposal would introduce hard surfacing and lighting columns with the provision for significant vehicular activity into this open and landscaped space which would, in my opinion, erode and undermine the character and setting of this densely built up residential area. In this case the proposal would be distinctly at odds with the established character and form of this part of the Normanton.

The provision of a car park on this area of open space would result in the loss of substantial part of the green amenity space in this location and the removal of a group of attractive and healthy trees, which are contribute to the character of the local area. Although replacement trees are proposed to be planted in the car park, this does not outweigh the amenity value of the existing trees, which has been identified by the Council's Arboricultural Officer. The proposal is therefore contrary to the requirements of policies CP16 and CP17, which seeks to protect green infrastructure and public open spaces, unless it has been demonstrated that the benefits of the car parking would outweigh the loss of the open space.

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In this instance the NPPF and Derby City Local Plan – Part 1 are clear in the requirement to undertake an assessment to determine if the site is surplus to requirement. The applicant has not submitted an open space assessment to meet this requirement and therefore the proposed development of the land for car parking does not accord with policy. An examination of the Council's own Open Space Study indicates that there is a substantial deficiency of all types of open space in this area and that irrespective of the parking and anti-social issues currently experienced, the loss of open space in this location would exacerbate this situation. In addition, the application does not show how the resultant loss would be replaced by an equivalent or better provision of open space in terms of quality and quantity in a suitable alternative location.

The proposal is therefore considered to be contrary to the provisions of the adopted policies CP16, CP17 and CP23 as well as the overarching guidance in the NPPF.

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

**To refuse** planning permission

**Reasons:**

1. In the opinion of the Local Planning Authority the proposed car parking area would create, by virtue of the introduction of hard surfaced car parking and provide for an increase in vehicular activity into this important area of public open space and by the removal of a group of trees from the open space, an unacceptable form of development that would erode the established green and open character and setting of this open space that forms an integral part of the layout and character of this densely built up urban area served off Rawdon Street. For this reason the proposal is contrary to policies CP23, CP16 and CP17 of the adopted Derby City Local Plan - Part 1 (Core Strategy) and the overarching guidance in the NPPF.

**Application timescale:**

The application time period has been extended to accommodate this report to committee.

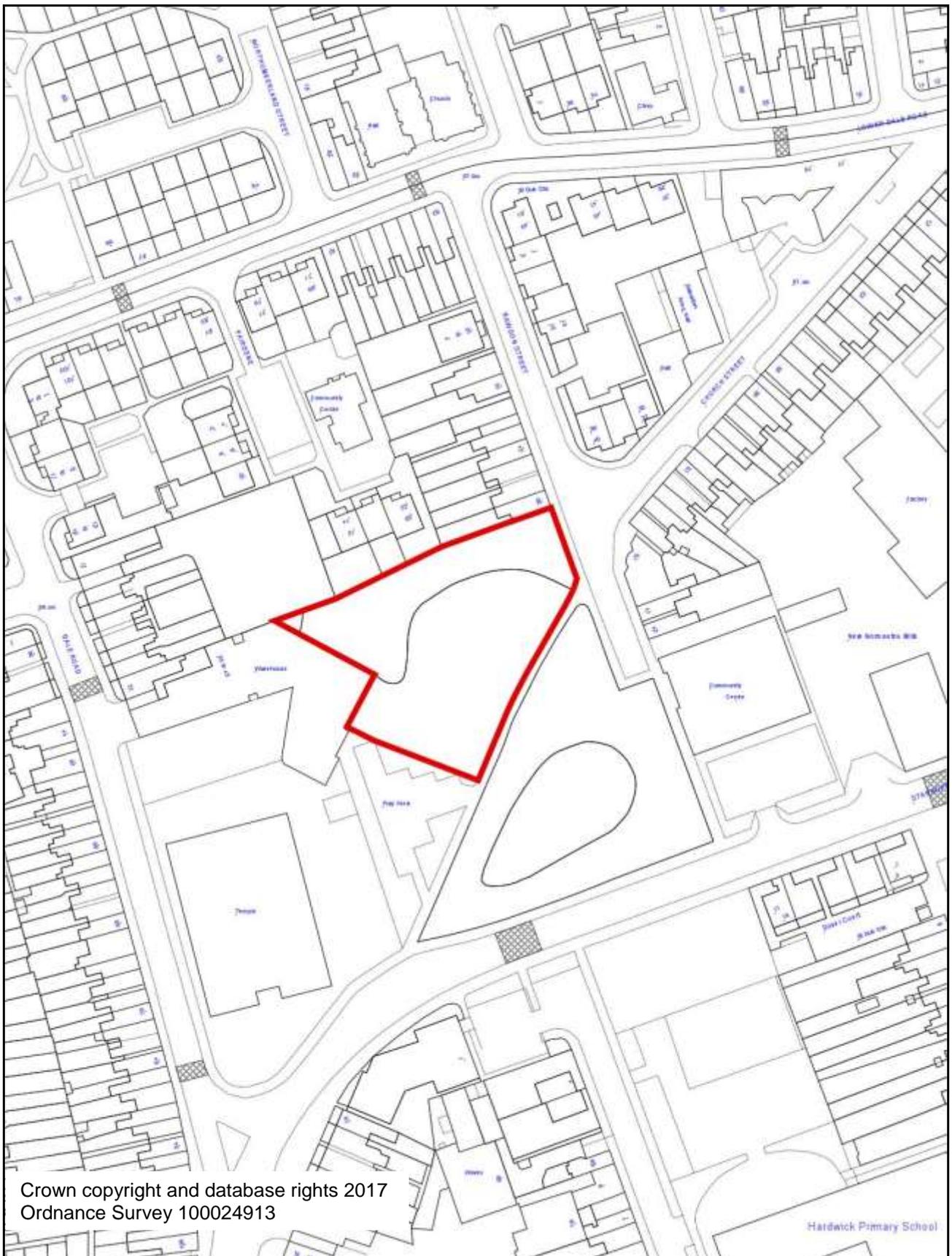
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**Committee Report Item No: 3**

**Application No: DER/11/16/01371**

**Type: Full**



**Classification: OFFICIAL**

**Classification: OFFICIAL**

**Committee Report Item No: 4**

**Application No: DER/12/15/01516**

**Type: Full**

**1. Application Details**

**Address:** Vacant land off Uttoxeter New Road/Talbot Street, Derby.  
(Access off Uttoxeter New Road)

**Ward:** Abbey

**Proposal:**

Erection of foodstore (Use Class A1) with access, car parking, landscaping and associated works.

**Further Details:**

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan/12/15/01516>

**Brief Description**

The application site covers approximately 0.78 ha of land located at the junction of Uttoxeter New Road (UNR) and Mercian Way along the Inner Ring Road. The site was last used as a self-storage facility and prior to that as a bus depot. The site is served by an existing vehicular access located along Uttoxeter New Road.

The site has been cleared of all buildings and is mainly comprised of bare ground with some areas of rough vegetation. The levels across the site itself are generally consistent however the land is slightly elevated compared with the level of Uttoxeter New Road. The site's boundaries are defined by a mixture of brick/stone walls and fencing.

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

**The proposal**

The proposal seeks planning permission for the construction of a new retail unit (A1 use) covering 1,807sqm (gross) with a proposed sales area of 1,254sqm (net). The proposed occupier is the discount food store retailer, Aldi Stores Ltd (Aldi).

Aldi are a mainstream convenience food store operator, although they generally sell non-food comparison goods in an ancillary manner for up to 15% of the floor space. In this specific case, the applicant is seeking permission to sell comparison goods for 20% of the net floorspace in order to sell special purchases on a 'when it's gone, it's gone' (WIGIG) basis. This means that comparison goods will be sold on a seasonal basis with no particular type of comparison good predominating.

The proposed retail store would be positioned close to the site's southern boundary with its main elevation fronting a large car parking area to the north. It would be a single storey flat roofed structure with white rendered elevations. A glazed shopfront would wrap around the building's north-eastern elevation demarcating the store's entrance. The loading and servicing area for the food store would be located to the west of the building and would be accessed from within the store's car park.

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The development would be served by a priority-controlled T junction arrangement at Uttoxeter New Road, situated towards the western end of the site frontage. The development would involve the closure of the existing access further east.

A single lane is proposed for entry to the site, and two exit lanes to enable vehicles to turn right and left on to Uttoxeter New Road. The junction includes 'Keep Clear' markings and would utilise the existing right turn lane present on this section of Uttoxeter New Road. A 3 metre width shared pedestrian/cycle connection onto Talbot Street is also proposed.

The development would be served by 130 car parking spaces, including 8 disabled person's bays. A total of 4 Sheffield style cycle stands are to be provided accommodating parking for 8 cycles.

The application is accompanied by the following documents:

Design and Access Statement,  
Planning and Retail Statement,  
Ground Investigation Report,  
Statement of Community Involvement,  
Transport Assessment (with subsequent amendments and Technical Notes),  
Flood Risk Assessment,  
Acoustic Impact Assessment,  
Air Quality Assessment,  
Phase I Ecological Survey and Protected Species Assessment.

**2. Relevant Planning History:**

The application states that the site has consent for general B1/B2/B8 employment/industrial use which they believe to be extant given that the last previous use was self-storage and the buildings were only recently demolished (July 2013). However Officers disagree with this stance. Case Law has established (notably Iddenden v Secretary of State for the Environment 1972) that if the buildings, to which the lawful use relates, are demolished, the use of the land which was in operation no longer exists. In view of this there is considered to be no established use on the site.

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

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

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**Classification: OFFICIAL**

**Committee Report Item No: 4**

**Application No: DER/12/15/01516**

**Type: Full**

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

**3. Publicity:**

Neighbour Notification Letter – 56

Site Notice – Yes

Statutory Press Advert – Yes

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

**4. Representations:**

Four letters of representation have been received following consultation on this application: two letters of comment, one letter of support and one letter of objection.

The letters received include representations from Wheatcroft Land, owners of land at Burton Road/Normanton Road, and representations on behalf of Tesco Store Ltd.

The issues raised are summarised below:

- The proposed store is a good use for the site, provided the Council is happy with the resulting traffic flows and possible increased congestion which might back-up to the Mercian Way island.
- I hope that this proposed store will not make it more difficult to market the Friar Gate Goods Yard site.
- The Burton Road site is sequentially preferable. It lies partly in/edge of centre, is suitable and viable for the development proposed at Talbot Street. It is only unavailable for the development proposed by virtue that Aldi also intends to deliver it. Were the Burton Road site available (i.e. in the event Aldi did not develop it for their approved store) the Talbot Street application would fail the sequential test.
- If the Council is minded to permit the Talbot Street development, the Council must take every step to ensure the Burton Road site is delivered.
- A failure to deliver the Aldi store at Burton Road would mean the trade draw of the Talbot Street proposals would impact on existing centres to a far different degree.
- Notwithstanding Aldi's written assurances, it is clear the grant of permission and delivery of the Talbot Street site in advance of the committed Burton Road site could potentially undermine the prospects of delivery of the committed Burton Road development.
- If Aldi decided not to proceed with the Burton Road store it would impact Normanton centre to a far greater degree and potentially undermine the centre.

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- Concerns that the retail impact assessment is flawed and has significantly underestimated the proposal's impact on city centre (and potentially other centres) vitality and viability.
- Concerns that the development would damage the prospects of attracting a food store operator to the DRI and Friar Gate Goods Yard sites and hence reduce the chances of the residential elements of these proposals from coming forward (or at least delay them)
- The DRI site is edge-of-centre and sequentially preferable.
- It is not accurate to suggest that the site has a permitted use.
- The proposal increases the potential to exacerbate road safety issues in the area whilst also increasing the likelihood of queueing along Uttoxeter Road.
- The proposed access to the site is neither safe nor suitable, and lacks the necessary mitigating highway works. Hence safe access to the site will not be achieved for the use proposed, and the development would consequently cause a severe impact.

**5. Consultations:**

**Highways Development Control:**

Council representatives met with the applicant's development team on the 7<sup>th</sup> August 2014 for pre application discussions. At that meeting the Council's highway officer raised concerns about the suitability of the proposed land use on the above site. To seek to demonstrate the reason for the concern, photographs of extensive pm peak queuing across the Uttoxeter Road site frontage were shown at the meeting. It was pointed out that the pm peak queuing generally coincides with the busiest trading period for discount foodstores and consequently the Council has safety concerns about drivers entering and leaving the site. Discussions between the Council and the applicant's representatives continued with further meetings taking place in April and June 2015. The applicant lodged the application in December 2015.

**National Planning Policy Framework (NPPF)**

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

Paragraph 32 of the NPPF says:

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

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

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

Considering the above criteria I make the following comments:

Transport Assessment (TA)

The Council sought the opinion of an independent traffic consultancy in respect of the TA and a summary from the consultant’s report said;

- *The approach to the trip generation is considered unrealistic and significantly underestimates the likely future trip generation of a food store at this location;*
- *No assessment has been presented of the Saturday retail peak period;*
- *A 2020’ base + committed + development scenario has not been considered in the TA;*
- *There are a number of elements to the Linsig model which should be reviewed in order to ensure that the model correctly reflects the existing and future operation of the road network in the vicinity of the site. Nevertheless, the model as submitted indicates **that existing queues on Uttoxeter Road will pass the proposed site access;***
- *We have a number of **road safety concerns associated with the proposed site access.***

The above views together DCC’s own highway comments were provided to the applicant’s traffic consultant who responded to the Highway Authority’s concerns in a technical note dated April 2016. The following sets out the Highway Authority’s position in respect of the technical note and in particular sets out our unresolved concerns:

Generated Traffic

**Foodstore Trip Generation** - The predicted trip generation for a proposed development is normally obtained from a national data base of traffic surveys called ‘TRICS’. This is a data base of traffic counts from different land uses, in different locations all over the Country. However in April 2015 Aldi opened a new store on Coleman Street, Derby. Over time this new Aldi appeared to be operating at levels well above what would historically be expected of a similar discount food retailer. This coincided with reports in the media that shopper’s were moving away from the traditional large food stores to more frequent visits to discount food retailers such as Lidl and Aldi. In March 2016 the Council undertook a traffic survey at the Coleman Street site to seek to establish the level of trip generation and to check that the TRICS traffic figures that had been agreed for the above site remained valid, given the recent changes in shopping behaviour. The result of the survey was surprising, so much so the Council undertook a number of pm peak traffic surveys at other discount food stores in the area. The results of those surveys are shown below and although it is a small sample of results it seems clear that trip generation at the surveyed discount food stores is significantly higher when compared to those shown in TRICS (highlighted in yellow).

Name of the Store	Friday pm peak trip rate per 100 sqm gfa	
	In	Out
Aldi Coleman Street, Derby	9.34	10.52
Lidl Nottm Road, Derby	5.48	5.19
Lidl Beeston, Nottm	6.57	6.63
<b>Proposed Aldi at Uttoxetter Road (TA)</b>	<b>2.947</b>	<b>2.881</b>
	Tuesday pm peak trip Rate	
Aldi Coleman Street, Derby	7.15	8.98

DCC advised the applicant's traffic consultants (Bancrofts) of its findings at Coleman Street in a technical note date 15<sup>th</sup> March 2016. Bancrofts responded by setting out why they consider the revised rates from the Coleman Street survey are not applicable to above site, as follows:

- Coleman Street has no other discount food store nearby;
- The Coleman Street area has higher car ownership than the Talbot Street area;
- Talbot Street is better served by public transport;
- DCC had originally approved the trip rates in the TA and consequently they should not now be required to revisit the TA.

In response to these points:

- **Coleman Street has no other discount food store nearby** – In fact the nearest local foodstore to the Colman street site is the Co-op in Allenton district centre which is approximately 750m. Whilst the nearest to Uttoxetter Road was Lidl at Belgrave Street, which is approximately 1.1km. Although there is a consented Aldi store on Burton Road approximately 570m away;
- **The Colman Street area has higher car ownership than the Talbot Street** – I am not very clear how relevant this point is give both sites proximity to major roads and the level of pass-by and diverted trips that is likely to take place in the peak hour;
- **Talbot Street is better served by public transport** – Again I am unsure how much of an impact this will have for the reasons given above;
- **DCC had originally approved the trip rates in the TA and consequently they should not now be required to revisit the TA** – I think if it becomes suspected that data being used to assess a development is unlikely to be representative, then surely the highway authority has a duty to ensure the most representative data is used to assess the impact of the proposed development?

Bancrofts suggested they would identify an Aldi store which they consider to be more comparable with the above proposal than Coleman Street and would undertake a new peak hour traffic survey. However no additional survey evidence has ever been submitted.

The proposed store has a gross floor area (gfa) of 1806sqm, below is a table showing the level of trips generated using trips rates above:

Name of the Store	Friday pm peak trips	
	In	Out
Aldi Coleman Street, Derby	169	190
Lidl Nottm Road, Derby	99	94
Lidl Beeston, Nottm	119	120
<b>Proposed Aldi at Uttoxetter Road (gfa 1806sqm)</b>	<b>53</b>	<b>52</b>
	Tuesday pm trips	
Aldi Coleman Street, Derby	129	162

As it can be seen from the table, the applicant is suggesting that the proposed Aldi will generate **53 trips** in and **52 trips** out in the pm peak hour. This is approximately half the generated trips when compared to the lowest of the recently surveyed sites and approximately 30 % of the trips being generated by the Aldi at Coleman Street. The level of traffic generation proposed by Bancrofts is considered to be unrepresentative and does not form an acceptable basis for a robust assessment of the proposed development. DCCs safety concerns relate to drivers entering and leaving the proposed store through the very busy traffic conditions which occur on this section of Uttoxetter New Road in the evening peak period. During the peak hour it is suggested that the vast majority of trips to the store will be passer-by and diverted trips from the surrounding roads and consequently if the level of trips going in and out of the site increases then the level of potential conflict increases and so does DCC’s safety concerns. It is considered the applicant has not demonstrated that the proposed junction will operate adequately and safely at the busiest times of trading.

**Background Traffic**

When assessing a new development it is standard industry practice to consider existing traffic i.e. traffic on the road at present plus the future traffic from any committed development etc. Committed development can include developments with planning consent or development allocated in a current local plan.

**Committed Development** – In this case there is a consented Tesco scheme on the former Friar Gate Goods Yard (App No 03/11/00246). The time period for submission of the reserved matters for this application does not lapse until 2018 and the time limit for the implementation of the reserved matters is 2 years after the approval of the last reserved matter. Consequently the consent on Friar Gate Goods Yard has some time to go yet. The applicants are aware of this consent as they have shown it in their TA as a sensitivity test. At paragraph 7.4.7 (pg 27) in Bancroft’s TA, it is acknowledge that:

***“These results confirm that with the committed development in place the junction would be congested during both the morning and evening peak hours.”***

Table 8 in the TA shows with the consented Tesco in place, the predicted queues on Uttoxetter New Road extending across the site frontage would be hundreds of metres long making turning right into and out of the site more difficult as the queuing past the site access would be there for longer.

The Government has published guidance to support the NPPF, which is entitled 'Planning practice guidance'. Under the section providing guidance on 'Travel Plan, Transport Assessments and Statements' it says in the section entitled "What information should be included in Transport Assessments and Statements:

*"The scope and level of detail in a Transport Assessment or Statement will vary from site to site but the following should be considered when settling the scope of the proposed assessment:*

*an assessment of trips from all directly relevant committed development in the area (i.e. development that there is a reasonable degree of certainty will proceed within the next 3 years);"*

The traffic consultant's view is that is:

*"due to the decline in large food store development brought about by a changing market, the Friar Gate Goods Yard site is highly unlikely to be delivered in the form in which planning permission was granted."*

This statement may or may not be true, however at present the Tesco scheme has a valid consent which will be extant for a number of years and consequently the highway authority feel the impact of the consented scheme should be taken into account as part of the TA assessment for the above proposal. The amount of weight to be given to the time limit in the 'Planning practice guidance' shown above is a matter for planning colleagues to decide. The Highway Authority can only define the likely impact. However Tesco clearly retain an interest in the Friar Gate site as they have objected to the above application.

**Discounting traffic generation from previous use on the site** – planning colleagues have advised that because the application area has been cleared, discounting of traffic from previous uses on the site is not applicable and the site should be considered afresh. It should be noted that a similar point is made by the consultants representing Tesco, who quote the relevant case law in their letter of objection.

**Traffic Modelling** – meaningful traffic modelling results rely heavily on modelling the correct predicted level of traffic. Therefore until the traffic generation issues discussed above have been resolved the modelling results produced thus far are considered unlikely to reflect the future position accurately. However the Council also has some concerns about the modelling methodology in that it doesn't accurately reflect the operation of the network adjacent the development site. DCC produced a note in May 2016 which further rebutted Bancroft's note dated April 2016 but as yet there has been no response to that note.

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

The proposed site is on a bus route and is relatively close to residential areas.

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

TRICs indicates that the peak trading period for discount food stores is between 5 and 6pm on a Friday and between 1200 and 1300pm on a Saturday. In the evening peak, severe queues frequently form on Uttoxeter Road extending across the site frontage and more particularly across the proposed access. This appears to be a function of a congested network, particularly in respect of Stafford Street and Uttoxeter Road. The Highway Authority considers this queuing is likely to make it unsafe for drivers to enter and leave the site as they will need to force their way through the queuing traffic to get into and out of the site. More specifically the concerns relate to:

1. **Right turns in to the site** – drivers wishing to turn right into the site are likely to have to do so through an outbound queue on Uttoxeter Road. Also drivers turning right will also impede eastbound traffic as it approaches the Stafford St Mercian Way roundabout. It is interesting to note that at item 2 on page 2 the independent safety auditors commissioned by the applicants consider this may be a problem, commenting as follows:

*“There is an existing long right turn lane on Uttoxeter New Road that commences to the south west of the junction with Drewry Court and continues up to the roundabout with Mercian Way/Stafford Street. A driver may enter the right turn lane early with the intention of turning right at the roundabout and may not expect a vehicle in front to suddenly slow or stop to make a right turn into the Aldi store. Stunt type vehicle collisions may result.”*

The auditor’s suggested solution to the concerns expressed above is to hatch out a right turn lane for Aldi within the right turn lane to the roundabout. DCC had ruled this out in an e-mail to Bancrofts dated 13<sup>th</sup> October 2014 due to the potential impact on the roundabout.

2. **Right turns out of the site** - drivers wishing to turn right out of the site will be faced with four lanes of queuing traffic, an eastbound queue and three lanes of traffic queuing back from the roundabout. The number of potential conflicts will make driver decisions making difficult and therefore the right turn out of the site is considered to be a very hazardous movement.

A number of accidents have already occurred adjacent to the proposed site particularly at the junction of Gt Northern Road/Uttoxeter Road involving right turning vehicles. In some respects the proposed access could be considered to be a mirror image of this junction. Drivers turning in and out of Gt Northern Road have had a number of accidents over the past 5 years and the Council is concerned that the proposed access could generate similar accidents.

Bancroft’s response to these concerns is:

*“The safety audit has not raised any problems relating to the safety risks associated with right turns either into or out of the site.”*

Clearly this statement is not correct given the excerpt from the safety audit included above. However the Highway Authority is not convinced by the above statement and consequently our safety concerns remain. To be reassured we would want a convincing explanation about why our concerns are unfounded including an example

of a similar discount foodstore operating under similar traffic conditions without an accident record.

It should also be noted that the Safety Audit also identified a potential problem with the location of the relocated bus stop. The audit said:

*“The bus stop should be relocated to a position where it does not restrict visibility from Drewry Court as well as the ALDI access junction.”*

Bancroft’s response to this is:

*“the Design Team Response provides a rebuttal to this suggestion and therefore dismisses the recommendation to relocate the bus stop elsewhere, noting that this could significantly affect the walk distance for some existing passengers.”*

- ***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.”***

The applicant isn’t proposing offsite highway improvements as mitigation, other than the provision of ‘keep clear’ markings adjacent their proposed access. The Council’s experience is that these markings have limited effect as they are only advisory. This is particularly true where traffic is queuing nose to tail and such markings are difficult to see by approaching drivers.

#### Recommendation

It is considered that the applicant has not robustly demonstrated that a safe and suitable access can be provided to serve the proposed development and consequently the application should be **refused** in the interests of highway safety.

#### **Land Drainage:**

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

The Flood Risk Assessment (FRA) indicates that oversized sewers will be used to attenuate runoff and that a flow control device will restrict surface water discharge off site to 65l/s. However, no calculations to demonstrate the existing runoff have been provided. As such, it is unclear to what extent 65l/s is comparable to the existing flows off site. There is no information submitted to demonstrate that the surface water flood risk on the site will be managed appropriately up to the 1 in 100 year rainfall event, plus an allowance for climate change.

The FRA appropriately demonstrates a manageable level of risk from fluvial sources due to the elevated ground levels on the site in comparison to the Bramble Brook which is culverted nearby.

Due to the absence of surface water calculations and relevant information to demonstrate that a sustainable surface water drainage scheme has been provided, I can only support the application if the following condition is imposed:

Condition: No works shall commence on site until a sustainable surface water drainage scheme has been submitted to and approved in writing by the local planning authority. The scheme shall be in accordance with the non-statutory technical standards for sustainable drainage systems (Defra, March 2015).

**Environmental Services (Health – Pollution):**

a) Ground Contamination

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

Suitable conditions should be attached to any consent, securing the submission and agreement of a further detailed phase I desk study, full site investigation, remediation method statement and subsequent validation works

b) Noise Conclusions and Recommendations

*Plant Noise* - Although the BS4142 assessment for plant noise concludes a 'low impact', I do not expect this to be the case in practice for the properties adjacent to the AC Units on Drewry Lane based on the issues raised in points 4, 6 and 7 above.

Furthermore, BS4142 is based on an assessment of noise levels near to the building façade, however the properties on Drewry Lane have relatively long gardens backing directly onto the development site with the buildings themselves set several metres back from the boundary. This means that residents wishing to enjoy their gardens will almost inevitably experience noise from the AC Units located directly adjacent to their rear fence.

This Department has experience of complaints in very similar situations elsewhere in the City.

I would strongly recommend the relocation of the AC Units currently proposed adjacent to the gardens of properties on Drewry Lane, to an alternative location away from the residential properties, ideally on the façade facing onto Uttoxeter New Road.

I would however accept the conclusions of the assessment in relation to the other plant.

*Delivery Vehicle Noise* - Whilst I would accept the results of this assessment in principle based on average delivery noise levels over a typical hour delivery during the daytime, namely a predicted low impact. This is unlikely to be the case in the early morning however, when background sound levels are lower.

I am also concerned that some of the impact noises associated with delivery activities, which notably have not been considered specifically in this assessment, have the potential to cause sleep disturbance during the early hours of the morning.

Such disturbance is in direct contravention of the NPPF and Local Policy GD5 and consequently, I would strongly advise that delivery hours are restricted accordingly.

The report does not fully confirm all proposed delivery hours.

Given the above, I would propose that deliveries are restricted to the following hours:

- Mon to Sat – 7.30am to 6pm
- Sundays and Bank Holidays – 10am to 4pm

*Traffic Noise* - I would accept the conclusions of the traffic noise assessment, namely that increases in noise as a result of traffic increases are expected to be of 'no impact'. This is primarily due to the considerable traffic numbers already creating relatively high noise levels along Uttoxeter New Road.

*Construction Noise* - Should the development be granted permission, then I would strongly advise that a construction noise management plan is submitted for agreement via a suitable planning condition, to be complied with throughout the construction works.

c) Air Quality:

*Development Control: Planning for Air Quality* (IAQM and EPUK, May 2015) guidance. This is an appropriate tool to use as a basis for air quality impact judgements.

Air pollutant impacts are based on predictions using the Design Manual for Roads & Bridges spreadsheet (DMRB, spreadsheet version 1.03c, 2007). This tool is widely considered to be out of date and an update is due to be released imminently. It is also important to note that this tool is not a detailed dispersion model and is used primarily for screening purposes rather than detailed pollutant predictions.

The assessment attempts to make predictions of air pollutant concentrations at sensitive receptors for the proposed opening year of 2018, with and without the development.

It is unclear whether the future predictions incorporate an emission factor or not, which would normally account for reductions in future emissions.

The modelled results have been suitably verified using local diffusion tube data. In the case of the junction of Stafford Street/Curzon Street the model appeared to be under-predicting measured concentrations of NO<sub>2</sub> by a significant margin and therefore the model is probably not accurately reflective of concentrations at this location. This is primarily due to the known queuing traffic at this location, a factor which is ignored by the DMRB model.

The model predicts that none of the modelled locations will exceed the AQO in 2018, either with or without the development and at most will reach 73% of the AQO for NO<sub>2</sub>.

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Based on a predicted increase of  $0.15\mu\text{gm}^{-3}$  using the DMRB modelling, this concludes with a 'negligible impact' based on the IAQM/EPUK impact descriptors.

It is important to note however, that local monitoring data (based on diffusion tubes) suggests an exceedance of the AQO in 2 out of the past three years at the monitoring location at 59a Stafford Street. The assessment therefore appears to be understating the significance of impacts at this location.

In addition, the DMRB modelling tool does not account for the significant impacts upon local air quality of queuing traffic, however I am aware that there is already a considerable amount of queuing traffic around the Stafford Street/Uttoxeter New Road/Mercian Way roundabout junction, especially along Uttoxeter New Road and Stafford Street. Any additional traffic passing through this junction will inevitably increase the amount of queuing along these two roads in particular.

Additional queuing as a result of vehicles turning into the proposed new supermarket access road are also not considered in the assessment.

Given that pollutant emissions are increased markedly whilst vehicles are idling in queuing traffic, I would expect the increases in NO<sub>2</sub> to be much greater in practice than those predicted in the assessment.

#### AQ Conclusions and Recommendations

As you will know, Derby City Council is currently working towards the implementation of a Clean Air Zone in the City, due to predicted exceedances of the EU Limit for nitrogen dioxide (NO<sub>2</sub>).

In addition, the area of the city within which the proposed development lies has been declared an Air Quality Management Area (AQMA) due to current known breaches of the National Air Quality Objective for NO<sub>2</sub>.

Any additional traffic on this busy section of the road network at this location is likely to inhibit the Council's attempts to reduce NO<sub>2</sub> levels to below the EU Limit value. Consequently, the proposed development is contrary to national and local planning policy.

I do however acknowledge the relatively small reported increases in annual average NO<sub>2</sub> predicted in the assessment of  $0.15\mu\text{gm}^{-3}$ , albeit that this value is based on a screening methodology, rather than a detailed dispersion modelling assessment, and which does not account for additional queuing traffic at the Stafford Street/Uttoxeter New Road/Mercian Way roundabout junction.

Whilst I do believe that there is some justification in planning policy terms to refuse the application on air quality grounds, the current submitted screening assessment is insufficiently detailed to confidently draw this conclusion and therefore I would offer caution in the absence of a more detailed assessment. I would however very strongly recommend that the developer puts forward some mitigation measures, in order to address the significant air quality concerns at this location.

Should permission be granted therefore, I would recommend the attachment of a condition, requiring an air quality mitigation strategy to be agreed by the LPA before the development is occupied. The strategy should include a range of air quality improvement measures, including, but not limited to, the following:

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- A minimum of 4 permanent high voltage electrical charging point priority car parking spaces;
- The use of Low/Ultra Low Emission Vehicles for all store deliveries. The use of full Diesel engine vehicles should be avoided, but if used, these must be compliant with a minimum of the highest available Euro emission standard for any given year (currently Euro VI).

#### Construction Dust

The Air Quality Assessment includes a construction dust assessment in Section 9.

The assessment recognises the need for dust mitigation measures. Appendix 5 outlines a detailed list of measures in accordance with IAQM guidance and Table 9.4 outlines which of the measures are deemed necessary on site.

Given the proximity of residential premises, I am already aware of dust nuisance issues from this site associated with the site demolition works, which resulted in enforcement action being taken and so particular care should be taken at this site.

I would recommend that detailed dust mitigation measures are compiled into a Construction Dust Management Plan, to be submitted and approved by the LPA before works commence. The plan should include the measures outlined in Appendix 5 of the submitted Air Quality Assessment and should be complied with fully throughout the duration of the works.

#### **Derbyshire County Council Archaeologist:**

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

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

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

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

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**Environment Agency:**

The Agency has no objections, in principle, to the proposed development but recommends that if planning permission is granted the following planning conditions are imposed:

Given the site's industrial past, we would recommend that the following condition is placed on the decision notice if planning permission is granted.

Condition - If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

**Derbyshire Wildlife Trust:**

There appears to be negligible ecological issues regarding the site. It is recommended that native planting is included and where possible bird boxes to be incorporated.

**Police Liaison Officer:**

There are no objections to the proposal in principle, or the majority of detail.

We would advise though that approval is subject to some minor amendments around the south eastern section of the store, and a couple of conditions.

At present foot access is achievable around the south eastern store corner, up to a point to the rear where a security fence and gating is provided.

This allows foot access away from general view, both to the store corner and to the rear boundaries of housing on Talbot Street. This presents an avoidable risk of crime and nuisance to both store and housing.

The area also includes what is presumed to be cycle racks.

Advice would be to secure this area from a point level with the side garden boundary of 10 Talbot Street, and site public cycle racks to a more visible and open toward the front of the store. Staff cycle storage, if required could be retained where proposed, but would be within a securely enclosed area.

The main glazed elevations, which allow interconnecting views are mostly to the Talbot Street side of the store, meaning that the majority of customer parking has no supervision from inside of the store.

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**6. Relevant Policies:**

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

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

- CP1(a) Presumption in Favour of Sustainable Development
- CP2 Responding to Climate Change
- CP3 Placemaking Principles
- CP4 Character and Context
- CP9 Delivering a Sustainable Economy
- CP10 Employment Locations
- CP12 Centre
- CP13 Retail and Leisure Outside of Defined Centre
- CP16 Green Infrastructure
- CP19 Biodiversity
- CP23 Delivering a Sustainable Transport Network
- AC2 Delivering a City Centre Renaissance
- AC4 City Centre Transport and Accessibility
- AC5 City Centre Environment

**Saved CDLPR Policies**

- E13 Contaminated Land
- E17 Landscaping Schemes
- 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%202017.pdf>

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

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

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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.

- **Retail Policy Issues**
- **Site Accessibility, Parking and Highway Safety Issues**
- **Design and Layout**
- **Residential Amenity (Noise and Disturbance, Other Amenity Considerations)**
- **Other Issues**

**Retail Policy Issues**

The most easterly section of the site is covered by the Central Business District (CBD) allocation as identified within the adopted Derby City Local Plan - Part 1 (Core Strategy). The CBD is the sequentially preferable location for office development. The Core Strategy then identifies a much more tightly defined area at the heart of the CBD as the 'Core Area' which is the sequentially preferable location for retail development. The site of the proposal is too far removed from the outer limits of the Core Area to be considered edge-of-centre in terms of the adopted the Derby City Local Plan - Part 1.

The applicant has stated that the site is approximately 180 metres walking distance from the nearest centre (Monk Street neighbourhood centre located to the south east of the site) and therefore it could be regarded as an edge-of-centre location based purely on proximity. However, the intervening area between the identified centre and the site of the proposal is not commercial in nature and is predominantly made up of residential properties. There is also an argument that neighbourhood centres such as the one on Monk Street do not meet the definition of a 'town centre' as defined by the NPPF. In any case, the site of the proposal would not form a logical extension to the neighbourhood centre and is too far away from the 'Core Area' - which is the sequentially preferable area of the city centre for the purposes of retail planning, to be considered as edge-of-centre. The site is therefore considered to be an out-of-centre location from a retail policy perspective.

On the basis that the proposal is located in an out-of-centre location, the main policy considerations are whether the proposal is compliant with the provisions of the sequential and impact tests, as set out in the NPPF and Policy CP13 (Retail and Leisure Outside Defined Centres) of the Derby City Local Plan - Part 1.

**Sequential Test:**

As the site of the proposal is considered to be out-of-centre the applicant is required to consider all in-centre and edge-of-centre locations falling within the Primary Catchment Area (PCA) of the proposal. Therefore, the starting point for considering compliance with the sequential test is to identify the PCA of the proposal.

Whilst no longer a specific policy test, identification of the PCA fundamentally relates to an understanding of the retail 'need' or 'deficiency' which the proposal intends to

satisfy. The applicant has been very clear that the 'need' for the proposed floor space is related to the presupposition that the existing Aldi store at Southmead Way is overtrading to a significant degree. This has implications for customer satisfaction, parking etc. Whilst the applicant has not provided any evidence to support this argument, anecdotal evidence would suggest that that the Southmead Way store is overtrading, although this is likely to be mitigated to some extent by the recently opened Coleman Street store, the permitted store at Normanton Road / Burton Road (discussed in more detail later) and the extension to the Southmead Way store, which is currently being implemented.

On the basis of the identified need, the logical starting point to identify the PCA of the proposal is to consider the catchment of the Southmead Way store and then search for the most appropriate locations to serve the need. The applicant has suggested that one of the principal reasons for the overtrading at the Southmead Way store is customers stopping off to and from their place or work or shopping trips, utilising the A516 (UNR) corridor. They have therefore identified a site at the opposite end of the A516 corridor, to capture trade as it enters and leaves the city centre / ring road. The applicant has then used a 5 minute drive time (taking account of comparable foodstores and other factors) to identify the PCA of the proposal store. Whilst anchoring the extent of the PCA to the identified site is illogical for the purposes of applying the sequential test (i.e. PCA should be identified before the site), it seems to be the way retailers operate. Taking account of this illogical but generally accepted approach, the extent of the PCA identified by the applicant (at appendix 3 of Planning Statement) would seem appropriate.

Having identified the extent of the PCA, the applicant was advised that for the purposes of the sequential test, it is not necessary to consider neighbourhood centres as they are too small to accommodate development of the proposed scale. On this basis, the applicant was advised to consider alternative sites in the city centre, district centres and retail parks. Whilst retail parks are not specifically identified as centres, it is logically more sustainable to consolidate existing retail locations before creating new ones and is the approach set out in CP13. For robustness and to demonstrate flexibility it is also worth applicants considering sites / units within centres that are just outside / on the edge of the PCA – due to the subjective nature of PCA definition.

Based on the identified PCA, the applicant should have considered alternative sites within and on the edge of the city centre, Normanton Road Linear Centre, Cavendish District Centre and Kingsway Retail Park. Whilst outside of the identified PCA, based on the identified need, it would have also been sensible for the applicant to have given consideration to Littleover and Mickleover District Centres, as they are well placed to meet needs related to the overtrading of the Southmead Way store.

In terms of the content of the submitted Planning Statement, the applicant has only considered alternative locations in the city centre, which is not a particularly robust approach. In light of this issue, additional information was requested from the applicant. The additional information states that alternative locations in Littleover, Mickleover and Cavendish were discounted due to the limited scale of available opportunities for a new store. Similarly, the permitted opportunity at Kingsway Retail

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Park is considered to be too small to accommodate the proposal. Officers are satisfied that this assessment is correct.

The only suitable alternative site within and on the edge of Normanton Road Linear Centre is the former Mackworth College site. There are currently two permissions covering this site, one for an edge-of-centre Aldi store and one for a new retail parade of 4 units within the centre, totalling 2,400sqm (gross). Aldi have continued to progress the Normanton Road proposals and have begun some of the initial works on the site. A letter has also been provided by Aldi Store Limited confirming their commitment to the Normanton Road/Burton Road site whether or not this development goes ahead. This provides a degree of comfort that the sequentially preferable site at the former Mackworth College will be developed, as permitted.

In terms of the city centre, the applicant has considered a number of alternative sites, based on the regeneration sites identified in the Council's City Centre Masterplan. Officers broadly agree with the applicant's decision to discount most of the identified sites, taking account of the legal context in terms of the definition of suitability, availability and viability, whilst not necessarily agreeing with the specific reasons given in each case. However, it is considered that the merits of the former DRI site and Becketwell require further discussion.

Following a further request for additional information in regard to the Becketwell site, the applicant has stated that they have concluded that the site is considered to be poorly located to provide an accessible facility for a significant proportion of the western part of the PCA. In addition, they state that the development of a foodstore in this location would be at odds with the Council's aspiration for housing rather than retailing on this site in the Core Strategy.

In terms of the first point, the Becketwell site is located less than 500 metres from the site of the proposal and is well related to the A516 corridor. Therefore, Officers struggle to accept that the relationship of the site with the western extent of the PCA is that different to the proposal site. In terms of the Council's intentions for the Becketwell area, the site is identified by Policy AC2 of the Core Strategy as part of the St Peters Quarter and promotes mixed use regeneration of the Becketwell / Duckworth Square area. Whilst the Victoria Street frontage has been removed from the Primary Frontage designation, there is nothing to suggest that the Council would resist retail led redevelopment of this area. Therefore, this is not a valid reason to discount the site. Whilst Officers do not agree with these reasons, it is considered that there may be some difficulty in demonstrating that a sufficient area of the site is 'available', in terms of being 'ready to go' as per recent legal cases and therefore it is considered that the site can be justifiably discounted.

In terms of the former DRI site (Nightingale Quarter) the main issue in relation to former DRI site is its availability. Since the previous outline permission was granted for the DRI site in 2012, a new outline planning application has been submitted with revised plans for the site which no longer include the provision of a supermarket on the Bradshaw Way frontage, instead replacing the large scale retail with residential uses. A small local centre is proposed at the heart of the development, to serve the immediate area, but this is likely to be too small to be a viable alternative.

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Whilst the original retail permission remains extant (the applicant has safeguarded the permission by making a material start) it is clear that the landowner has no intention of implementing it. In addition, the newly adopted Local Plan Part 1 (Core Strategy) does not reflect the large scale retail permission and instead allocates the site for residential led redevelopment. With these issues in mind, it would be difficult to argue that the site is genuinely available for the proposed use.

In conclusion, the proposal is not in conflict with the provisions of the sequential test.

Impact:

Paragraph 27 of the NPPF is clear in stating that proposals which would have a significant adverse impact on the factors set out below should be refused:

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

Regardless of scale, the emphasis is therefore on applicants to demonstrate that their proposal will not have significant adverse impacts, in terms of the factors set out above. The NPPF specifically requires proposals of in excess of 2,500sqm to submit a full impact assessment in order to demonstrate compliance with this requirement. Whilst this proposal falls below this threshold, the applicant has submitted a quantitative impact assessment to aid the consideration of this issue. This is consistent with the provisions of Policy CP13 which sets a local threshold of 1,000sqm (gross).

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

The most obvious way in which a new retail proposal can have a negative impact upon an existing centre is through diversion of trade. Therefore most consideration has been given to this type of impact.

The starting point for considering potential trade diversion is to determine the potential turnover of the proposed store. The proposed Aldi store is predicted by the applicant to turnover in the region of £11.48m (based on company average sales densities – Mintel 2015) at 2020. £9.6m of the expected turnover is likely to be derived from convenience sales (based on 80% of floorspace) whilst the remaining £1.8m is likely to be derived from comparison sales (based on 20% of floorspace). 85% of the overall turnover is expected to be derived from the PCA, with 15% inflow. These turnover figures are in excess of what we have previously accepted for similar store proposals in recent years, but undoubtedly represent a truer reflection of the deep discount sector in the current climate. The use of these turnover figures is therefore welcomed and provides a robust basis for assessing impact. The expenditure growth rates used in the assessment also seem logical. The robustness of the turnover assumptions should be taken into account when considering any

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concerns about potential impacts or the underplaying of potential impacts due to limitations in methodology.

Expenditure / capacity within the PCA:

Before considering potential impacts it is worth looking at the potential for growth in expenditure within the PCA, as this can create some 'headroom' helping to limit potential impacts on existing stores and centres. In considering capacity, the applicant has had regard to the 'Retail Capacity Update' (RCU) published by the Council in 2015. The RCU is a strategic level document which considers the likely impact of changes to forecasted population and expenditure levels on overall retail capacity. The RCU acknowledges its own limitations and is purely a tool for justifying the approach to retail set out in the emerging Core Strategy, i.e. minimal forecast capacity supporting approach of not allocating any land for significant retail development. Nonetheless, the applicant has utilised the population and expenditure forecasts contained in the RCU to examine capacity and has also critiqued some of the methodology used in the RCU.

Based on the applicant's suggested amendments to a number of the assumptions in the RCU, they have calculated that by 2019, there will be a small capacity (+740sqm) of convenience floorspace, as opposed to an overprovision of -2,619sqm calculated by the RCU. On this basis, it would suggest that a significant proportion of the impact of the proposed store could be absorbed by the growth in capacity, as opposed to being derived from trade diversion from other stores.

In summary, the critique by the applicant has suggested that some of the assumptions used in the RCU are incorrect / out of date, leading to a small amount of available convenience capacity by 2019, as opposed to the over-provision calculated in the RCU. However, it should be noted that capacity analysis is an inexact science and therefore calculations can only ever provide an indication of the order of magnitude of any spare capacity or overprovision. The figures suggested by the RCU and by the applicant are considered to be of the same order of magnitude and in either case suggest that the amount of convenience capacity is at best minimal, meaning that expenditure at the proposed store is more likely to be derived from trade diversion from existing or committed floor space.

It should be noted that the RCU relies on the findings of the 2009 household survey, which is unlikely to reflect current retail patterns and shopper behaviours. It therefore does not pick up on the potential overtrading of existing deep discount stores in the city. Due to this fact, the applicant has utilised benchmark sales densities to determine the likely turnover of existing stores and centres. Again, this approach is robust and provides a worst case scenario. The robustness of this approach should be taken into account when considering any concerns about potential impacts or the underplaying of potential impacts due to limitations in methodology.

Comparison Goods: Trade Diversion:

The estimated comparison turnover of the new store is estimated to be £1.835, based on 20% of sales floor space being used for comparison sales. As already noted, we have generally sought to limit 'ancillary' or 'complementary' non-food comparison sales from out-of-centre locations to <15% of the total sales floor space to ensure that the floor space can only function in a genuinely ancillary or

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complementary role and not challenge the primacy of centres as comparison good shopping destinations. It is generally considered that where such floor space exceeds 15%, it is no longer ancillary or complementary as it performs a more fundamental role within the business model. Where figures in excess of 15% have been permitted, it is generally where a specific robust case to allow such sales has been made. It should be noted that restrictions limiting the amount of comparison goods sales to 15% of the total sales floor space have been accepted by Aldi at their recently opened Coleman Street store, at their recently approved Normanton Road / Burton Road store and at their recently extended store at the Meteor Centre.

In terms of the overall level of comparison turnover, Officers are not convinced that it will lead to significant adverse impacts on any centres, particularly if comparison sales can be limited to 15% of sales floor space in line with all of the recent Aldi applications. Whilst the level of comparison turnover is not insignificant in itself, the nature of the sales (WIGIG) means that that there is unlikely to be sustained periods of trade diversion from any single in-centre operator. Growth in comparison expenditure will also help to mitigate potential impacts. The main issue in relation to comparison sales is the potential impact on overall retail strategy, if we permit in excess of 15% of net sales area and general compatibility with the provisions of Policy CP13, which seeks to restrict the sale of a range of comparison goods from out of centre locations.

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

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

**Convenience Goods: Trade Diversion:**

The applicant's consideration of convenience trade diversion / impact is underpinned by a number of fundamental presuppositions, which are summarised below:

- That 'like competes with like' - meaning that the new store is most likely to compete with similar operations;
- The existing Aldi store at Southmead Way is overtrading significantly and a number of other similar stores are also likely to be overtrading;
- The proposed Aldi store at Normanton Road will be built and be operational by 2020, meaning the proposed UNR store will draw trade from the Normanton Road store, rather than other stores to the city centre, (i.e. the Normanton Road store will have the impacts first);

- That the permitted scheme at Normanton Road / Burton Road is not able to alleviate the overtrading of the Southmead Way store
- The retail proposal at the DRI has either lapsed (which it hasn't) and / or is unlikely to be developed in the permitted format / scale and therefore should not be considered as a cumulative commitment. In addition, a number of other large scale commitments are unlikely to be developed in their permitted scale and format;

The 'like with like' argument has been accepted in the past when considering the impact of similar proposals. An Aldi store is expected to primarily compete with other deep discount operations within the city, notably other Aldi stores and those operated by Lidl. Some of these stores are located within district centres. In fact, it could be argued that the smaller floorplate and limited product ranges of an Aldi store make it more likely to compete with other smaller in-centre operators such as local Co-operative stores. However, it is also accepted that changes in the retail landscape mean that the proposed store will also compete directly with larger supermarket formats, generally found in out-of-centre locations.

In terms of the store at Southmead Way, there is anecdotal evidence that the store is overtrading, given the shift towards the deep discount sector in recent years and the general lack of presence of such outlets on the western side of the city (although a new household survey would help us to better understand this dynamic). Therefore, it is important to take this into account when considering potential trade draw and impacts; although the Southmead way store is located out-of-centre so does not therefore receive policy protection.

At paragraph 6.30 of the submitted Planning and Retail Statement, the applicant states that the proposed Aldi store at Normanton Road is likely to be trading 'well before' the design year of the UNR store, 2020 and has made this assumption in terms of assessing impacts.

In terms of the applicant's statement relating to the inability of the Normanton Road / Burton store to alleviate overtrading at Southmead Way, Officers simply do not agree. The Southmead Way store serves the Littleover and Mickleover areas of the city which are predominantly accessed via the UNR (A516) and Burton Road (A5250) corridors. The permitted scheme at Normanton Road / Burton Road will be easily accessible to people travelling along the Burton Road corridor so will undoubtedly alleviate some of the overtrading at Southmead Way. This will mean that diversion from Southmead Way initially claimed by the Normanton Road / Burton Road store will be 'claimed back' again by the proposal store once open. Despite the applicant's statement that the Normanton Road / Burton Road store cannot serve to alleviate the overtrading at Southmead Way, this dynamic has been factored into their impact analysis.

The applicant has considered 'impact' on the basis of these assumptions and has considered the individual impact of the proposed store and the cumulative impact of the proposed store, taking account of the potential impacts of the proposed Aldi store at Normanton Road / Burton Road. They have not included the committed floor space at the former DRI site (in terms of cumulative impact) as the applicant considers the

outline permission to have lapsed and / or is unlikely to be developed in the permitted format / scale. As already noted, the 2012 DRI outline permission remains extant. They have also failed to account for the permitted floor space at the former Friar Gate Station site and the Tesco proposal at Allenton. Both of these schemes could have the potential to impact upon some of the centres likely to be affected by this proposal.

It is accepted that a number of the commitments are unlikely to be fully implemented as permitted, as the big 4 supermarkets move away from the large format superstores. However, these commitments remain 'on the books' and could be as a minimum partially implemented, meaning that the scale of permitted retail floor space remains 'committed' in perpetuity. The risk is that site owners will be keen to maintain the value attached to such permissions and could therefore seek to partially implement permissions in order to keep them extant. This will provide them with a fall-back position when they come to submit new proposals for the site, which may include smaller amounts of retail floor space. This fall-back position will make it even more difficult for the Council to raise concerns about potential impacts of revised proposals as applicants will undoubtedly argue that the Council has already accepted the impacts of a larger scheme. On this basis and in the context of the NPPF objective of promoting competitive town centres, it is logical to take a cautious approach and factor in the relevant commitments that remain extant. Until the commitments lapse, the Council has no guarantees that the permitted schemes will definitely not be implemented.

This factor weighs against the robustness of the cumulative impact assessment and means that there is an element of risk that impacts on existing and committed centres could be greater than the levels shown in the assessment. However, this needs to be considered against the extent of the risk (i.e. the chance of the committed floor space being developed as permitted) and the more robust elements of the assessment.

As already noted, the impact assessment can only provide an indication of magnitude. On this basis and with the comments on methodology in mind, The Officer has assessed the impact assessment as submitted by the applicant.

**Solus Impact:**

Table 1, (below) sets out the extent of trade diversion likely to occur from various existing out-of-centre and in-centre outlets and the potential magnitude of impact on the turnover of the store at 2020, based on 80% of the sales area being used for the sale of convenience goods. Clearly, an 85/15 percent split would be preferable from a strategy point of view (as noted above), but would obviously lead to a slightly higher convenience turnover than the level presented in the assessment.

Table 1: Solus Impact

Locations	Trade Diversion (£) from Catchment	Impact (%) on Store Turnover
<b>Out-of-Centre Stores</b>		
Aldi, Southmead Way	-2.336	-27.0
Sainsburys, Kingsway	-1.073	-3.8
Aldi, Coleman Street	-0.232	-3.1
Aldi, Meteor Centre	-0.110	-2.5
Sainsburys, OPR	-0.561	-1.9
Morrisons, FWR	-0.687	-1.6
Asda, Spondon	-0.489	-1.0
Sainsburys, Wyvern	-0.330	-0.9
<b>Total:</b>	<b>-5.818</b>	
<b>In-Centre Stores</b>		
Lidl, Southgate Retail Park	-0.528	-9.5
Sainsburys, City Centre	-0.562	-3.7
Aldi, Chaddesden	-0.110	-3.7
Lidl, Chaddesden	-0.050	-3.0
Asda, Sinfin	-0.609	-1.7
Tesco, Mickleover	-0.196	-1.6
<b>Total:</b>	<b>-2.055</b>	
<b>Overall Total:</b>	<b>-7.873</b>	

It should be noted that the remaining turnover of the proposed store will be derived from a range of smaller stores and in-flow from outside the catchment. Assumptions about the extent of in-flow (15%) seem logical.

The pattern of diversion set out in Table 1 would appear to be relatively logical, based upon the catchment area of the proposal and the suggested 'need' proposed to be met. It is clear that the majority of diversion will be from out-of-centre locations, with the most significant proportion of turnover being derived from diversion from the Southmead Way, Aldi store. This is to be expected as one of the key drivers for the new store is to reduce some of the overtrading at the Southmead Way store and the location of the new store on the A516 corridor. In reality, it would not be a surprise if the amount of turnover of the new store derived from diversion from Southmead Way could potentially be in excess of the £2.3m stated in Table 1.

The extent of potential impact on the turnover of the Southmead Way could be overstated as it is based on benchmark turnover levels, which do not account for overtrading. Therefore, the proportional impact on the turnover of the store is likely to be less than 27%. In any case, the out-of-centre locations do not receive any policy protection and therefore we are only really interested in the potential impacts upon the in-centre locations.

Table 1 clearly shows that the greatest impacts on in-centre stores will be felt by the Lidl at Normanton Road, Sainsburys in the city centre and the two deep discount

operators in Chaddesden (due to like with like argument as opposed to pure proximity). The city centre Sainsburys store has a wide catchment area and is one of the few supermarkets located within the city centre. A 3.7% impact on the turnover of this store, in the context of the city centre is not considered to be significant. On the other hand, a 9.5% impact on turnover of the Lidl store at Southgate Retail Park could be considered as significant, particularly as the store currently anchors the northern extent of the Normanton Road Linear Centre. This issue is discussed further in relation to cumulative impacts.

Impacts of 3.7% and 3.0% on Aldi and Lidl respectively in Chaddesden are unlikely to undermine the viability of these stores, particularly if they are overtrading, as suggested by the applicant. However, given the recent increase in deep discount store applications, it is important to understand potential cumulative impacts on these anchor stores in Chaddesden.

It is clear that the focus for further analysis through consideration of cumulative impacts should be Normanton Road Linear Centre and Chaddesden District Centre.

**Cumulative Impacts:** In addition to considering the Solus impact of the proposal, the applicant has also considered the potential cumulative impacts of the proposal, taking account of the proposed Aldi store at Normanton Road / Burton Road.

Table 2: Cumulative Impact

<b>Locations</b>	<b>Cumulative Trade Diversion (£)</b>	<b>Impact (%) on Store Turnover</b>
<b>Out-of-Centre Stores</b>		
Aldi, Southmead Way	<b>-2.932</b>	<b>-32.8</b>
Aldi, Coleman Street	<b>-0.819</b>	<b>-8.9</b>
Sainsburys, Kingsway	<b>-1.712</b>	<b>-5.6</b>
Aldi, Meteor Centre	<b>-0.317</b>	<b>-3.9</b>
Sainsburys, OPR	<b>-2.006</b>	<b>-5.7</b>
Morrisons, FWR	<b>-0.730</b>	<b>-1.6</b>
Asda, Spondon	<b>-0.567</b>	<b>-1.2</b>
Sainsburys, Wyvern	<b>-0.316</b>	<b>-0.8</b>
<b>Total:</b>	<b>-9.339</b>	
<b>Edge-of-Centre Stores</b>		
Aldi, Normanton Road	<b>-1.158</b>	<b>-12.6</b>
<b>In-Centre Stores</b>		
Lidl, Southgate Retail Park	<b>-0.914</b>	<b>-16.6</b>
Sainsburys, City Centre	<b>-0.815</b>	<b>-5.3</b>
Aldi, Chaddesden	<b>-0.567</b>	<b>-7.0</b>
Lidl, Chaddesden	<b>-0.266</b>	<b>-5.2</b>
Asda, Sinfin	<b>-1.231</b>	<b>-3.0</b>
Tesco, Mickleover	<b>-0.371</b>	<b>-1.9</b>
<b>Total:</b>	<b>-4.164</b>	
<b>Overall Total:</b>	<b>-14.661</b>	

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The applicant has stated that Aldi are committed to implementing both of the proposed stores at UNR and the edge-of-centre store at Normanton Road, therefore the cumulative impact analysis provides a more realistic scenario than the Solus analysis.

In terms of out-of-centre shops, it can be seen that the existing Aldi at Southmead Way takes the biggest hit, potentially losing close to a third of its turnover (based on benchmark), whilst the recently opened Aldi at Coleman Street will lose close to 9%.

Consideration of cumulative impacts clearly highlights even further concerns about the potential impacts on Normanton Road Linear Centre, namely the ongoing viability of the Lidl store in light of -16.6% impact, but also the potential for the proposed edge-of-centre / in-centre Aldi store to be 'cannibalised' by 12.6%, or in excess of £1m of turnover. Again, these are not in-significant levels of impact.

Impacts on the anchor stores in Chaddesden are further exacerbated by the consideration of cumulative impacts, with the Aldi store likely to be hit by 7% and the Lidl by 5.2%.

Assurances have now been provided from Aldi Stores Ltd that they intend to deliver the approved scheme at Normanton Road/Burton Road and whilst there are some concerns about trade diversion at the Chaddesden Aldi store, as Aldi are not the applicant it would be unreasonable to impose a condition requiring the Chaddesden store to remain open. Ultimately it would seem illogical for Aldi to be promoting another scheme if they thought it has the potential to undermine any of their existing operations and therefore we can be reasonably satisfied that the proposal is unlikely to lead to the closure of existing stores.

Aside from the projected impacts on existing and committed Aldi stores, the remaining concerns relate to the ongoing viability of the Lidl stores at Southgate Retail Park and Chaddesden. In terms of Southgate Retail Park, the vast majority of the cumulative impact on this store is likely to be initially caused by the Normanton Road / Burton Road Aldi, due to its proximity. In the cumulative scenario (assuming the edge-of-centre store is built first), the individual impact of the UNR proposal is vastly reduced as the UNR store diverts from the new Aldi at Normanton Road, rather than the Lidl, i.e. the edge of centre scheme has the impact on Lidl first. Therefore we have already accepted the vast majority of the anticipated cumulative impact on the Normanton Road Lidl store by permitting the Aldi proposal at the former Mackworth College site. However, it is clear that a proportion of the 'benefits' in terms of in-centre footfall achieved by the implementation of the redevelopment of the former Mackworth College site will be eroded by this proposal.

Whilst it is important to understand the potential impacts on individual stores, particularly where they anchor the vitality and viability of a centre, it is also important to understand the level of potential impact in the context of the turnover of a centre as a whole. The applicant was therefore asked to submit additional information explaining how the impact on stores in Normanton Road and Chaddesden relates to the turnover and health of the centre as a whole. This additional analysis again assumes that the Normanton Road / Burton Road store will be operational before the proposal site and further reiterates Aldi's commitment to implementing both

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proposals. On this basis, it is sensible to discuss impacts on in-centre turnover in the context of cumulative impact.

For the purposes of this exercise the applicant has assumed the proposed Aldi store at Normanton Road / Burton Road to form part of the centre, although technically it is just outside of the definition. There is some sense in this approach as the wider development of the former Mackworth College site should function as an extension to the centre.

Analysis of in-centre convenience turnover suggests that Normanton Road as a whole will be impacted negatively by in the region of 5.4%, or 3.5% when accounting for both convenience and comparison diversion, assuming both Aldi applications are implemented. 90% of the trade loss from the centre would be from the proposed Aldi store at the former Mackworth College site. Again, the validity of this analysis relies heavily on the implementation of the Aldi store at the former Mackworth College site. This level of impact should also be seen in the context of the fact that we have already accepted in the region of 3% impact on this centre caused by the Coleman Street Aldi, which is now operational. However, it should also be noted that the Normanton Road Linear Centre has a number of specialist stores that help to anchor the vitality and viability of the Centre towards the southern end, which are unlikely to be impacted by this proposal. Therefore (assuming Aldi would not prejudice their own shop), the main risk is whether the continued operation of the existing Lidl store would be prejudiced by the cumulative impact of this proposal.

In terms of Chaddesden, analysis of in-centre convenience turnover suggests that the turnover of the centre as a whole will be impacted negatively by 3.7% or 2.3% when accounting for both convenience and comparison diversion, assuming both Aldi applications are implemented. The impact for the centre as a whole disguises the higher levels of impact specifically on the Aldi (7.0%) and Lidl (5.2%) stores due to the turnover of smaller stores within the centre such as the Co-op, Tesco and Iceland. Again, this level of impact should also be seen in the context of the fact that we have already accepted in the region of 3% impact on this centre caused by the Coleman Street Aldi, which is now operational. However, again it should be noted that whilst the Aldi and Lidl stores in Chaddesden help to bookend the centre, there are also a number of other convenience operators that are less likely to be impacted by this proposal, helping to maintain vitality and viability. The main risk is whether the continued operation of the existing Lidl store would be prejudiced by the cumulative impact of this proposal

Concerns about the potential impacts on the two Lidl stores need to be weighed against the likelihood of these stores actually closing and the fact that there is anecdotal evidence that a number of the deep discount operations are over trading in Derby. The subjective nature of impact consideration means that the bar has been set very high in terms of what has been accepted as 'significant adverse impact'. Generally, refusals have only been upheld in relation to large superstores where impacts are pronounced and demonstrable. Therefore, whilst there are potential risks, it may be difficult to demonstrate a level of certainty that 'significant adverse impacts' will occur, particularly if affected stores are already overtrading.

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This conclusion is based on the information submitted and needs to be considered alongside the issues raised, both positive and negative about the methodology used for the impact analysis.

#### Retail Impact Conclusions

The proposed store would clearly help to alleviate some of the over trading and associated traffic management / parking problems at the Southmead Way store, but this is also likely to be achieved by the former Mackworth College site commitment at Normanton Road/Burton.

As the site of the proposal is an out-of-centre location and the applicant is required to demonstrate compliance with the sequential test and we need to be sure that the proposal will not lead to significant adverse impacts on centres.

Sequential Test - Aldi have continued to progress the Normanton Road/Burton proposals and are in the process of discharging conditions to allow commencement of development on the site. This provides us with some degree of comfort that the sequentially preferable site will be developed first. The situation has also changed with regard to the former DRI site due to the submission of a new planning application on the site, which omits any large food store element. Whilst there were some concerns that the proposed food store could be in conflict with the sequential test, it would now be difficult to argue that this is the case, following the additional information which has been submitted.

Impact - Subject to a condition restricting the floor area given over to comparison sales or items specifically restricted by Policy CP13, the impact of the comparison sales element of the proposal isn't considered to be significant and any potential future impact upon the nearby Monk Street neighbourhood centre could be limited through the inclusions of a condition restricting the sale of goods such as newspapers, magazines and cigarettes. A condition restricting the subdivision of the proposed unit is also recommended.

There are clearly some concerns relating to the potential for trade diversion of convenience expenditure and the impact that this could have on identified centres. The turnover of the new store will be generated from the diversion of trade from a range of stores most notably the existing Aldi store at Southmead Way, the proposed store at the former Mackworth College site and the existing store in Chaddesden. However Aldi have now confirmed their commitment to the development at Normanton Road / Burton Road, whether or not the proposed development goes ahead. Moreover, whilst these concerns are valid, they are in the context of anecdotal evidence suggesting that deep discounters are over trading. Officers are not convinced that the potential impacts are sufficient or that there is enough certainty to demonstrate that the proposal will definitely lead to the closure of the existing Aldi stores to demonstrate conflict with the impact test. Officers are therefore satisfied that the proposal is not likely to have a significant adverse impact on other retail centres and stores.

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**Site Accessibility, Parking and Highway Safety Issues**

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

- *the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;*
- *safe and suitable access to the site can be achieved for all people; and*
- *improvements can be undertaken within the transport network that 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 (Delivering a Sustainable Transport Network) of the adopted Derby City Local Plan: Part 1 states that new development is not permitted where, amongst other things, it would cause, or exacerbate, severe transport problems, including unacceptable impacts on congestion, road safety, access and air quality. The supporting text notes that the policy aims to ensure that new development will not generate significant, and unacceptable, impacts on road safety and that the Council will continue to require on and off-site mitigation and resist development that has an unacceptable impact on road safety, congestion or air quality.

The application is supported by a Transport Assessment (TA) and accompanying appendices which has been duly considered by colleagues in Highways Development Control and Transport Planning within Section 5 of this Report. The Council has also sought the opinion of an independent Transport Consultant (WYG Group). The conclusions of the Consultant’s report considered, amongst other things, that the approach to the trip generation is unrealistic and significantly underestimates the likely future trip generation of a food store at this location. Regardless of whether or not the former/consented trips are subtracted from the proposed development trip generation, the proposals are likely to result in an intensification of use of this site. The highways model, as submitted, indicates that existing queues on Uttoxeter New Road will pass the proposed site access and the presence of queues on UNR will impact on movements to and from the proposed development. In reality is likely to have a detrimental effect on the capacity of this junction and could result in drivers taking undue risk as a result of delays. It concludes that there are a number of road safety concerns associated with the proposed site access arrangement.

The submitted Highways modelling indicates that the peak trading period for discount food stores is between 5 and 6pm on a Friday and between 1200 and 1300 on a Saturday. In the evening peak, severe queues frequently form on UNR extending across the site frontage and more particularly across the proposed access. This appears to be a function of a congested network, particularly in respect of Stafford Street and Uttoxeter New Road. The Highway Authority considers this queuing is likely to make it unsafe for drivers to enter and leave the site as they will need to force their way through the queuing traffic to get into and out of the site. More

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specifically the concerns relate to right turns into the site, as drivers wishing to turn right into the site are likely to have to do so through an outbound queue on UNR, and right turns out of the site, as drivers wishing to turn right out of the site will be faced with four lanes of queuing traffic. The Highways Officer highlights that a number of accidents have already occurred adjacent to the proposed site particularly at the junction of Great Northern Road/Uttoxeter New Road involving right turns and that, in some respects, the proposed access could be considered a mirror image of this junction. Drivers turning in and out of Great Northern Road have had a number of accidents over the past 5 years and there is concern that the proposed access could generate similar accidents.

The current submission proposes no off-site highway improvements as mitigation, other than the provision of 'keep clear' markings adjacent to the proposed access. The advice from the Highways Authority is that these markings have limited effect as they are only advisory. This is particularly true where traffic is queuing nose to tail and such markings are difficult to see by approaching drivers. Overall, it is considered that the applicant has not robustly demonstrated that a safe and suitable access can be provided to serve the proposed development and consequently the application fails to comply with Paragraph 32 of the NPPF and the adopted Policy CP23 and the application should therefore be refused in the interests of highway safety.

#### **Design and Layout:**

Delivering quality design is a core aim of the NPPF stating, at Paragraph 56, that good design is a key aspect of sustainable development and indivisible from good planning and at Paragraph 64 that permission should be refused for poor design that fails to take opportunities to improve the character and quality of an area and the way it functions.

Policy CP3 (Placemaking Principles) of the adopted Local Plan - Part 1 expects high quality, well designed developments that will help raise the overall design standard of the city, particularly in the City Centre and other areas of significant change. It expects developments to incorporate high quality architecture which is well integrated into its setting and exhibits locally inspired or distinctive character. Policy CP4 (Character and Context) requires that all proposals for new development will be expected to make a positive contribution towards the character, distinctiveness and identity of our neighbourhoods.

Policy AC5 (City Centre Environment) identifies the broad location of the proposal site as a 'primary gateway' location. The Council expects development along key arterial and connecting routes and important gateways to exhibit 'active frontages' which respond to the main streets. The supporting text of AC5 notes that such locations are threshold points marked by the change in scale, land use, character and density and are potentially appropriate locations for higher density development. Views from these locations should be enhanced to draw people into the City Centre. Reinforcing gateways is crucial to increase the legibility of the city centre. Every facet of a major gateway can contribute to the overall function of the place as a pointer / marker to the City Centre. It is therefore important that a high quality design can be achieved in this location.

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Situated along one of the main arterial routes into the City and the busy Inner Ring Road the application site is a highly prominent corner site in a 'Primary Gateway' location. It is considered that this gateway site warrants a taller building of presence which addresses the corner of Uttoxeter New Road and Mercian Way with a high quality landmark building. Buildings should also incorporate active frontages onto the street and avoid blank elevations. The use of a standard Aldi model design with a building set at the rear of the site, dominated by car parking, fails to realise the development potential of the site in this 'Primary Gateway' location and does not positively contribute to the street scene. It is considered that the design, form and elevational treatment of the building is of insufficient quality for this prominent edge of city centre location. Accordingly it is considered that the development fails to comply with paragraphs 56 and 64 of the NPPF and Policies CP3, CP4 and AC5 of the adopted Derby City Local Plan - Part 1.

**Residential Amenity (Noise and Disturbance, Other Amenity Considerations)**

The NPPF states in Paragraph 109 that planning decisions should prevent both new and existing development from contributing to or being put at unacceptable risk from, amongst other things, noise pollution. Saved Policy GD5 of the Local Plan Review states that planning permission will only be granted for development where it provides a satisfactory level of amenity within the site or building itself and provided it would not cause unacceptable harm to the amenity of nearby areas. In considering harm, the Council will consider issues such as noise pollution and traffic generation.

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

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

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**Other Issues**

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

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

Ground Contamination - At present the City Council's Environmental Health Officer feels the submitted Ground Contamination Report provides insufficient detail to draw any confident conclusions regarding contamination levels at the site. However a suitably condition could be attached to any decision to control the submission and agreement of a further detailed Phase I Desk Study and Site Investigation, together with a Remediation Method Statement and subsequent Validation works. Should permission be granted, subject to the inclusion of such a condition, the proposals would accord with the requirements of saved Policy E13 of the Local Plan Review.

Air Quality - Again, at present, the Environment Health Officer has outstanding concerns in respect of air quality issues. The current submitted screening assessment is considered to be insufficiently detailed and he offers caution in the absence of a more detailed assessment. The EHO recommends that the developer puts forward some mitigation measures, in order to address the air quality concerns at this location. It is recommended that the provision of an air quality mitigation strategy could be controlled through condition to ensure compliance with the requirements of Policy CP23 and paragraph 124 of the NPPF.

Sustainable Design - The retailer proposes to use a range of energy reduction measures, which include the provision of the provision of solar panels on the roof of

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the building to reduce the food store's energy consumption from non-renewable sources. The store is designed with full height glazing to the front and the entire east elevation of the retail space to make best use of natural light, thus reducing the need for electrical lighting on the shop floor. Main entrances would be fitted with sliding doors to minimise heat loss. In this respect it is considered that regard has been given to the requirements of Policy CP2 (Responding to Climate Change) in terms of incorporating sustainable design features.

Disabled Access - The applicant has confirmed that footpath approaches to the building will be almost flat with a level area adjacent to the entrance doors. The building has been designed with over 1m wide doors, level thresholds and automatic opening doors to comply with relevant Building Regulations requirements. In total 7 No. disabled persons parking space are proposed adjacent to the building's entrance which would comply with the guidance contained within Appendix C of the adopted Local Plan - Part 1. Overall, Officers are satisfied that regard has been given to accessibility issues and the development would comply with saved Policy T10 of the Local Plan Review.

#### Planning Balance and Conclusion

The proposed development makes use of the previously developed site and is in a highly sustainable location close to nearby residential areas with good public transport links to the wider community. The proposed development would also provide benefits in terms of regeneration and job creation. However the benefits are not considered to be outweighed by the significant harm which would be caused in terms of the impact upon highway safety on the local road network and the insufficient quality of the proposed design and form of the development in this prominent gateway situation on the edge of the city centre, with the resultant adverse impact upon the character and appearance of the area.

As required by Para.14 of the NPPF, there is demonstrable harm arising from the development, which is outweighed by the benefits of the scheme and therefore the proposal does not amount to sustainable development, as defined by the NPPF. Accordingly the proposal is considered to be contrary to the provisions of adopted policies CP3, CP4, AC5 and CP23 and the overarching guidance in the NPPF.

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

**To refuse** planning permission

#### **Reasons:**

##### **1. Layout and Design**

The application site occupies a prominent corner location at the junction of the Inner Ring Road and one of the main arterial routes into the City Centre in an area which is identified as a 'Primary Gateway' under Policy AC5. In the opinion of the Local Planning Authority the proposed design and form of the proposed food store building, is of an insufficient quality, which would result in a form of development, which fails to respond adequately to the street frontage and would not have a robust presence on the townscape in this prominent 'Gateway' location. In particular it is considered that the position of the retail building set to

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the rear of the site fails to properly address the street and results in a development that would be dominated by car parking. The proposal is therefore contrary to adopted Policies CP3, CP4 and AC5 of the Derby City Local Plan - Part 1: Core Strategy (Adopted 2017) and the overarching guidance in the NPPF.

2. Highways

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

**S106 requirements where appropriate:**

Should planning permission be granted the Local Planning Authority would seek to secure contributions towards highways improvements in the transport corridor and public art.

**Application timescale:**

The statutory timeframe for determination of this application expired on the 11<sup>th</sup> March 2016. An extension of time has been secured until the 28<sup>th</sup> February 2017 in order to allow time for the application to be considered by the Planning Control Committee.

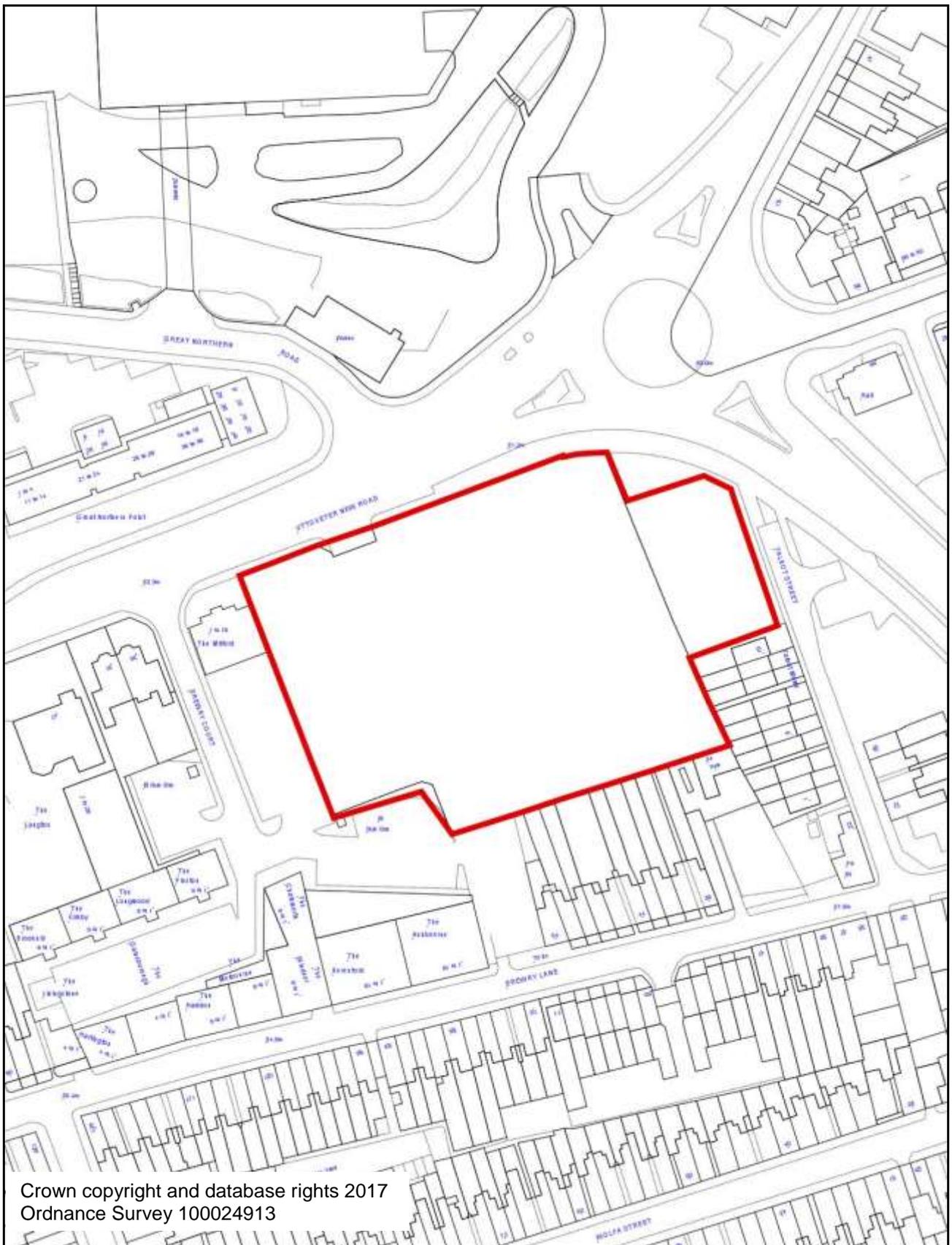
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## Derby City Council

Delegated decisions made between 01/01/2017 and 31/01/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
12/12/01517/PRI	Full Planning Permission	130 Ashbourne Road, Derby, DE22 3AG (Sallys)	Extension of ground floor and first floor and conversion of second floor to form 4 flats	Refuse Planning Permission	23/01/2017
08/14/01149/PRI	Full Planning Permission	Derby Moor Community School, Moorway Lane, Littleover, Derby, DE23 7FS	Retention of alterations and extension to existing sports courts including enclosed spectator area	Granted Conditionally	19/01/2017
02/15/00253/PRI	Certificate of Lawfulness Proposed Use	34 Ferrers Way, Derby, DE22 2AB	Single storey side extension to dwelling house (porch w.c. and shower room)	Granted	06/01/2017
01/16/00104/PRI	Advertisement consent	50 Sadler Gate, Derby, DE1 3NQ	Display of one non-illuminated fascia sign	Granted Conditionally	31/01/2017
02/16/00171/PRI	Full Planning Permission	77 Kings Drive, Littleover, Derby, DE23 6EX	Erection of detached garage	Withdrawn Application	05/01/2017
05/16/00564/PRI	Listed Building Consent - alterations	117 Chaddesden Lane, Chaddesden, Derby, DE21 6LL	Internal and external alterations to dwelling house to include a single storey link extension, erection of a boundary wall and gates and creation of openings to internal load bearing walls	Granted Conditionally	18/01/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
08/16/00951/PRI	Variation/Waive of condition(s)	River Derwent Corridor including sites from Darley Abbey, Little Chester, Chester Green, North Riverside, Bass Rec', Pride Park to Alvaston Park, Derby	Outline application with full details of 'Package 1' for flood defence works along the river corridor involving; demolition of existing buildings, boundary treatments and flood defence walls, removal of existing flood embankments, vegetation and trees, the raising, strengthening, realigning and construction of new flood defence walls, embankments, access ramps and steps, demountable flood defences and flood gates, the construction of replacement buildings, structures and community facilities, alterations to road, footpath and cycleway layouts along with associated and ancillary operational development in the form of ground works, archaeological investigation works and landscaping works to reinstate sites with environmental enhancements included - Variation of condition 4 of previously approved permissions Code No. DER/02/15/00210 and Code No. DER/02/16/00160	Granted Conditionally	30/01/2017
08/16/00992/PRI	Full Planning Permission	Land adjacent to 83 St. Albans Road, Derby, DE22 3JN	Erection of a dwelling house (use class C3)	Refuse Planning Permission	06/01/2017
08/16/01006/PRI	Full Planning Permission	105 Chain Lane, Littleover, Derby, DE23 7EA	Two storey front and two storey side extensions to dwelling house (utility room, w.c., two en-suites, bedroom and enlargement of living room and bedroom) and erection of detached garage	Granted Conditionally	25/01/2017
08/16/01026/PRI	Advertisement consent	6 The Spot, Osmaston Road, Derby, DE1 2JA	Display of one externally illuminated fascia sign and one internally illuminated projecting sign	Granted Conditionally	23/01/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
08/16/01042/PRI	Full Planning Permission	478 Burton Road, Derby, DE23 6AL	Single and two storey front extension to dwelling house (w.c, breakfast room, lobby, two bathrooms, cloakroom, sitting room, office, three bedrooms, en-suite, balcony, three dormer windows and formation of room in the roof space)	Granted Conditionally	11/01/2017
08/16/01061/PRI	Full Planning Permission	6 Reginald Road South, Chaddesden, Derby, DE21 6ND	Single storey side extension to dwelling (kitchen/diner, utility and w.c)	Granted Conditionally	13/01/2017
09/16/01112/PRI	Full Planning Permission	Land at side of 29 Field Lane, Chaddesden, Derby, DE21 4NG	Erection of a detached dwelling house (use class C3)	Granted Conditionally	05/01/2017
09/16/01125/PRI	Listed Building Consent - alterations	4A Ashbourne Road, Derby, DE22 3AA	Installation of replacement window to the front elevation and internal alterations to include the installation of partition walls and a staircase	Granted Conditionally	25/01/2017
09/16/01159/PRI	Full Planning Permission	66 Chadwick Avenue, Allenton, Derby, DE24 9DG	Single storey side and rear extensions to dwelling (bedroom, bathroom and enlargement of kitchen/dining area), installation of render, erection of a detached garage and formation of a new vehicular access to Boulton Lane	Granted Conditionally	26/01/2017
09/16/01185/PRI	Full Planning Permission	77 Chaddesden Lane, Chaddesden, Derby, DE21 6LN	Two storey side and single storey rear extensions to dwelling house (lounge, utility room, shower room, en-suite and enlargement of dining room and bathroom)	Granted Conditionally	10/01/2017
10/16/01227/PRI	Full Planning Permission	Land adjacent to 87 St. Andrews View, Derby, DE21 4ET	Erection of a dwelling house (use class C3)	Granted Conditionally	10/01/2017
10/16/01232/PRI	Full Planning Permission	19 Leeway, Spondon, Derby, DE21 7GG	Single storey side extension to dwelling (lounge and storage)	Granted Conditionally	12/01/2017
10/16/01239/PRI	Full Planning Permission	Land adjacent to 19 Leeway, Spondon, Derby, DE21 7GG	Erection of a dormer bungalow (use class C3)	Refuse Planning Permission	13/01/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
10/16/01243/PRI	Full Planning Permission	5 Beechwood Crescent, Littleover, Derby, DE23 6GU	Single storey rear extension to dwelling (lounge), alterations and raising of the roof height to form rooms in the roof space (bedroom and en-suite) and formation of a raised patio area	Granted Conditionally	19/01/2017
10/16/01253/PRI	Full Planning Permission	Plot C, Derby Commercial Park, Fernhook Avenue, Derby, DE21 7HZ	Erection of 2 warehouse units with flexible B1 B/C, B2 or B8 use together with associated ancillary office accommodation, means of access, parking, service, ancillary structures and landscaping	Granted Conditionally	19/01/2017
10/16/01264/PRI	Full Planning Permission	5 Chaddesden Park Road, Derby, DE21 6HE	Installation of a dormer window to front elevation	Granted Conditionally	16/01/2017
10/16/01266/PRI	Full Application - Article 4	33 North Parade, Derby, DE1 3AY	Alterations to the front elevation including replacement windows, door, render and timber cladding	Refuse Planning Permission	03/01/2017
10/16/01268/PRI	Full Planning Permission	Intu Derby Shopping Centre, Derby	Installation of a ventilation duct	Granted Conditionally	18/01/2017
10/16/01274/PRI	Variation/Waive of condition(s)	1 Vivian Street, Derby, DE1 3RZ (Garden City Tavern)	Demolition of the single storey toilet block and assembly/pool room. Change of use of public house (use class A4) to four apartments (use class C3) and erection of two mews apartments (use class C3) - Variation of conditions 2, 8, 11, 12 and 16 of previously approved planning permission Code No. DER/10/15/01196 to show two doors on rear elevation with garden access, reconfiguration of windows in main building, reconfigured flood evacuation route and reconfigured cycle parking location.	Granted Conditionally	18/01/2017
10/16/01280/PRI	Full Planning Permission	107-109 St. Peters Street, Derby, DE1 2AD	Change of use from retail (use class A1) to restaurant/cafe (use class A3)	Granted Conditionally	10/01/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
10/16/01288/PRI	Full Planning Permission	51 Park Farm Centre, Park Farm Drive, Allestree, Derby, DE22 2QQ	Installation of roller shutters, condensor units and a roof level plant screen	Granted Conditionally	03/01/2017
10/16/01293/PRI	Full Planning Permission	208 Broadway, Derby, DE22 1BP	Two storey and single storey rear extensions to dwelling house (enlargement of kitchen/dining area and bedroom) and installation of a gable to the front elevation	Granted Conditionally	24/01/2017
10/16/01295/PRI	Full Planning Permission	Unit rear of 4 Poplar Avenue, Spondon, Derby	Change of use from storage facility to hairdressers and beauty salon (use class A1/sui generis use) including installation of two additional windows	Granted Conditionally	19/01/2017
10/16/01297/PRI	Full Planning Permission	14 Instow Drive, Sunnyhill, Derby, DE23 7LS	Two storey side, first floor rear and single storey rear extensions to dwelling house (utility room, garage, two bedrooms and enlargement of bedroom)	Granted Conditionally	17/01/2017
10/16/01305/PRI	Full Planning Permission	Rolls Royce Leisure Association, Moor Lane, Allenton, Derby	Retention of the installation of an ATM	Granted Conditionally	10/01/2017
10/16/01306/PRI	Advertisement consent	Rolls Royce Leisure Association, Moor Lane, Allenton, Derby	Retention of the display of an internally illuminated ATM surround	Granted Conditionally	10/01/2017
11/16/01308/PRI	Full Planning Permission	29 Edale Avenue, Mickleover, Derby, DE3 5FY	Two storey side and single storey front extensions to dwelling house (kitchen/family room, bedroom, en-suite and enlargement of hall)	Granted Conditionally	10/01/2017
11/16/01313/PRI	Full Planning Permission	Flat, 730 Osmaston Road, Derby, DE24 8GU	First floor rear extension to dwelling (bathroom)	Granted Conditionally	31/01/2017
11/16/01317/PRI	Full Planning Permission	33 Causeway, Derby, DE22 2BX	Two storey side and single storey rear extensions to dwelling house (garage, utility, w.c, enlargement of kitchen/diner and bedroom) and formation of a raised patio area	Granted Conditionally	04/01/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
11/16/01319/PRI	Full Planning Permission	45-53 Green Lane, Derby, DE1 1RS	Change of use from amusement centre/nightclub to retail (use class A1) at basement and ground floor level, theatre (sui generis use) at first and second floor level and cafe (use class A3) and gallery (use class D1) in the existing side extension to the building. Alterations to the elevations to include the installation of replacement windows , reinstatement of window openings, towers and pinnacles.	Granted Conditionally	10/01/2017
11/16/01320/PRI	Full Planning Permission	200 Uttoxeter Road, Mickleover, Derby, DE3 5AB	Single storey side extension to dwelling house (bedroom, passageway and shower room)	Granted Conditionally	17/01/2017
11/16/01324/PRI	Full Planning Permission	44 Midland Road, Derby, DE1 2SP (Mr Booze)	Installation of an ATM	Refuse Planning Permission	18/01/2017
11/16/01325/PRI	Advertisement consent	44 Midland Road, Derby, DE1 2SP (Mr Booze)	Display of non-illuminated ATM surround	Refuse Planning Permission	18/01/2017
11/16/01329/PRI	Full Planning Permission	Rolls Royce Sinfin A Site, Victory Road, Derby	The creation of a new maintenance access and stairway to an existing services tunnel	Granted Conditionally	19/01/2017
11/16/01331/PRI	Full Planning Permission	Gate 1A, Rolls Royce Sinfin A Site, Victory Road, Derby	The creation of a new gatehouse at the existing vehicular entrance of Rolls-Royce Gate 1a and associated ancillary works	Granted Conditionally	19/01/2017
11/16/01340/PRI	Full Planning Permission	26 Buttermere Drive, Allestree, Derby, DE22 2SN	Single storey side and rear extension to dwelling house (enlargement of kitchen)	Granted Conditionally	04/01/2017
11/16/01341/PRI	Full Planning Permission	77 Kings Drive, Littleover, Derby, DE23 6EX	Extensions to dwelling house (sitting room, shower room, utility room, 2 bedrooms, en-suite and enlargement of kitchen) - amendments to previously approved planning permission Code No. DER/09/14/01201 to increase the depth of the single storey rear extension by 4m and the first floor side extension by 4m	Granted Conditionally	04/01/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
11/16/01342/PRI	Works to Trees under TPO	27 Constable Drive, Littleover, Derby, DE23 6EQ	Crown lift to 4 metres of Cedar tree protected by Tree Preservation Order No. 185	Granted Conditionally	04/01/2017
11/16/01344/PRI	Full Planning Permission	The Byron PH, 80 Lower Dale Road, Derby, DE23 6WZ	Change of use of part of ground floor from public house (use class A4) to education and training centre (use class D1)	Granted Conditionally	10/01/2017
11/16/01345/PRI	Full Planning Permission	89 Havenbault Lane, Littleover, Derby, DE23 7AD	Two storey front and side and single storey rear extensions to dwelling house (bathroom, kitchen/dining space and enlargement of hall)	Granted Conditionally	04/01/2017
11/16/01347/PRI	Certificate of Lawfulness Proposed Use	53 Lambourn Drive, Allestree, Derby, DE22 2UT	Single storey front extension to dwelling house (porch)	Granted	17/01/2017
11/16/01350/PRI	Full Planning Permission	289-291 Normanton Road, Derby, DE23 6UN	Single storey rear extension to shop (enlargement of retail area) and alterations to first floor window above	Granted Conditionally	04/01/2017
11/16/01351/PRI	Full Planning Permission	14 Windley Crescent, Darley Abbey, Derby, DE22 1BZ	Two storey side and single storey rear extensions to dwelling house (garage, utility room, shower room, two bedrooms and kitchen/diner)	Granted Conditionally	04/01/2017
11/16/01352/PRI	Full Planning Permission	43 Howard Street, Derby, DE23 6TX	First floor rear extension to dwelling house (en-suite), alterations and installation of a pitched roof to the existing garage and increase in height and roof alterations of the existing rear annexe to form rooms in the roof space	Refuse Planning Permission	27/01/2017
11/16/01353/PRI	Full Planning Permission	8 Wade Drive, Mickleover, Derby, DE3 5BS	Two storey side extension to dwelling house (store, utility room, bathroom and enlargement of kitchen/dining room and bedroom)	Granted Conditionally	04/01/2017
11/16/01354/PRI	Full Planning Permission	63 & 64 Friar Gate, Derby, DE1 1DJ	Change of use from office (use class B1a) to one residential serviced apartment (use class C3)	Granted Conditionally	24/01/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
11/16/01355/PRI	Listed Building Consent - alterations	63 & 64 Friar Gate, Derby, DE1 1DJ	Alterations in connection with the change of use from an office (use class B1a) to one residential serviced apartment (use class C3) to include the removal of internal walls and the re-instatement of walls within the original openings and associated works in the curtilage of the building	Granted Conditionally	24/01/2017
11/16/01356/PRI	Full Planning Permission	63-65 Clarence Road, Derby, DE23 6LR	Change of use from doctors surgery (Use Class D1) to two flats and one dwelling house (Use Class C3) together with the erection of an external staircase	Granted Conditionally	09/01/2017
11/16/01359/PRI	Full Planning Permission	131 Portreath Drive, Allestree, Derby, DE22 2SB	Single storey front extension to dwelling house (w.c. and enlargement of hall)	Granted Conditionally	05/01/2017
11/16/01360/PRI	Full Planning Permission	82 St. Peters Street, Derby, DE1 1SR	Installation of a fire escape door to the front elevation	Granted Conditionally	06/01/2017
11/16/01361/PRI	Full Planning Permission	64 Wye Street, Alvaston, Derby, DE24 8RA	Two storey side and single storey rear extensions to dwelling house (two bedrooms, utility room, kitchen/dining area, bathroom and enlargement of living room)	Granted Conditionally	10/01/2017
11/16/01364/PRI	Full Planning Permission	10 Lee Farm Close, Chellaston, Derby, DE73 1QE	Single storey side extension to dwelling house (store)	Granted Conditionally	06/01/2017
11/16/01368/PRI	Full Planning Permission	Highfield House, Highfield Lane, Chaddesden, Derby, DE21 6PJ	Erection of a detached garage and two sections of boundary wall	Refuse Planning Permission	19/01/2017
11/16/01369/PRI	Full Planning Permission	Lower Ground Floor, St. Peters House, Gower Street, Derby, DE1	Change of use from financial and professional services (use class A2) and ancillary operational space to 2 self contained flats (use class C3)	Granted Conditionally	04/01/2017
11/16/01372/PRI	Full Planning Permission	617 Nottingham Road, Derby, DE21 6RU	Two storey rear extension to dwelling house (enlargement of kitchen/dining area and two bedrooms), raising of roof height, installation of a first floor side elevation window and formation of rooms in the roof space (bedroom and en-suite)	Granted Conditionally	17/01/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
11/16/01373/PRI	Full Planning Permission	20 Crown Way, Chellaston, Derby, DE73 1NU	Two storey side and single storey rear extensions to dwelling house (garage, utility room, two bedrooms with en-suites and enlargement of living room/dining room/kitchen)	Granted Conditionally	18/01/2017
11/16/01376/PRI	Full Planning Permission	151 Wiltshire Road, Derby, DE21 6FB	First floor and single storey rear extensions to dwelling house (sun lounge and bedroom)	Granted Conditionally	13/01/2017
11/16/01377/PRI	Full Planning Permission	48 Fairway Crescent, Allestree, Derby, DE22 2PA	Two storey side and single storey rear extensions to dwelling house (garage, snug, bedroom and enlargement of kitchen/dining room and bedroom)	Granted Conditionally	17/01/2017
11/16/01378/PRI	Full Planning Permission	55 Lime Grove, Chaddesden, Derby, DE21 6WL	First floor side extension to dwelling house (bedroom)	Granted Conditionally	09/01/2017
11/16/01379/PRI	Full Planning Permission	14 Hayes Avenue, Derby, DE23 6JU	First floor and single storey rear extensions to dwelling house (utility room, wet room, kitchen/dining area, en-suite and enlargement of bedroom)	Granted Conditionally	09/01/2017
11/16/01381/PRI	Advertisement consent	1 Castleward Court, Trinity Walk, Derby, DE21 2J	Retention display of three internally illuminated fascia signs and one internally illuminated projecting sign	Granted Conditionally	13/01/2017
11/16/01385/PRI	Full Planning Permission	3 Venice Close, Chellaston, Derby	Single storey front and side extensions to dwelling house (garage, store and enlargement of sitting room and dining room)	Granted Conditionally	11/01/2017
11/16/01386/PRI	Full Planning Permission	11 Nelson Close, Mickleover, Derby, DE3 5LX	Single storey side and rear extensions to dwelling house (garage and family room)	Granted Conditionally	25/01/2017
11/16/01387/PRI	Full Planning Permission	6 Bannels Avenue, Littleover, Derby, DE23 7GG	First floor front extension to dwelling house (enlargement of bathroom)	Granted Conditionally	13/01/2017
11/16/01388/PRI	Full Planning Permission	290 Baker Street, Alvaston, Derby, DE24 8SF	Conversion and extension of the existing detached outbuilding to form annexe accommodation including the installation of new windows and a side dormer	Refuse Planning Permission	13/01/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
11/16/01392/PRI	Advertisement consent	27-31 Duffield Road, Derby, DE1 3BH (Co-op Petrol Station)	Display of various signage	Granted Conditionally	25/01/2017
11/16/01394/PRI	Full Planning Permission	Churnet House, Carrington Street, Derby	Installation of replacement doors to the front elevation	Granted Conditionally	17/01/2017
11/16/01395/PRI	Works to Trees under TPO	Shakespeare House, 93 Kedleston Road, Derby, DE22 1FR	Felling of a Beech tree protected by Tree Preservation Order No. 52	Refuse Planning Permission	26/01/2017
11/16/01397/PRI	Full Planning Permission	321 Ladybank Road, Mickleover, Derby, DE3 0TW	Two storey and single storey side extensions to dwelling house (garage and enlargement of kitchen, bedroom and bathroom)	Granted Conditionally	17/01/2017
11/16/01398/PRI	Full Planning Permission	3 Severnvale Close, Allestree, Derby, DE22 2UD	Two storey front extension to dwelling house (hall, w.c. and enlargement of bedroom) and installation of a canopy to the front elevation	Granted Conditionally	17/01/2017
11/16/01399/PRI	Variation/Waive of condition(s)	Aldi Store, Coleman Street, Allenton, Derby	Variation of condition no. 11 of previously approved planning permission Code no. DER/05/15/00709 to allow longer opening hours on bank holidays	Granted Conditionally	16/01/2017
11/16/01401/PRI	Full Planning Permission	2 Rowsley Avenue, Derby, DE23 6JY	Two storey side and first floor rear extensions to dwelling house (garage and three bedrooms with en-suites)	Refuse Planning Permission	31/01/2017
11/16/01402/PRI	Full Planning Permission	40 Lawnlea Close, Sunnyhill, Derby, DE23 7XQ	First floor rear extension to dwelling house (shower room and enlargement of two bedrooms) and raising of the roof height of the existing garage	Granted Conditionally	18/01/2017
11/16/01403/PRI	Full Application - disabled People	2 Stanstead Road, Mickleover, Derby, DE3 5PP	Single storey rear extension to dwelling house (bedroom and wet room)	Granted Conditionally	13/01/2017
11/16/01406/PRI	Full Planning Permission	Nisa Local, Caxton Street, Derby	Change of use from shop storage area to two units - hairdressing/beauty salon (use class A1/sui generis use) and a hot food takeaway (use class A5) to include the installation of new entrance doors and an extraction flue	Refuse Planning Permission	18/01/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
11/16/01407/PRI	Full Planning Permission	11 Matthew Way, Littleover, Derby, DE23 7BN	Single storey side extension to dwelling house (enlargement of dining room and utility room)	Granted Conditionally	17/01/2017
11/16/01408/DCC	Local Council own development Reg 3	Chapel Street Car Park, Chapel Street, Derby, DE1 3GU	Installation of galvanised mesh security grilles together with entrance doors and entry/exit gates	Granted Conditionally	13/01/2017
11/16/01409/PRI	Variation/Waive of condition(s)	63 High Street, Chellaston, Derby, DE73 1TB (Lesley's Hub 'n' Hive Cafe)	Variation of condition 1 of previously approved planning permission Code No. DER/09/09/01018 to amend the approved opening hours to include longer opening hours on weekdays and Saturdays, and to allow opening on Sundays and Bank Holidays	Granted Conditionally	26/01/2017
11/16/01411/PRI	Advertisement consent	840 Osmaston Road, Derby, DE24 9AB (Co-op)	Display of various signage	Granted Conditionally	19/01/2017
11/16/01412/PRI	Full Planning Permission	37 Ridgeway, Chellaston, Derby, DE73 1UL	Two storey and first floor rear extensions to dwelling house (bedroom and enlargement of living room and bedroom)	Granted Conditionally	18/01/2017
11/16/01413/PRI	Full Planning Permission	Units SU232, SU233 and area K22, Level 2, Intu Derby Shopping Centre, Derby	Change of use from retail (use class A1) to cafe/restaurant (use class A3) together with the installation of an extraction duct	Granted Conditionally	23/01/2017
11/16/01415/PRI	Full Planning Permission	35 Radcliffe Avenue, Chaddesden, Derby, DE21 6NN	Single storey side extension to dwelling house (cloak room, w.c., utility room and enlargement of kitchen)	Granted Conditionally	18/01/2017
11/16/01416/PRI	Full Planning Permission	30 Carsington Crescent, Allestree, Derby, DE22 2QZ	Two storey front and side, and single storey front and rear extensions to dwelling house (garage, utility room, w.c., playroom, hall, study, two bedrooms, bathroom and enlargement of lounge)	Granted Conditionally	24/01/2017
11/16/01417/PRI	Prior Approval - Householder	16 Chevin Avenue, Mickleover, Derby, DE3 5GW	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	04/01/2017
11/16/01421/PRI	Works to Trees under TPO	42 Station Road, Chellaston, Derby, DE73 1SU	Felling of a Sycamore tree protected by Tree Preservation Order No. 422	Granted Conditionally	13/01/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
11/16/01424/DCC	Local Council own development Reg 3	Assembly Rooms Car Park, Full Street, Derby	Installation of galvanised mesh security grilles together with entrance doors and entry/exit gates	Granted Conditionally	19/01/2017
11/16/01426/PRI	Full Application - disabled People	220 Porter Road, Derby, DE23 6RF	Single storey rear extension to dwelling house (wet room)	Withdrawn Application	13/01/2017
11/16/01427/PRI	Full Application - disabled People	212 Chellaston Road, Derby, DE24 9EA	Erection of an outbuilding to form annexe accommodation	Granted Conditionally	19/01/2017
11/16/01428/PRI	Variation/Waive of condition(s)	Site of and land at Kingsway Hospital, Kingsway, Derby (Phase 2)	Variation of condition 1 of previously approved planning permission Code No. DER/07/14/01024 - Erection of 71 dwelling houses, 39 apartments and formation of associated car parking, cycle parking, bin stores and public open space (Phase 2 of previously approved Outline planning permission Code No. DER/07/08/01081) to vary the approved boundary treatments	Granted Conditionally	20/01/2017
11/16/01430/PRI	Full Planning Permission	12 Nevinson Avenue, Sunnyhill, Derby, DE23 7GT	Two storey and first floor side and single storey front and rear extensions to dwelling house (lounge, dining room, kitchen, w.c. and two bedrooms)	Refuse Planning Permission	31/01/2017
11/16/01431/PRI	Full Planning Permission	53 Hollowood Avenue, Littleover, Derby, DE23 6JD	Single storey front extension to dwelling house (porch)	Granted Conditionally	19/01/2017
11/16/01432/PRI	Full Planning Permission	1 Rykneld Drive, Littleover, Derby, DE23 7AQ	Single storey front extension to dwelling house (porch)	Granted Conditionally	19/01/2017
11/16/01433/PRI	Prior Approval - Householder	25 Burbage Place, Alvaston, Derby, DE24 8NP	Single storey rear extension (projecting beyond the rear wall of the original house by 6m, maximum height 3m, height to eaves 3m) to dwelling house	Prior Approval Not required	04/01/2017
11/16/01434/PRI	Advertisement consent	497-499 Nottingham Road, Derby, DE21 6NA (Co-op)	Display of various signage	Granted Conditionally	24/01/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
12/16/01441/PRI	Full Planning Permission	402 Stenson Road, Derby, DE23 7HD	First floor side and rear extensions to dwelling house (two bedrooms) and installation of a pitched roof to the existing first floor flat roof	Granted Conditionally	25/01/2017
12/16/01442/PRI	Full Planning Permission	27 Highfield Lane, Chaddesden, Derby, DE21 6PG	Retention of two storey and single storey rear extensions to dwelling house (conservatory and enlargement of sitting room and bedroom)	Granted Conditionally	26/01/2017
12/16/01443/PRI	Full Planning Permission	27 Chestnut Avenue, Chellaston, Derby, DE73 1RW	Single storey rear extension to dwelling house (enlargement of lounge and kitchen)	Granted Conditionally	19/01/2017
12/16/01445/PRI	Advertisement consent	Unit 1, Oakwood District Centre, Danebridge Crescent, Oakwood, Derby, DE21 2HT (Co-op)	Display of various signage	Granted Conditionally	25/01/2017
12/16/01446/PRI	Full Planning Permission	London Road Community Hospital, London Road, Derby, DE1 2QY	Single storey extension to form Gait Laboratory together with the installation of new and replacement windows and doors	Granted Conditionally	19/01/2017
11/16/01450/PRI	Prior Approval - Householder	12 Nunsfield Drive, Alvaston, Derby, DE24 0GG	Single storey rear extension (projecting beyond the rear wall of the original house by 5.3m, maximum height 3.8m, height to eaves 3m) to dwelling house	Prior Approval Not required	04/01/2017
12/16/01451/DCC	Variation/Waive of condition(s)	Warwick House, Bonsall Avenue, Derby, DE23 6JW	Variation of condition 2 of previously approved planning permission Code No. DER/08/16/01049 to amend the position of the platform lift	Granted Conditionally	04/01/2017
12/16/01452/PRI	Works to Trees under TPO	Trees at Laverstoke Court, Peet Street, Derby, DE22 3NT	Cutting back branches of Lime tree to give 2.5m clearance of the neighbouring building and cutting back of branches of Yew, Holly and Ivy to the fence line. All protected by Tree Preservation Order No. 204	Granted Conditionally	23/01/2017
12/16/01457/PRI	Full Planning Permission	114 Ferrers Way, Derby, DE22 2BE	Single storey front extension to dwelling (entrance lobby and enlargement of bedroom)	Granted Conditionally	19/01/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
12/16/01460/PRI	Full Planning Permission	11 Chiswick Close, Derby, DE22 4LH	Two storey side and single storey rear extensions to dwelling house (dining room, w.c., bedroom, en-suite and enlargement of kitchen)	Granted Conditionally	19/01/2017
12/16/01461/PRI	Full Planning Permission	38 Fellow Lands Way, Chellaston, Derby, DE73 1SW	Two storey side extension to dwelling house (porch, cloak room, passageway, bedroom, shower room and enlargement of lounge)	Granted Conditionally	30/01/2017
12/16/01462/PRI	Full Planning Permission	69 Kings Drive, Littleover, Derby, DE23 6EX	Two storey side and single storey front and rear extensions to dwelling house (study, wet room, dining room, utility room, kitchen, lounge, porch and bedrooms). Installation of a dormer to the rear elevation and enlargement of the existing detached garage	Refuse Planning Permission	19/01/2017
12/16/01466/PRI	Advertisement consent	Land at the junction of Abbey Street and Macklin Street, Derby	Display of one internally illuminated advertisement hoarding	Refuse Planning Permission	31/01/2017
12/16/01467/PRI	Works to Trees in a Conservation Area	St. Matthews Church, 25 Church Lane, Darley Abbey, Derby, DE22 1EY	Felling of three conifer trees within the Darley Abbey Conservation Area	Raise No Objection	04/01/2017
12/16/01473/PRI	Full Planning Permission	1171 London Road, Derby, DE24 8QF	Single storey side and rear extensions to dwelling house (library, wet room, games area, utility room and enlargement of kitchen/dining area)	Granted Conditionally	19/01/2017
12/16/01477/PRI	Prior Approval - Householder	7 Wade Bridge Grove, Alvaston, Derby, DE24 0NF	Single storey rear extension (projecting beyond the rear wall of the original house by 4m, maximum height 4m, maximum height to eaves 3m) to dwelling house	Prior Approval Not required	17/01/2017
12/16/01479/PRI	Full Planning Permission	279 Blagreaves Lane, Littleover, Derby, DE23 7PT	Single storey side extension to hot food takeaway (enlargement of kitchen and preparation area)	Granted Conditionally	20/01/2017
12/16/01488/PRI	Advertisement consent	Blue Jay Lodge, Linville Close, Alvaston, Derby	Display of five internally illuminated fascia signs and one internally illuminated freestanding sign	Granted Conditionally	26/01/2017
12/16/01493/PRI	Works to Trees in a Conservation Area	The Old Hall, Orchard Street, Mickleover, Derby, DE3 5DF	Various works to trees within the Mickleover Conservation Area	Raise No Objection	23/01/2017

Application No.	Application Type	Location	Proposal	Decision	Decision Date
12/16/01499/PRI	Advertisement consent	168 Blagreaves Lane, Littleover, Derby, DE23 7PX	Display of one internally illuminated freestanding sign and three internally illuminated fascia signs	Refuse Planning Permission	30/01/2017
12/16/01501/PRI	Works to Trees in a Conservation Area	23 Arthur Street, Derby, DE1 3EF	Fell smaller stems leaving the remaining 5 stems at 3 metres in height of a Goat Willow tree within the Strutts Park Conservation Area	Raise No Objection	19/01/2017
12/16/01503/PRI	Certificate of Lawfulness Proposed Use	2 Brailsford Road, Chaddesden, Derby, DE21 4JB	Formation of rooms in roof space (bedroom and en-suite) to include a hip to gable roof conversion and installation of a dormer to the rear elevation	Granted	19/01/2017
12/16/01505/PRI	Full Planning Permission	2 Prescott Close, Mickleover, Derby, DE3 5TB	Two storey and single storey side extensions to dwelling house (kitchen/dining area, cloak room, bedroom, en-suite and enlargement of hall)	Granted Conditionally	20/01/2017
12/16/01521/PRI	Prior Approval - Householder	14 Ridgeway, Chellaston, Derby, DE73 1UL	Single storey rear extension (projecting beyond the rear wall of the original house by 4.5m, maximum height 3.2m, height to eaves 2.4m) to dwelling house	Prior Approval Not required	19/01/2017
12/16/01532/PRI	Non-material amendment	Land west of Belmore Way, Alvaston, Derby, DE21 7AY	Erection of industrial units and associated infrastructure - non-material amendment to previously approved planning permission DER/11/14/01517 to reduce the floor area of unit 9	Granted	19/01/2017