



Derby City Council

**PLANNING CONTROL COMMITTEE**  
**22 November October 2018**

**ITEM 7**

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: ian.woodhead@derby.gov.uk None Appendix 1 – Development Control Monthly Report
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**Planning Control Committee 22/11/2018  
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<b>Item No.</b>	<b>Page No.</b>	<b>Application No.</b>	<b>Location</b>	<b>Proposal</b>	<b>Recommendation</b>
1		09/18/01369	41 Slater Avenue Derby	Change of use from a house in multiple occupation (use class C4) to a house in multiple occupation (Sui Generis use)	<b>To grant</b> planning permission with conditions.
2		06/18/00914 and 06/18/00915	Darleys Old Lane Darley Abbey	Retention of the installation of an outdoor seating area and extraction ducting	<b>To grant</b> planning permission with conditions. <b>To grant</b> Listed Building Consent with conditions.
3		08/18/01325	Land At The Front Of 163 Pastures Hill Littleover	Erection of a dormer bungalow (use class C3) and front boundary wall - variation of condition no 2 of previously approved permission DER/11/16/01437 to amend the approved plans	<b>To grant</b> planning permission with conditions.
4		12/17/01643	The Fireplace Workshop Ltd Wyvern Way Chaddesden	Demolition of existing retail unit. Erection of retail units (use class A1) with ancillary cafe, a restaurant (use class A3/A5) with 'drive thru' facility together with landscaping, revised parking and access and associated works	<b>To refuse</b> planning permission.

## **Committee Report Item No: 1**

**Application No: DER/09/18/01369**

**Type: Full Planning Application**

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### **1. Application Details**

**1.1. Address:** 41 Slater Avenue, Derby.

**1.2. Ward:** Mackworth

**1.3. Proposal:**

Change of use from a house in multiple occupation (use class C4) to a house in multiple occupation (Sui Generis use)

**1.4. Further Details:**

Web-link to application:

<https://docs.derby.gov.uk/padocumentsserver/index.html?caseref=09/18/01369>

**Brief description**

41 Slater Avenue is a semi-detached dwelling that has recently been extended with a two storey side and rear extension and single storey rear extension (see history below). Slater Avenue is a residential street with a variety of house types and design arranged in a regular layout that incorporates reasonably generous gaps between the houses. The pattern of development along Slater Avenue is relatively unusual in the local area, which is dominated by terraced properties and denser layouts. Parking on Slater Avenue is restricted by yellow lines and permit parking which allows parking for up to two hours without a permit.

Slater Avenue is situated off Ashbourne Road which is a main road leading to the City Centre. The location could be considered to be close to the edge of the City centre and is certainly within walking distance of centre facilities and bus routes.

Since the house was extended a change of use to a 6-bed House of Multiple Occupation (C4) was undertaken under the provisions of the General Permitted Development Order – Part L. The dwelling now comprises of 6 en-suite rooms with communal living space and a spare, undesignated room on the ground floor of the property.

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

<b>Application No:</b>	DER/01/18/00117	<b>Type:</b>	Full Planning Permission
<b>Decision:</b>	Withdrawn Application	<b>Date:</b>	21/03/2018
<b>Description:</b>	Change of use to a house in multiple occupation (Sui Generis use) together with two storey side and two storey and single storey rear extensions, formation of parking area.		

<b>Application No:</b>	DER/10/17/01286	<b>Type:</b>	Full Planning Permission
<b>Decision:</b>	Granted conditionally	<b>Date:</b>	01/12/2017
<b>Description:</b>	Two storey side and two storey and single storey rear extensions to dwelling house (study/snug, utility, kitchen, breakfast room, two bedrooms and bathroom), formation of parking area and removal of branches and deadwood of an Oak tree protected by Tree Preservation Order no. 553		

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<b>Application No:</b>	DER/09/13/01035	<b>Type:</b>	Works to Trees under TPO
<b>Decision:</b>	Granted conditionally	<b>Date:</b>	17/12/2013
<b>Description:</b>	Crown lift by 5m, crown reduction by 3m and crown thin by 15-20% of Oak tree protected by Tree Preservation Order No 553		

### **3. Publicity:**

Neighbour Notification Letter

Site Notice

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

### **4. Representations:**

Objections have been received from 13 individuals/households, including 2 from Councillors A. Pegg and P. Pegg. Objections are summarised as follows:

- The houses were built as 3 bedroom family homes not flats
- Drains and sewers cannot cope with the additional pressure of multiple occupants
- The extensions were granted with respect to enlarging a family home, not creating space for a house of multiple occupation
- Fire safety is compromised by the intensity of occupation
- Noise levels will be unacceptable
- Bin storage is inadequate
- Parking is inadequate
- The proposal could lead to 14 people living in this house
- There are plenty of properties for let in the area, this one is not required
- Slater Avenue is characterised by family homes
- This will set an unacceptable precedent in Slater Avenue
- Anti-social behaviour would increase
- The change of use from a dwelling to a House of Multiple Occupation has not been advertised
- Loss of privacy

### **5. Consultations:**

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

The property is located on a road where a limited waiting restriction of 2 hours (no return within 1 hour) applies on one side of the road from Monday to Friday from 9am to 5pm with an exemption for permit holders. The other side of the road is subject to a No Waiting (Monday to Friday, 9am to 5pm) restriction. Although permit exemptions

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exist the Highway Authority will not issue residents permits for properties applying for a Change of Use to a House of Multiple Occupancy located near to the city centre. The property location is a short walk away from a number of bus stops. It is close to local amenities, the city centre and the main bus station.

**Recommendation:**

Should planning permission be granted, I would recommend the following:

**Condition:**

No part of the development hereby permitted shall be brought into use until the cycle parking layout as indicated on drawing 5584/PL/03 has been provided and that area shall not thereafter be used for any purpose other than the parking of cycles.

**Reason:**

To promote sustainable travel.

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

I have visited the property for HMO licensing purposes earlier this month.

The landlord is very proactive and has completed the renovations to a very high standard. He is yet to complete the 7<sup>th</sup> room, as he is waiting for planning permission.

He has met all the standards we would require for a 7 bed HMO, room sizes amenities etc. In light of this, we have no objections to a 7<sup>th</sup> room being added.

## **6. Relevant Policies:**

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

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

CP1a Presumption in Favour of Sustainable Development  
CP2 Responding to Climate Change  
CP6 Housing Delivery  
CP23 Delivering a Sustainable Transport Network

**Saved CDLPR Policies**

GD5 Amenity  
H13 Residential Development – General Criteria

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

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

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

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

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

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

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

#### **Key Issues:**

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

#### **7.1. Creation of a high quality living environment.**

#### **7.2. Impact upon residential amenities due to the intensified use of the property.**

#### **7.3. Parking and highway safety.**

#### **7.1. Creation of a high quality living environment**

The dwelling is already in use as a 6-bed House of Multiple Occupation. Rooms are of adequate size with individual en-suite bathrooms. Whilst there are a greater number of occupants than previously, there is adequate space with shared outdoor amenity space. Light and privacy are adequate and there is some limited parking. On-street parking is managed by on-street parking restrictions and no new permits would be issued to occupants of this House of Multiple Occupation. However the dwelling is located close to public transport routes and the City Centre so the minimal parking need not compromise the quality of the living environment in this location.

#### **7.2. Impact upon residential amenities due to the intensified use of the property**

Under permitted development rights, this property is already in use as a 6-bed House of Multiple Occupation. The current application seeks permission to add one further bedroom taking the property into a Sui Generis use, rather than its current C4 use. Therefore, the question to consider is whether this one additional bedroom would unacceptably affect the amenities of nearby residential properties. In terms of privacy, the proposal would not introduce significant new views that would compromise privacy. The room in question is the front room of the original dwelling and there would be no new windows introduced. Similarly there would not be any external changes that would cause loss of light or overbearing effects of massing. The additional room would provide another bedroom adjacent to the attached semi. In total this would bring the number of bedrooms sharing a wall with the attached semi to 4. The proposal shows that the en-suite of bedroom 7 would occupy a position close the shared wall. There may be some additional noise as a result of this room being let and this could affect amenities at 39 Slater Avenue. However, I consider that the bulk of any additional disturbance would have been related to the

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Permitted Development change from a dwelling house to a House of Multiple Occupation and that the addition of one further room would not unacceptably alter the status quo.

I note comments from neighbours with regard to inadequate refuse storage, however 4 wheelie bin spaces are shown on the plan and permission can be subject to the provision of these.

With regards to drainage, whilst I note concerns, this is not material to planning and the application could not be refused based upon the impact upon drainage and extra pressure on the sewerage system.

### **7.3. Parking**

Slater Avenue is self-policing in terms of parking due to the existing on street restrictions. New residents at 41 Slater Avenue would not be issued with a parking permit and as such cannot compete with existing residents for permit only parking.

In summary, whilst the change of use from C3 to C4 may have significantly altered the character of the dwelling and caused some harm to the amenities of neighbouring properties, due to the intensified use of the property, this was carried out under Permitted Development Rights and therefore did not require a planning application. Within this context, in my view the addition of one more room would not constitute an unacceptable intensification of the use that would lead to unacceptable harm to residential amenities. The proposal provides an adequate living environment, and subject to conditions requiring cycle parking there are no highways objections. Therefore the proposal meets with planning policy criteria.

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

### **8.1. Recommendation:**

**To grant** planning permission with conditions.

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

The proposed addition of one room to the existing 6-bed House of Multiple Occupation would be acceptable in terms of creating a good quality living environment, impact upon residential amenities and impact upon highways and parking.

### **8.3. Conditions:**

1. Standard condition 56
2. Standard condition 100
3. The additional bedroom shall not be occupied until the cycle parking layout, as indicated on drawing 5584/PL/03 has been provided and that area shall not thereafter be used for any purpose other than the parking of cycles.
4. The additional bedroom shall not be occupied until sufficient wheelie bins, as indicated on drawing 5584/PL/03 have been provided and that area shall not thereafter be used for any purpose other than the storage of bins.

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**8.4. Reasons:**

1. Standard reason E03
2. Standard reason E04
3. To promote sustainable travel and to accord with the adopted policies of the Derby City Local Plan Part 1: (Core Strategy) and the saved policies of the adopted City of Derby Local Plan Review as included in this Decision Notice.
4. To provide adequate facilities for the disposal of refuse and to accord with the adopted policies of the Derby City Local Plan Part 1: (Core Strategy) and the saved policies of the adopted City of Derby Local Plan Review as included in this Decision Notice.

**8.5. Informative Notes:**

The applicant is reminded that no additional parking permits will be issued for residents of 41 Slater Avenue and it is recommended that tenants be clearly made aware of the restricted parking at the property.

**8.6. Application timescale:**

The 8 week date for determining this application expired on 8<sup>th</sup> November 2018. An extension of time until 30<sup>th</sup> November 2018, to cover the Committee Meeting has been sought.

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

**Application No: DER/06/18/00914 &  
DER06/18/00915**

**Type: Full Planning  
Application & Listed  
Building Consent**

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### **1. Application Details**

**1.1. Address:** Darley's Restaurant, Old Lane, Darley Abbey.

**1.2. Ward:** Darley

**1.3. Proposal:**

Retention of the installation of an outdoor seating area and extraction ducting.

**1.4. Further Details:**

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan/061800914>

<https://eplanning.derby.gov.uk/online-applications/plan/061800915>

**Brief description**

Full permission and Listed Building Consent are sought for the retention of a replacement, and extensions to, an outdoor seating area and terrace at Darley's Restaurant, which is part of the Darley Abbey Mills complex. The restaurant occupies a listed single storey building, which is part of the Grade I listing for the Long and West Mills, which are attached to the east of the site. It lies abutting the River Derwent and the toll bridge. The building was originally a dining room for the workers in the mills and is a significant element of the historic mills within the complex.

The restaurant is one of a number of Grade I, II\* and II listed buildings within Darley Abbey Mills and also is part of the Darley Abbey Conservation Area and the Derwent Valley Mills World Heritage Site. The building lies within one of the key monitored views of the World Heritage Site, when viewed from across the river to the west of the mills.

The previous outdoor seating area for the restaurant, which was granted permission in 1998, has been demolished and replaced with the current structure, for which permission and consent are sought.

The proposal is to retain a replacement outdoor seating area and terrace, which has been formed at the rear of the restaurant. It comprises of seating at two levels. The upper deck is positioned at the same floor level as the previous terrace and is constructed with composite boards. A lower deck seating area has been created alongside the upper level on a space, which was previously gravelled and for use by customers, although it had no seating. This area is laid with timber boards and extends up to riverside edge and abuts the West Mill. The upper deck is supported on steel posts sunk into the ground, whereas the lower deck is laid on the existing ground. Woven hazel panels have been placed in front of the West Mill windows for screening. The balustrading and hand rails are stainless steel with glass panels and some of the previous opaque glass panels have been reused. External light fittings are installed around the seating area for lighting and security purposes. A timber enclosure/screen has been erected around the existing extraction duct and air vent system, including a gate to the access stairs, which are all included in the applications. The enclosure is approx. 3.3 metres in height and abuts the West Mill. An external metal grill for screening has also been added to a kitchen window.

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In support of the applications the applicant has provided a Design and Access and Heritage Statement and a Flood Risk Assessment. A further justification statement and photos, to explain the siting and design of the kitchen flue/ vent equipment and the timber enclosure have been received to address concerns raised by the Council's Conservation Officer.

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

<b>Application No:</b>	DER/04/12/00493	<b>Type:</b>	Listed Building Consent - alterations
<b>Decision:</b>	Granted conditionally	<b>Date:</b>	06/08/2012
<b>Description:</b>	Installation of gas pipes, formation of service entrances and re-location of gas meter		

<b>Application No:</b>	DER/03/00/00265	<b>Type:</b>	Listed Building Consent - alterations
<b>Decision:</b>	Granted conditionally	<b>Date:</b>	05/07/2000
<b>Description:</b>	Insertion of french doors to restaurant		

<b>Application No:</b>	DER/05/98/00589	<b>Type:</b>	Full Planning Permission
<b>Decision:</b>	Granted conditionally	<b>Date:</b>	25/06/1998
<b>Description:</b>	Erection of timber structure to provide outdoor seating for restaurant		

<b>Application No:</b>	DER/05/98/00585	<b>Type:</b>	Listed Building Consent - alterations
<b>Decision:</b>	Granted conditionally	<b>Date:</b>	25/06/1998
<b>Description:</b>	Erection of timber structure to provide outdoor seating for restaurant		

### **3. Publicity:**

Site Notice

Statutory Press Advert

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

### **4. Representations:**

Four objections have been received to the development and the main concerns raised are as follows:

- The terrace has been significantly extended in height and floor space and the new structure has detrimental impacts on the setting of the listed mill buildings and on a protected view of the World Heritage Site by projecting further to the front of the West Mill.
- Increased height of the terrace obstructs views of the West Mill and, in particular, three windows in the mill.

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- The ground floor of the West Mill is overlooked by the new raised seating area at the restaurant.
  - Raised terrace and fencing obstructs light and windows of the West Mill.
  - The timber enclosure blocks greater views of the West Mill than previously and a lighter version of the enclosure should be considered.
  - The terrace is constructed in modern rather than traditional materials.
  - Provision has not been made for additional car parking in Darley Abbey Mills.

### **5. Consultations:**

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

Raise no objections. Proposal is an improvement to previous. Stainless steel balustrade is prominent and has modern appearance and glass panels give transparency to the structure. It is a removable and temporary structure and reads as new intervention to the building. Design acceptable overall.

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

The original comments of my colleague are as follows:

Darley's Restaurant is located within the late eighteenth century Darley Abbey Mill complex and Derwent Valley Mills World Heritage Site. One of the UNESCO monitored views is from across the river looking towards this building and those adjacent.

The building is a part of a cluster of grade I, II\* and II listed buildings. This building is part of the listing for grade I listed Long and West Mills, to which it is attached. See list entry number 1279399. There are many other listed buildings to the south of the complex nearby including the Middle Mill, East Mill, Engine House and chimney, toll house, bobbin shop and drying shed. The building to which this application relates was the former dining room for the workers of the complex. The building is also within the Darley Abbey Conservation Area.

I note that this is a retrospective application to retain a remodelled replacement outdoor seating area and to retain unauthorised ducting to the kitchen. There was consent previously granted for a smaller deck seating area, with a planter with vegetated fence screen, a lightweight fence screen to enclose a stair to the lower garden and storage. The seating area also had a glazed balustrade around it with a wave design.

The proposal replaces, enlarges and changes the shape of the existing deck and establishes a lower deck area with seating. The planted with vegetated fence screen to the original decking has been removed and the division between the two external stairs is more solid than the fence division it once was. There is a grill to the kitchen window, an in and out extract flue as well as the installation of lighting.

I would strongly like to communicate to the owners of Darley's Restaurant that if they propose any alterations in the future to contact one of the Conservation Team or Development Control prior to undertaking them.

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### Comments

I note that the photographs show that the timber deck that has been removed was at the same level as is now constructed. However there does not seem to be conclusive evidence even looking at the photos submitted or the approved plans, whether this was a later deck replacement, after the original application was approved, or the original one.

I suggest that the impact on the Derwent Valley Mills World Heritage Site of these proposals would be limited except I would suggest there could be some improvements as regard the views of the proposals from the UNESCO Monitored view and views from the adjacent West Mill.

There is a harmful impact of these proposals on the grade I listed building (both the listed restaurant building and West Mill). The harm is listed below along with a suggested way forward for the owner to address to try to mitigate the harm: -

The vent and flue can clearly be seen in longer views, from the other side of the river, and through a sash window from the ground, first and second and third floor of West Mill. I would suggest the applicant;

- confirms that the current flue and vent are needed,
- reviews the location of the current vent and flue and see whether another location might be less visually obtrusive (that does not project to the south of the building) and
- whether the best location is to look at screening it and painting the vent and flue to limit the view of it from the UNESCO monitoring point and to reduce the impact from the windows of West Mill.
- the new partitioning enclosing the staircase is heavy in construction visually and can be seen from the ground and first floor of West Mill. I suggest that the applicant, once options for the vent and flue has been looked at, looks to see if this can be removed, configuration amended, made more light weight or reduced in height (in conjunction with amended flue and vent proposals). Its alignment needs to be amended so as not obscure the ground floor window of the West mill - which is immediately adjacent. It isn't acceptable that this window currently looks out into the enclosure.
- The lack of planters with a vegetation screen approved previously, means that diners on the deck can look into the wedding venue within West Mill. It also means that visitors to the lower decked area can see directly into the West Mill wedding venue.
- Why is the grill to the window needed? Why is the fence enclosure to the staircase needed?
- There does seem to be a substantial number of lights to the walls. Can the number be reduced and the design of these to the main building be changed to something more appropriate e.g. simple design of a more traditional design?
- I note the replacement materials, as part of this proposal, which in this case are accepted.

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### Policy considerations

Section 66 and 72 of The Planning (Listed Building and Conservation Area) Act 1990 is relevant here. The Local Planning Authority has a duty to have special regard to the desirability of preserving listed buildings and their setting. They also have a duty as regards the desirability of preserving or enhancing the character of the conservation area.

The proposal is contrary to the Local Plan Review (2008) saved policies E18 and E19 as well as relevant policies within the Local Plan – Part 1 (2017) including the Heritage policy CP20 regarding the protection of heritage assets and AC9 regarding the Derwent Valley Mills World Heritage Site.

In terms of the levels of harm stated in the NPPF can be defined as ‘less than substantial’ under para 196. Therefore the Development Management Officer has to weigh up the large amount of harm (demonstrated above) against any public benefits of the proposal.

**Recommendation:** Although I accept the principle of a deck in this location I currently object, on heritage grounds, to the proposals as they harm the significance (including setting) of the grade I Nationally Important listed building within the Derwent Valley World Heritage Site and Darley Abbey Conservation Area. There is scope to change and improve these proposals to limit the harm to these designated heritage assets.

Following these comments further justification of the proposals was sought from the applicant and the subsequent comments of my colleague are as follows:

Some further information has been submitted and this consultation response takes this on board to give a final response on the application as amended.

### Comments

I suggest that the impact on the Derwent Valley Mills World Heritage Site of these proposals would be limited except I would suggest there could be some improvements as regard the views of the proposals, in particular the flue, vent and enclosure, from the UNESCO Monitored view and views from the adjacent West Mill. There is a harmful impact which will result from these proposals upon the significance of the grade I listed building (both the listed restaurant building and West Mill) and character and appearance of these proposals within the conservation area.

### Flue and vent

The incongruous vent and large flue can clearly be seen in longer views in terms of the setting of the listed building, from the other side of the river, and through sash windows from the ground, first and second and third floor of the adjacent West Mill. The vent and flue are unauthorised and there is no time limit on following up on unauthorised work if the building is listed. I note that the applicant has provided a clear and convincing argument that the vent and flue are needed and that there is no other better alternative location to locate them. The applicant said onsite that they were willing to consider reducing the size when they needed to replace the current equipment, in the future, if technical advances meant that a smaller kit was available.

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I strongly suggest that the stainless steel flue that projects out from the building, and which can be seen from the bridge and viewing area on the opposite side of the river, is painted a recessive darker colour to limit the view of it from the UNESCO monitoring point and to reduce the impact on the setting of the listed building (as part of the significance of the listed building) and views from the windows of West Mill. This would reduce the harm.

### **Policy considerations**

Section 66 and 72 of The Planning (Listed building and conservation Area) Act 1990 is relevant here. The Local Planning Authority has a duty to special regard to the desirability of preserving listed buildings and their setting. They also have a duty as regards the desirability of preserving or enhancing the character of the conservation area.

In terms of the NPPF para 193 states *‘when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance’*.

Para 194 states *‘any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification....’*

In terms of the levels of harm stated in the NPPF can be defined as less than substantial under para 196. It states *‘Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use’*. Therefore the Development Management Officer has to weigh up the amount of harm against any public benefits of the proposal.

The proposal is contrary to the Local Plan Review (2008) saved policies E18 and E19 as well as relevant policies within the Local Plan – Part 1 (2017) including the Heritage policy CP20 regarding the protection of heritage assets, AC9 regarding the Derwent Valley Mills World Heritage Site.

### **Recommendation: -**

**The proposals, following the new information, does harm, although slight, the significance (including setting) of the grade I Nationally Important listed building within the Derwent Valley World Heritage Site and Darley Abbey Conservation Area as demonstrated above.**

**I accept the principle of the deck, new timber enclosure, vent and flue (following receipt of the additional information). I suggest that to reduce the visual harm the vent creates that it is painted a recessive colour. I suggest that this could be done via condition should you be minded to grant permission.**

**I suggest that the applicant is also asked to highlight the public benefits of the proposals (NPPF 196) so to enable and assist the Development Management Officer to weigh up any harm against any public benefits.**

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

There is no new development at the site, just the like for like replacement of an existing terrace. Therefore, there are no material changes to flood risk at the business and therefore I have no objections.

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

No comments to make.

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

Thank you for consulting on the above planning application. The site is adjacent to Derbyshire HER MDR10431, the former mill dining room for the Darley Abbey Mills complex, dating from c1820 and Grade I Listed. The site is also within a key component of the Derwent Valley Mills World Heritage Site.

In terms of the principle and design of the scheme the local planning authority should be guided by its conservation officer, Historic England, and the World Heritage Site advisory team.

In terms of below-ground archaeology, the site is not of particularly high sensitivity, although there is potential for historic ground and yard surfaces, retaining structures, and 19th century mapping shows a small outbuilding to the rear of the dining room which is also within the development footprint.

At present the application documentation is a little unclear as to whether there has been any below-ground excavation as part of the construction process. Stanchions bedded into concrete bases are shown on the 'supporting structure' plan, and the section drawings show stepping of the site surface below the installed decking. It is however unclear to what extent these elements were already in place as part of the pre-existing arrangement.

In pursuance of the aims of NPPF paras 189/90 the applicant should submit a statement with regard to archaeological/below-ground impact, detailing the location, type and extent/dimensions of new groundworks in relation to foundations and landscaping of the site. The local planning authority will then be in a position to judge whether the works have resulted in adverse archaeological impacts.

### **5.6. Environment Agency:**

The Agency has no objections to the proposed development but wishes to make the following important comments.

#### **Information to the Applicant**

Part of the wall of the building adjacent to the terrace is a flood defence, we would usually ask for an 8 metre wide easement from any main river or flood defence to allow for inspection and future maintenance. However, we recognise that there was already a terrace in place at this location.

It is important to maintain access to flood defences as we regularly need to inspect and the wall. We recognise that the restaurant have previously allowed access

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through their building, however we may need to access the wall during a flood event out of hours, where necessary.

Consideration should be given to ongoing access and maintenance. One possibility is the applicants could take responsibility of the maintenance through a section 40 agreement.

### **5.7. World Heritage Site Panel:**

The proposed development site forms part of the Darley Abbey Mills complex. More specifically, the site is located on a wedge shaped piece of land between the West Mill and the restaurant building, both Grade II Listed Buildings, with views overlooking the River Derwent.

The cotton mill site was first developed in 1782 by the Evans family with later subsequent phases, including the West Mill, added during the early part of the 19th century. The broader context of the site includes the factory village developed by the Evans family within the same period. The site is therefore considered to be an attribute of the DVMWHS for its contribution towards the power harnessing and production related value, with its broader context contributing to the social infrastructure related value, as defined in the WHS Management Plan (2014-19).

The proposed development will require the removal of an existing area of timber decking, used as an external seating area as part of the restaurant offer. It is understood that the applicant has replaced this with a split-level area of timber decking within the same area. It is understood from the application documentation that the existing timber decking had suffered from severe decay and so it was in need of replacement.

While the timber and/or composite decking area has become more extensive the application documentation sufficiently demonstrates that it has been executed to a high design quality. The photographs submitted indicate that its visual impact, when looking towards it, should remain very small. It is considered that the area of decking serves to promote the connection between the river and the mill complex, facilitating the interpretation of the WHS. The external seating area should also help towards the continued sustainability of the building through its use as a restaurant.

To this end the Derwent Valley Mills WHS Partnership considers that the proposed development should amount to no harm done to the DVMWHS and will not impact on its Outstanding Universal Value.

### **5.8 Historic England:**

Thank you for your letter of 25 July 2018 regarding the above application for planning permission. On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request.

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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)

- CP1a) Presumption in favour of sustainable development
- CP2 Responding to Climate Change
- CP3 Placemaking Principles
- CP4 Character and Context
- CP9 Delivering a Sustainable Economy
- CP14 Tourism, Culture and Leisure
- CP15 Food, Drink and the Evening Economy
- CP20 Historic Environment
- CP23 Delivering a Sustainable Transport Network
- AC7 The River Derwent Corridor
- AC8 Our City Our River
- AC9 Derwent Valley Mills World Heritage Site
- AC10 Darley Abbey Mills

#### Saved CDLPR Policies

- E18 Conservation Area
- E19 Listed Buildings and Building of Local Importance
- GD5 Amenity
- T10 Access for Disabled People

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

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

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

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

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

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

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

#### **Key Issues:**

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

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

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

#### **7.3. Environmental and Amenity Impacts**

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

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

This proposal is for retention of a replacement outdoor seating area and terrace, with extraction and ventilation ducts attached to the building, at Darley's Restaurant in the Darley Abbey Mills complex. The previous outdoor seating area, which was granted permission in 1998, has been demolished and the new structure erected in its place without the benefit of permission. The seating area has been extended towards the West Mill and provides a larger seating space than the previous terrace. It now comprises a lower and upper deck and a timber enclosure to screen the extraction and ventilation fittings to the kitchen. The extraction duct to the roof has been in situ for a long period of time, although it does not have the benefit of permission. It is therefore included in the current submission.

The restaurant is a Grade I listed building and is one of the groups of listed mill buildings, which are part of Darley Abbey Mills. It is also within the Darley Abbey Conservation Area and Derwent Valley Mills World Heritage Site identified under Policy AC9 of the Derby City Local Plan – Part 1 (DCLP). The mills complex is defined under Policy AC10, which "*promotes the conservation and enhancement of the listed buildings, including their setting, through sensitive adaptation, in line with their significance*". The replacement outdoor seating area would impact on the setting and significance of the listed buildings and the other heritage assets and those impacts are considered in details below.

The restaurant use is covered by Policy CP15 of the DCLP for food and drink uses and the evening economy. This supports proposals for such uses which "*do not unacceptably impact on neighbouring uses in terms of noise, traffic and disturbance or prejudice the development of land identified for alternative uses.*" The extended outdoor seating terrace would amount to an extension to the restaurant, by increasing the dining space. The replacement seating area is considered to be acceptable in principle in this location, subject to the consideration of the impacts of the extended terrace on neighbouring uses within Darley Abbey Mills.

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

The external works to the restaurant site, which include the extraction and ventilation ducts, replace a previous outdoor seating area with one, which is not dissimilar in its appearance and materials and form an additional lower deck on land, which is within the curtilage of the restaurant and abuts the West Mill. The new seating area and decking is a timber structure, similar to the previous one and includes steel and glass

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balustrades, timber panels and external light fittings across the terrace, which give a contemporary style and appearance to the space. The use of glass and timber is similar to the previous structure. Reference to photos of the 'before and after' seating areas at the restaurant, show that the overall design and form of the current two decks is not significantly different to the seating area which has been removed.

The principal changes are that the seating area has been extended up to the West Mill and the extraction equipment is now screened and partially obscured by the timber enclosure which has been erected around them. The enclosure has been erected to screen the kitchen vents from the extending dining area. The timber enclosure is approx. 3.3 metres high and extends up to the wall of the West Mill. Whilst it is a substantial enclosure, there was previously no screening of the flue and vent which had been clearly seen from views of the mills, across the River Derwent. In terms of its materials and appearance the enclosure ties in with overall the design of the new seating area.

The proposal affects the setting of the Grade I listed West Mill, which is adjacent to the extended seating area and timber enclosure. The restaurant building itself is Grade I listed, due it being a former dining room for workers of the original mills. The site also lies within the Conservation Area and the World Heritage Site. The proposals therefore impact on the significance and setting of the various designated heritage assets in Darley Abbey Mills.

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

The proposal must also be considered under the adopted DCLP – Part 1 policies and those saved Local Plan Review (CDLPR) policies which are still relevant. The DCLP Policy CP20 seeks the protection and enhancement of the city's historic environment, including listed buildings and Conservation Areas. CP20(c) requires development proposals which impact on heritage assets to be of the highest design quality to preserve and enhance their special character and significance through appropriate siting, alignment, use of materials, mass and scale.

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

The recent NPPF (2018) gives guidance in relation to proposals which affect the significance of heritage assets. When considering the impact of a proposed development on the significance of a designated heritage asset (such as a Listed Building, Conservation Area, World Heritage Site) paragraphs 193 and 194 advise that:

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

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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;
  - any harm or loss requires clear and convincing justification.

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

A brief Heritage Impact Assessment has been submitted in support of the application and further supporting statements, as requested by the Council’s Conservation Officer to justify the installation of the extraction and ventilation flues, grille to kitchen window and the timber enclosure which surrounds the extraction equipment. The impact assessment recognises that the site is within the World Heritage Site and suggests that the external works carried out to the site are in line with objectives in the DVWHS Management Plan which support improvements to the waterfront area in this part of the mills complex. The assessment considers the installation of the flues and grille to be minor interventions to the historic fabric of the building and overall that the works have not resulted in detrimental impacts to the setting or character of the listed buildings. The additional information sets out that the extraction system is a crucial part of the equipment for the restaurant, which is need for it to function properly. It also confirms that the equipment is sited on a newer section of the building, which does not impact on the more sensitive historic fabric. The timber enclosure is intended to protect the building from burglaries, which have previously caused damage to the building fabric and for the safety of people using the terrace, protecting them from the kitchen equipment and services. The height of the enclosure also provides screening of the kitchen and back of house area from the outdoor dining area.

The Council’s Conservation Officer had raised some concerns, specifically in relation to the siting and appearance of the extraction and ventilation equipment, the window grille, number of external lights and the scale of the timber enclosure abutting the West Mill. These concerns are in contrast to the comments of Historic England, the World Heritage Site Panel and the Conservation Area Advisory Committee, who all raise no substantive objections to the proposals. I note that since the additional information to support the installation of the kitchen equipment, window grille and timber enclosure has been provided, the Conservation Officer is satisfied that these elements have been justified and accepts the principle of the new deck area with these specified works. She recommends painting the flue and vent in a recessive colour, which is agreed and would be subject to a suitable planning condition.

The principal concerns relate to the impacts of the extraction duct/air vent and its timber enclosure on the setting of the West Mill and on one of the monitored views of the World Heritage Site from across the river, identified through UNESCO. The enclosure obscures views of and from one ground floor window of the West Mill and third party objections highlight this issue as one of their concerns. To reduce the

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visual impacts of the duct and vent, the applicants have agreed to paint them in a neutral colour which would be secured by condition.

Whilst it is a substantial structure, the enclosure is designed to both screen the flue and vent to the kitchen and to physically separate this area from the customer dining area for safety and operational reasons. A reduction in the enclosure was discussed with the applicant, although likely to result in greater views of the flue and vent and in a poorer dining experience for customers. The appearance of the enclosure ties in with other features in the deck area and in principle the need for the structure is acknowledged as necessary to the operation of the restaurant. Due to the location of the restaurant's kitchen, the applicant has confirmed that there is no scope to move the external duct and vent to a less prominent part of the building. The setting of the West Mill is on balance no more affected by the presence of the timber enclosure (which in my view is of a reasonable quality design) than by the impact of the kitchen's extraction equipment which is located adjacent to one of the ground floor windows.

The restaurant has occupied the listed building for a long period of time and is a well-established destination within the mills complex. The provision of external extraction and ventilation fittings, in line with the relevant food safety regulations are essential for such food and drink uses and I am satisfied that the applicant has made reasonable efforts to minimise their adverse effects on the historic setting of the mills.

The Conservation Officer considers that there is "less than substantial harm" arising from the proposal and specifically from the impact of specified elements of the external works, in particular from the flue/vent equipment and the timber enclosure on the setting and significance of the Grade I listed West Mill and former dining room building (Darley's Restaurant), on the Darley Abbey Conservation Area and on views of the World Heritage Site from across the river. In the context of paragraph 196 of the NPPF, the harm to the designated heritage assets is related to particular elements of the works and not to the overall design and layout of the outdoor seating area.

The proposals are therefore contrary to the requirements of the Local Plan – Part 1 heritage Policies AC9 and CP20 and saved Policies E18 and E19, for the reasons given above.

The harm to the designated heritage assets is less than substantial and therefore needs to be considered against the policies of the NPPF (2018) and in particular the guidance in paragraphs 193 to 196. In relation to the less than substantial harm caused to the significance of those assets, the requirements of paragraph 196 are triggered such that the harm arising from the proposal must be weighed in the planning balance against the public benefits of the development.

There are considered to be public benefits relevant to the deck area and outdoor seating as a whole which in my opinion are as follows:

- Formation of a well-designed and high quality outdoor seating area for a long established restaurant, which complements the setting and special character of the Conservation Area, World Heritage Site and listed buildings within Darley Abbey Mills.

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- An expanded dining area for the restaurant which sensitively maintains and continues the sustainable use of the existing restaurant within the historic building and increases the vitality and viability of the wider Darley Abbey Mills complex as leisure destination.
  - The outdoor seating area promotes the connection between the river and the mill complex, allowing continuing interpretation of the World Heritage Site.

The harm attributed specifically to the kitchen extraction flue and vent and to the timber enclosure which surround the equipment are considered to be outweighed by the public benefits of these works, which are as follows:

- The function and viable operation of the restaurant cannot take place without the extraction equipment being in situ and the restaurant is a long standing and successful business which makes a positive contribution to the vitality and viability of Darley Abbey Mills.
- The enclosure gives substantial screening to the extraction equipment and back of house area and provides a safe and pleasant environment for customers of the restaurant, which thereby continues the sustainability of the restaurant use in the historic mills complex.

Accordingly, it is considered that the public benefits of the proposal do outweigh the harm caused to the setting of the Grade I listed building, the character of the Conservation Area and views of the Derwent Valley World Heritage Site, such that the tests of NPPF paragraph 196 are satisfactorily met.

The County Archaeologist has not raised objections to the development and notes that the site is not of a particularly high sensitivity, although did seek clarity on the extent of any below ground excavation as part of the construction of the decks. From visiting the site and discussions with the applicant, the extent of the new raised deck is not much different from the previous deck in terms of the below ground steel structures. The lower deck is laid directly onto the existing ground level, with no below ground foundation. I am therefore satisfied that the extended seating deck has not had any adverse archaeological impacts on the site and the proposal is in line with the requirements of saved Policy E21 for archaeology.

### **7.3. Environmental and Amenity Impacts**

#### **Amenity**

In terms of impacts on amenity, the wedding venue at the West Mill is directly adjacent to the site and the extension to the seating area abuts the west elevation of the listed building. The restaurant previously used this area as additional outdoor space for its customers, but the works carried out have formalised its use by extending the dining area alongside the mill building.

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

There have been third party objections to the proposal, raising specific concerns about the impact of the new seating area and timber enclosure on the privacy for users of the West Mill, as well as on its setting and significance. There are concerns

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that the floor level of the raised deck has increased, although before and after photographs show that there has no change from the previous to the replacement seating area. The main difference being that a screen fence on the previous deck has been removed such that the raised seating is now more visible from the windows of the West Mill. It is set in some 2.5 metres from the windows and there are willow panels across the lower part of the windows, which provide some screening. The new lower deck is wholly screened by the willow panels and does not give rise to any overlooking of the wedding venue. The loss of privacy and amenity arising from the development is not significant in my view and does not cause undue harm to the occupiers of the West Mill.

In terms of the enclosure which screens the extraction and vent equipment, it also encloses one of the ground floor windows of the West Mill, obscuring views from the window. The window faces directly onto the flue and vent and as such the view is already partly obscured. A reduction in the size of the enclosure was considered, although it would increase wider views of the equipment. It is therefore considered that obscured views from one of the ground floor window would not result in excessive harm to the enjoyment of the adjacent wedding venue, particularly given that it is serving the entrance area of the building and not one of the main reception rooms.

Whilst I acknowledge the concerns of the objectors with regard to amenity, I am satisfied that the development would not unreasonably affect the use and enjoyment of the West Mill wedding venue and is in line with the requirements of saved Policy GD5.

### **Flood risk**

Darley Abbey Mills is in an area of high flood risk, designated in Flood Zone 3 and the restaurant site is alongside the bank of the River Derwent, which is a flood defence wall. The extensions to the decking area have brought it closer to the flood defence wall, which forms the boundary of the site, although the defence wall is not affected by the external works which have taken place.

The Environment Agency has not raised objections to the development, on the basis that there was already an outdoor terrace in this location. They have advised that access to the flood defence is required to inspect and maintain the wall and the restaurant owners should make access available when required. This matter is outside the remit of the planning application and should be secured separately with the Environment Agency. An informative note is recommended to advise the applicant.

In relation to flood risk, there would not be a significant increase in the use of the restaurant or built footprint as a result of the extended deck area, so material change in the level of flood risk at the site. The proposal is therefore considered to accord with the flood risk requirements of Policy CP2.

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### **7.4 Planning Balance**

In terms of the heritage issues the outdoor seating area and extraction flue and vent are contrary to Local Plan policies, in particular DCLP – Part 1 policies CP20 and AC9 and saved policies E18 and E19. The proposals would result in harm to designated heritage assets, specifically by reason of the extraction flue/ vent and the timber enclosure which surrounds them. The identified harm, impacts on the setting of the Grade I listed West Mill and Darleys Restaurant building, views of the World Heritage Site from across the river and on the character of the Conservation Area. For the purposes of the NPPF, the harm is regarded as less than substantial, which must be weighed against the public benefits in the planning balance. In this case, the public benefits of the proposals are considered to outweigh the harm to the heritage assets.

The extraction equipment and timber enclosure are necessary both for the function of the restaurant, which is a long established business in the mills complex and for the provision of a high quality and pleasant environment for diners at the restaurant. From the information provided by the applicant, the siting and form of the extraction equipment is dictated by the location of the kitchen within the restaurant. The equipment is sited in a more recent and less sensitive part of the listed building and it is accepted that they cannot reasonably be relocated to a less visible location.

Overall, the outdoor dining area and decking is considered of a high standard of design, which complements the character of the mill buildings and connects them with the riverside setting. This accords with the design principles enshrined in policies CP3 and CP4. There are also no significant adverse amenity impacts arising from the proposal which accords with the requirements of saved Policy GD5. There are no other adverse environmental impacts, resulting particularly from the site being in an area of high flood risk.

The development is therefore considered to be acceptable and both planning and listed building applications are recommended for approval.

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

### **DER/06/18/00914 (Full Planning)**

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

**To grant** planning permission with conditions

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

The retention of the replacement and extended outdoor seating area and extraction flue and vent to the existing restaurant is contrary to Local Plan policies CP20, AC9 and saved policies E18 and E19 arising from impacts on the setting and significance of the Grade I listed West Mill and former dining room building (Darley's Restaurant) and on the Darley Abbey Conservation Area and on views of the World Heritage Site from across the river. The proposals would result in less than substantial harm to the designated heritage assets, specifically arising from the siting of the kitchen extraction equipment and timber enclosure, which is considered to be outweighed by the public benefits of the proposal. The heritage tests in the NPPF are therefore

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satisfied. The outdoor decking area as a whole is considered to be of high design quality, which complements the character of its riverside location and maintains the vitality and viability of the restaurant use in this historically important setting. There are also no adverse flood risk or significant amenity implications arising from the proposal.

### **8.3. Conditions:**

1. Approval of specified plans condition

### **8.4. Reasons:**

1. For avoidance of doubt.

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

#### Flood risk

Part of the wall of the building adjacent to the terrace is a flood defence, and would normally be a requirement for an 8m wide easement from any main river or flood defence to allow for inspection and future maintenance. However, we recognise that there was already a terrace in place at this location. It is important to maintain access to flood defences as the Environment Agency regularly inspect and maintain the wall and need to access the wall during a flood event out of hours, where necessary. Consideration should be given to ongoing access and maintenance. One possibility is the applicants could take responsibility of the maintenance through a Section 40 agreement.

## **DER/06/18/00915 (Listed Building)**

### **8.6 Recommendation**

**To grant** Listed Building Consent with conditions.

### **8.7 Conditions**

1. Approval of specified plans
2. Details of paint colour for the extraction flue and air vent to be submitted and agreed and implemented within 2 months of date of consent.

### **8.8 Reasons**

1. For the avoidance of doubt.
2. To safeguard character and setting of listed buildings.

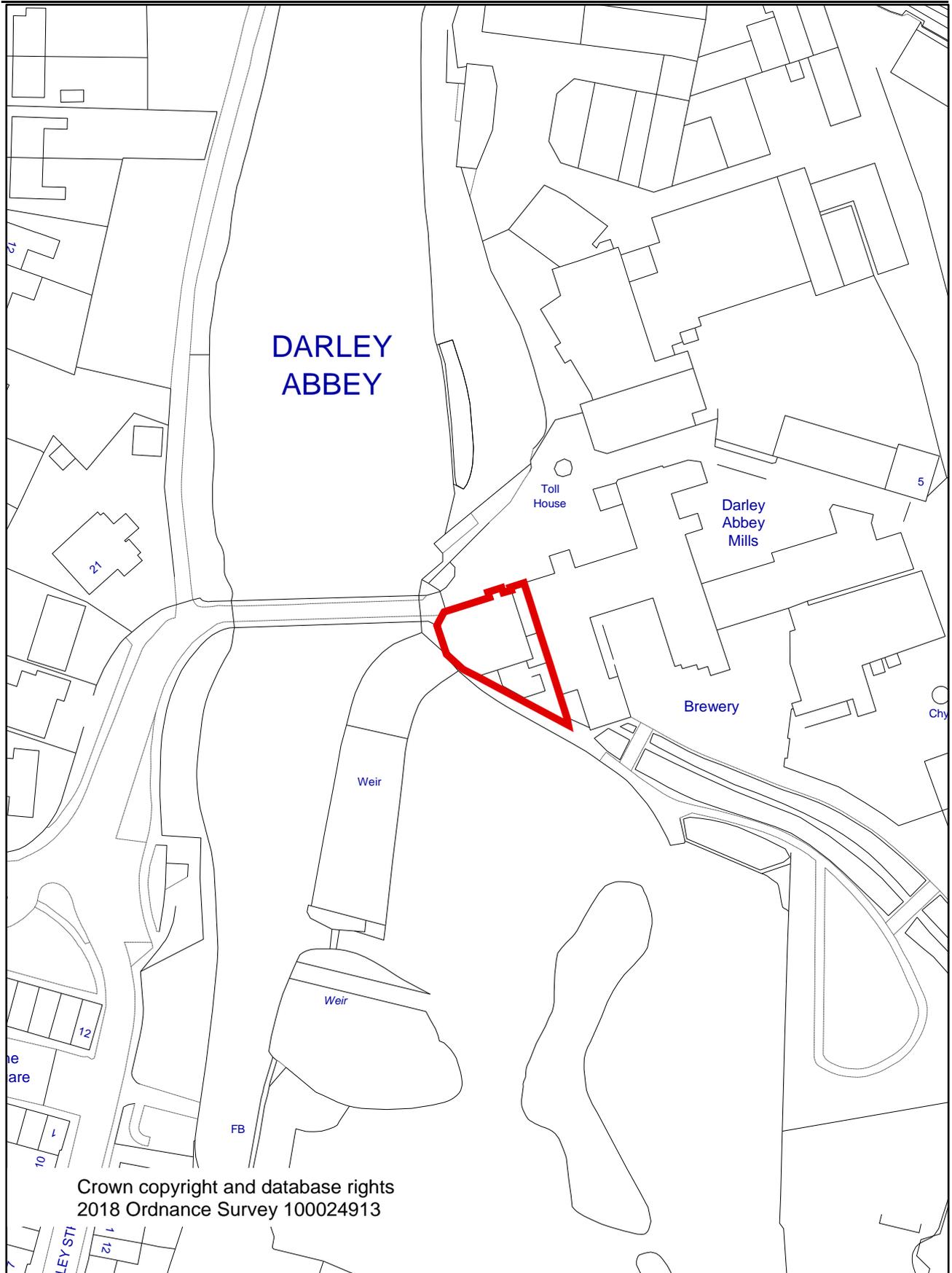
### **8.9 Application timescale:**

The target date for determination of both applications was on 19 September and an extension of time has been agreed until 26 November to allow for committee to consider applications.

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

**Application No: DER/08/18/01325**

**Type: Variation of Condition**

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### **1. Application Details**

**1.1. Address:** Land At The Front Of 163 Pastures Hill, Littleover

**1.2. Ward:** Littleover

#### **1.3. Proposal:**

Planning permission DER/11/16/1437 granted permission for a new dwelling on land to the front of 163 Pastures Hill, Littleover. The building is almost complete but has been built with several features differing from the approved drawings. As such, and following enforcement investigations, this planning application seeks permission to amend condition 2 of planning permission DER/11/16/1437, which relates to the approved drawings. The current application seeks to regularise the situation so that the dwelling has permission as built. Specifically the following changes have been made:

- The garage has been enlarged in size
- The dormer window to bedroom 1 has been enlarged
- There is a new velux window in the roof plane above the en-suite to bedroom 3
- Three windows in the side elevation facing southwards have been omitted, the two at ground floor level now being shown as bricked up insets.
- There is a new window on the north east facing side elevation, facing towards 161 Pastures Hill.
- Land levels on the site have been changed, although there is no clear indication to what degree.

Landscaping (in the form of a row of trees) is now proposed along the south western boundary of the site which abuts a private drive.

#### **1.4. Further Details:**

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan/08/18/01325>

##### **Brief description**

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

The street scene on Pastures Hill is composed of a wide variety of house types, scale and designs. Development appears to have been ad-hoc with dwellings added as the city expands in a southerly direction. More recently dwellings have been remodelled or demolished and rebuilt, whilst these have tended to be one-off designs, in a sense they have been in-keeping with the character of ad-hoc development that is typical of Pastures Hill. In terms of layout, continuity is derived

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**Type: Variation of Condition**

from dwellings typically occupying a position close to the road. The original two storey house at 163 Pastures Hill does not comply with this trend; rather it is set back some way behind the rear of 161 Pastures Hill. As such, it has historically been out of kilter with the general pattern of development. The new dwelling on land to the front of 163 Pastures Hill (formerly the front garden of 163 Pastures Hill) sits more in line with the predominant urban rhythm.

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

The site shares a driveway access with 163 Pastures Hill. Otherwise, it is separated from the private driveway by fencing mounted on a gravel board. It is separated from the original dwelling at 163 Pastures Hill and 161 Pastures Hill by a brick wall. Those Members that attended the recent site visit will have noted these characteristics of the area and how the new building sits within the established street scene.

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

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

### **3. Publicity:**

Neighbour Notification Letter

Site Notice

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

### **4. Representations:**

At the time of writing 14 objectors have registered their opposition to the proposal. Comments express concern about the following:

- Massing effects
- Drainage and run-off issues affecting the private driveway and property beyond.
- Impact upon the appearance of the drive
- Landscaping should be planted before the application is determined
- The current plan does not represent the dwelling as built, in particular the land levels.
- It should not be possible to make a retrospective planning application when work is not carried out in accordance with the approved plan.

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- The dwelling is not a dormer bungalow and its height is disproportionate compared to surrounding dwellings.
- The proposal varies greatly from what was previously approved including being markedly higher.
- Windows on the south western elevation appear to be contained in the plan despite assurances they would be bricked up.
- Since this matter was brought to the attention of the enforcement team, it has not been resolved and the house is now virtually complete
- BT Cables don't clear the roof and could be damaged with effects upon properties relying on these connections for home and business. BT Cables could be buried underground.

### **5. Consultations:**

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

These observations are primarily based upon the details shown on application plan "16/507/F01 rev H". In highway terms the proposals relate to the construction of the site access, and the location of the wall.

The application plan shows that the access to the site has been widened; this in itself is not an issue; although it will necessitate the widening of the dropped kerb fronting the site by two kerbs (1.8m) to prevent overrun by manoeuvring vehicles.

The Highway Authority Case Officer has visited the site, and it is apparent that part of the site boundary wall is located such that the highway width fronting some the site is 1.95m wide; the alignment of the wall is such that further down Pastures Hill the footway width is in excess of 2m.

It appears that the highway footway has not been satisfactorily reinstated along the site boundary; although this is not necessarily a planning issue.

The applicant/developer has made provision of an 'aco' type drain within the site; however it appears that this is some distance into the site, and does not cross the driveway in its entirety. This leaves the possibility that water can still discharge from the site onto the highway, and is not acceptable; but can be dealt with by appropriate condition.

#### **Recommendation:**

It is within the applicants ability to carry out works sufficient to satisfy the Highway Authority; should the Local Planning Authority be minded to approve the application; the following conditions are suggested:-

#### **Condition 1:**

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

#### **Reason:**

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

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### Condition 2:

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

### Reason:

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

### NOTE TO APPLICANT

N1. The development makes it necessary to improve a vehicular crossing over a footway of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact StreetPride at Derby City Council to apply for a vehicle access under Section 184 of the Highways Act 1980 (as amended) to arrange for these works to be carried out. Contact maintenance.highways@derby.gov.uk tel 03332 006981

## **5.2. Natural Environment:**

Awaited

## **6. Relevant Policies:**

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

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

CP1a Presumption in Favour of Sustainable Change  
CP2 Responding to Climate Change  
CP3 Placemaking Principles  
CP4 Character and Context  
CP6 Housing Delivery  
CP16 Green Infrastructure  
CP19 Biodiversity  
CP23 Delivering a Sustainable Transport Network

### Saved CDLPR Policies

GD5 Amenity  
H13 Residential Development  
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)

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

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

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

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

#### **Key Issues:**

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

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

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

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

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

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

This application seeks a decision on whether the submitted plans meet the relevant planning policy criteria. Whilst the previous decision on application DER/11/16/1437 is material, in so much as the principle of development and its general form have been established, it would be incorrect to make a decision on the current application based purely upon a simple comparison of the approved and proposed plans. It is also noted that the deviation from the approved plans came to light as a result of an enforcement complaint. Any matters related to the enforcement process are outside of the scope of planning policy and therefore should not prejudice the decision in hand. Like every application before us this application must be determined on its own merits. In terms of objections received from members of the public, I note that a number of the issues raised are not material for planning and therefore cannot be taken into account in determining this application. On these matters I would make the following comments:

- BT Open Reach cables – Cables do touch the roof of the new dwelling. The applicant's agent has advised that BT Open Reach have been approached and that an attempt to relocate the relevant post was prevented by engineers being asked to leave the adjacent private drive. Without access to the drive, the work could not continue and at present the order to Open Reach has been cancelled.
- Drainage and run off – I understand that objectors feel that the drainage installed on site is inadequate. Whilst drainage matters can be material for planning, the site is not within a flood zone. Objectors have concerns about

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run-off onto the adjacent private driveway and properties beyond. In this case, the proposal includes a grassed garden area and planting at the southern boundary. These natural features will support natural drainage of the site. Beyond this, drainage of a site would be considered under Building Control and disagreements about run-off would have to be dealt with as a civil matter between aggrieved parties.

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

I note that objectors have expressed concerns that the proposed dwelling (as built) has an unacceptable impact upon the street scene, relating poorly to neighbouring properties. Pastures Hill contains a mix of dwellings and the resultant street scene is varied, reflecting dwellings having been added over time. The street scene continues to evolve as dwellings are remodelled and rebuilt to suit modern housing needs.

The proposed bungalow is situated forward in the site and in my view sits well within the regular pattern of development found on Pastures Hill. Members will have appreciated this on their site visit. Its individual design is appropriate within the varied street scene. In terms of scale, the dwelling has a large footprint, and is some 7.5m in height (measured at the doorway on the north western elevation). It is described as a dormer bungalow and does indeed contain full height rooms at ground floor level and rooms in the roof space at first floor level. The dwelling is large but in my view its scale is appropriate in this context. In height terms it fits well into the street scene where typically ridge heights step down following changing land levels. In terms of its footprint, the dwelling would not overwhelm the plot. It does not appear to be cramped with respect to the plot or the relationship with neighbouring properties. In terms of the height, I note that there has been a change to levels on the site and this has affected the overall height of the dwelling. Whilst it is not clear exactly how much the levels have been raised (not least because of the pre-existing undulating levels) the dwelling is shown on the proposed plans to be approximately 1m taller than shown in the originally approved drawings. Regardless of the change in land levels, in my view the dwelling as built is an acceptable addition to the street scene in terms of its scale, character and appearance.

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

I note that objectors have a number of concerns about the impact of the proposed dwelling upon residential amenities. The dwelling is positioned more than 10m from the side of 161 Pastures Hill and some 13m from the house (not garage) at 169 Pastures Hill. It sits some 9m away from the original house at 163 Pastures Hill. The building approved under DER/11/16/1437 was deemed to be acceptable in terms of the impact upon residential amenities. This current proposal is similar but includes the changes outlined paragraph 1.3. The question to be answered in considering this matter is whether the current proposal unacceptably affects residential amenities at neighbouring properties. Members may conclude that the current proposal imposes greater impact upon residential amenities than the previously approved scheme, but this does not necessarily mean that the impact is unacceptable in planning policy terms. It is higher having more presence but not so detrimental to be objectionable.

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In terms of privacy the new bungalow includes windows that face towards neighbouring properties. The changed land levels result in these windows being higher than previously approved and as a consequence there has been some rearrangement of the fenestration. Dealing firstly with the relationship between the new bungalow and 161 Pastures Hill, I am satisfied that whilst new views would be created (in the north east facing side elevation), these would not unacceptably affect privacy at 161 Pastures Hill as they would mainly face towards the blank side elevation of this neighbouring property and there would still be over 10m between the two properties.

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

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

I note that neighbours have concerns about the impact upon amenities on the private driveway. Whilst this land is in private ownership, it would be unreasonable to afford it the same weight, in terms of amenity impact, as a private garden or dwelling house. In fact, some additional surveillance of the driveway could add to its safety.

In terms of massing, whilst the proposed bungalow is indeed higher than the previously approved scheme, in this context I do not consider that there would be any overbearing effects of massing that would unacceptably affect residential amenities. I am also satisfied that the new dwelling would not cause unacceptable loss of light to neighbouring properties.

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

The principle of a new dwelling on this site has been established and accepted with regards to highways and traffic safety. Key issues at this stage are the width of the driveway access and the provision of suitable drainage to prevent run-off onto the public highway. The City Council's Highways team are satisfied that these matters can be dealt with by condition. In the meantime, I have already asked the agent to consider submitting acceptable details to show how the boundary wall and access can be arranged to meet with Highways requirements. In the event that suitable details are submitted before the Committee Meeting, a condition can be added to ensure that agreed details are implemented in a timely fashion.

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

### **8.1. Recommendation:**

**To grant** planning permission with conditions.

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

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

### **8.3. Conditions:**

1. Standard condition 03 (time limit)
2. Standard condition 100 (application plans)
3. No part of the development hereby permitted shall be brought into use until a dropped vehicular footway crossing serving the site has been widened by an additional 1.8m (2 kerbs) in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
4. Within 2 months of the date of this permission the access driveway shall be constructed with provision to prevent the discharge of surface water from the site onto the public highway in accordance with details first submitted to and approved in writing by the Local Planning Authority. The provision to prevent the discharge of surface water to the public highway shall then be retained for the life of the development.
5. 20 (Landscaping scheme)
6. 22 (Landscaping implementation)
7. No new windows or other openings shall be inserted into the south western side elevation (facing towards 169 Pastures Hill).
8. No gates shall be erected at the access to the development less unless set back 5.5m from the public highway. Such gates shall open inwardly only.

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### **8.4. Reasons:**

1. Standard reason 56 (Time limit)
2. Standard reason 04 (For the avoidance of doubt)
3. To protect the rights of the public to the use and enjoyment of the highway
4. To ensure surface water from the site is not deposited on the public highway causing a danger to highway users
5. Standard reason 07 (Residential amenities)
6. Standard reason 07 (Residential amenities)
7. Standard reason 07 (Residential amenities)
8. To enable a vehicle to stand clear of the highway whilst the gates are opened/closed and to protect the free and safe passage of traffic, including pedestrians, in the public highway

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

- N1. The development makes it necessary to improve a vehicular crossing over a footway of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact StreetPride at Derby City Council to apply for a vehicle access under Section 184 of the Highways Act 1980 (as amended) to arrange for these works to be carried out. Contact [maintenance.highways@derby.gov.uk](mailto:maintenance.highways@derby.gov.uk) Tel 03332 006981
- N2. No part of the proposed wall or its foundations, fixtures and fittings shall project forward of the highway boundary.

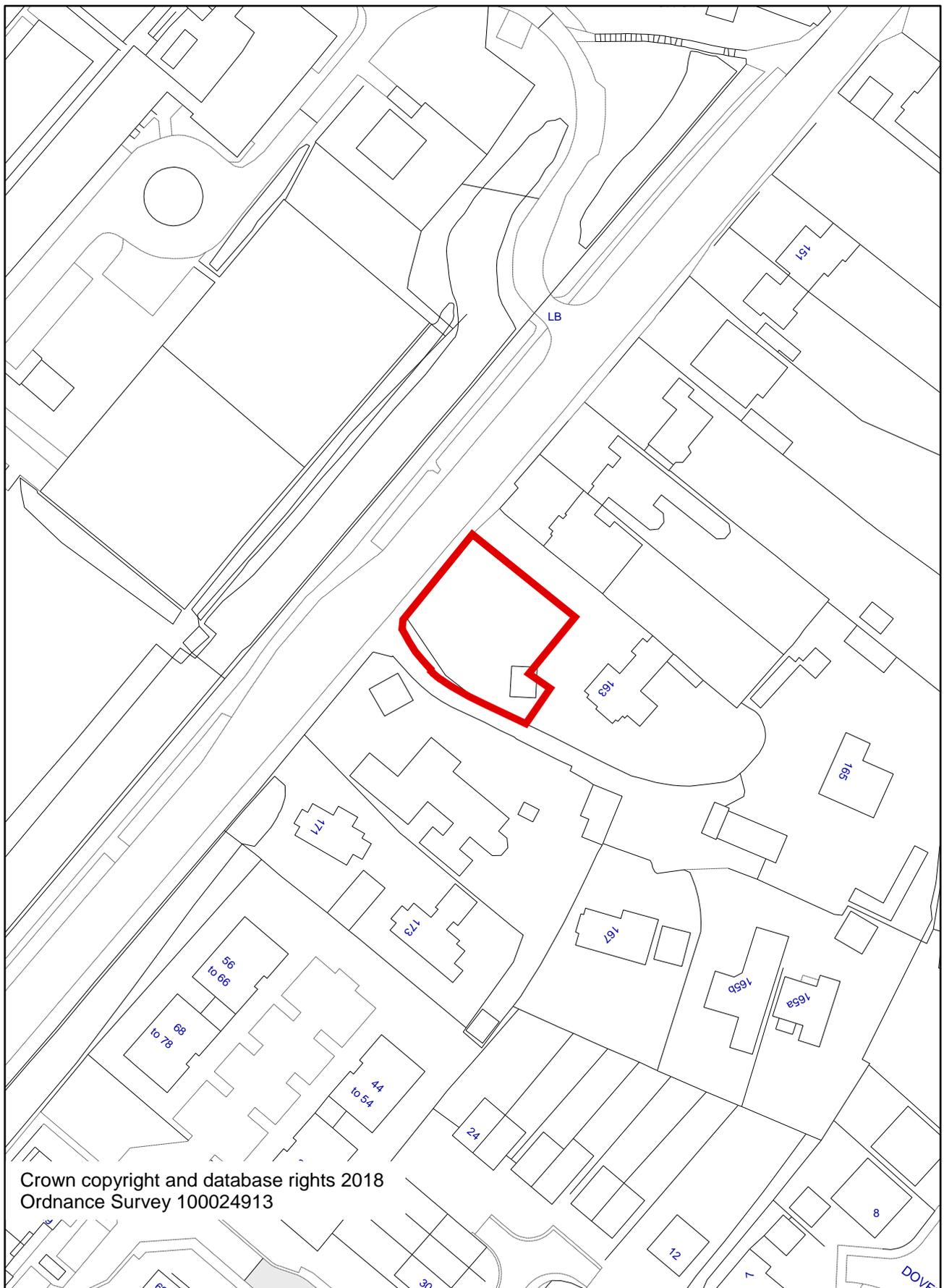
### **8.6. Application timescale:**

The 8 week time frame ended on 2<sup>nd</sup> November 2018, an extension of time has been sought until 28<sup>th</sup> November 2018.

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

**Application No: DER/12/17/01643**

**Type: Full Planning Application**

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### **1. Application Details**

**1.1. Address:** The Fireplace workshop Ltd. Wyvern Way, Chaddesden

**1.2. Ward:** Chaddesden

**1.3. Proposal:**

Demolition of existing retail unit. Erection of retail units (use class A1) with ancillary cafe, a restaurant (use class A3/A5) with 'drive thru' facility together with landscaping, revised parking and access and associated works.

**1.4. Further Details:**

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan/12/17/01643>

**Brief description**

This report relates to a full planning application which seeks permission for the erection of three retail units within use classes A1 and A3/A5 with drive-thru facilities, landscaping, car parking, access and associated works. The application site is rectangular in form and bounded by the A52 to the north, Wyvern Way to the south, pedestrian bridge to the east and 'Pizza Hut' and 'KFC' to the west. The site is located approximately 2.5 Kilometres from the City Centre and is just outside of the defined out-of-centre retail location, Wyvern Retail Park which accommodates a number of national retailers. The application site measures approximately 0.7 hectares.

The application site is designated under the Derby City Local Plan, Part 1 as an "Employment Location" under policy CP10 and accommodates a former Railway Sidings building, known locally as the Fireplace Workshop. This building was used for showroom and retail purposes but is now vacant and is located to the rear of the application site with frontage parking. The existing building is largely single storey of brick construction with a steep pitch roof predominantly addressing the A52. The building was partly destroyed during a fire in the 1990s which resulted in some demolition work. There have also been works within the building, over the years, resulting in significant change to the internal fabric. The current site is accessed off Wyvern Way in close proximity to the pelican crossing, on the slip road, which provides pedestrian connectivity to the Retail Park and Pride Park. Land levels across the site fall approximately 1 metre from north to south.

The applicant has submitted additional information during the life of the application which has sought to address heritage, retail policy and transport issues and subsequent re-consultation has taken place. This report considers the amended suite of documentation.

The application proposes the erection of three terraced retail units providing approximately 2,063 sqm of floor space within A1 and A3/A5 Use Classes. The application confirms that the three proposed end users would be Marks and Spencer's Food hall, Nando's and Starbucks with associated drive-thru facility. Each unit is comprised of the following floor areas:

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**Application No: DER/12/17/01643**

**Type: Full Planning Application**

- Until 1 Marks and Spencer's Food Hall comprising of 1,487 sqm (1,022 sqm at ground floor and 465 sqm mezzanine),
- Unit 2 Nando's comprising of 409 sqm (279 sqm at ground floor and 130 sqm mezzanine)
- Unit 3 Starbuck's comprising of 167 sqm

The site would be accessed via Wyvernside, sharing its access link with Pizza Hut and KFC. The existing access on the on/off slip would be stopped up. It is important to note that the separate A52 Junction Improvement Scheme would also remove this access. The layout comprises of a one-way car park to the front of the retail units and direct access to the rear of the units for servicing and access to the drive-thru. The retail units are located centrally in the application site and front the car parking, looking westerly, with the service yard to the rear, adjacent to the pedestrian footbridge. The car park accommodates 51 car parking spaces, 5 accessible car parking spaces and 2 parent and child spaces along with 2 waiting bays for the drive-thru. 4 staff car parking spaces are located to the rear of the units within the service yard. 3 trolley bays are also located within the car park. Cycle parking is located close to the vehicular entrance. A further 4 hoops are also located within the servicing area for staff.

The proposed units are of an angular design. The front elevation, facing the car park, accommodates the entrances to the units and is largely finished in glazing to provide an active frontage. The north and east elevations facing the A52 and service yard are largely finished in cladding and the side elevation facing Wyvern Way which accommodates the drive-thru facility has additional glazing. The ordering point and menu for the drive-thru is located at the south-eastern corner of the units, adjacent to the servicing yard. The cladding comprises of two colours grey white/merlin grey to break up the elevations. The external materials including windows, door etc. will all be finished in a similar grey colour. Signage is proposed on all four elevations and will be subject to full consideration under future applications for Advertisement Consent.

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

<b>Application No:</b>	DER/01/16/00087	<b>Type:</b>	Full Planning Application
<b>Decision:</b>	Granted	<b>Date:</b>	12/04/2016
<b>Description:</b>	A52 Wyvern Transport Improvements scheme - The scheme involves the realignment of A52 Wyvern junction, replacement footbridge and associated embankments, highway, accommodation and earth works. The areas requiring Planning Permission are as follows; Replacement footbridge from Meadow Lane to Wyvern Way over the A52, realigned junction from the A52 to Wyvern Way, construction of a new pumping station and associated earthworks to the south of Wyvern Way accommodation works including new access road to Toys 'R' Us car park and construction of a new noise bund to the North of the A52		

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**Application No: DER/12/17/01643**

**Type: Full Planning Application**

<b>Application No:</b>	DER/07/14/01027	<b>Type:</b>	Full Planning Application
<b>Decision:</b>	Withdrawn	<b>Date:</b>	14/01/2015
<b>Description:</b>	Erection of retail units (Use Class A1) together with ancillary cafe, landscaping and revised parking and access and associated works		
<b>Application No:</b>	DER/04/95/00529	<b>Type:</b>	Full Planning Application
<b>Decision:</b>	Granted Conditionally	<b>Date:</b>	12/02/1996
<b>Description:</b>	Change of use to shop		
<b>Application No:</b>	DER/08/94/01020	<b>Type:</b>	Full Planning Application
<b>Decision:</b>	Refused	<b>Date:</b>	30/09/1994
<b>Description:</b>	Change of use to shop		

### **3. Publicity:**

Neighbour Notification Letter sent to two properties

Site Notice

Statutory Press Advert

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

### **4. Representations:**

During the life of the application 5 letters of representation have been received from 3 residents in Chaddesden and Spondon offering the following comments;

- Objections to the loss of Derby's railway heritage and industrial past
- The former wagon repair shop should be dismantled for architectural salvage and/or offered to the Midland Railway at Butterley
- The existing building should be incorporated into the scheme and re-used
- Why add more retail units when there are existing retail units vacant
- The Fireplace Workshop is a local landmark and is of railway heritage significance to Derby
- It doesn't seem right to demolish the building when Derby is celebrating its industrial heritage through the redevelopment of the Silk Mill etc.
- The submitted heritage information is considered to be poor
- Concerns over the proposed occupiers
- Further consideration should be given the travel plan as their proposals seem unfeasible and the large proportion of visitors arriving at such destinations will arrive by car, public transport to this area is relatively infrequent and arriving by cycle is also difficult

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**Type: Full Planning Application**

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- Whilst the A52 works see the installation of a new bridge this will land on the opposite side of the slip roads and will not make it easy for pedestrians/cyclists to access the proposed development
- Concerns that the updated Transport Assessment considers the midday and why is this considered to be a peak?
- Concerns relating to the application being submitted close to Christmas and the lack of public consultation
- There is a lack of public engagement with this application unlike the former 2014 application
- The proposed development will increase traffic
- There are other coffee shops in the area so a further one is not needed
- The introduction of a further coffee shop is not supporting the Governments new environmental laws in respect of recycling
- There are also many restaurants so a further one is not needed
- Whilst it is understood the developer needs to support the opening of Marks and Spencer's other uses should be would be better e.g. an electrical store
- Concerns regarding the cumulative impacts of the Derby Triangle and this application in respect of increased traffic
- Concerns regarding impacts on air quality
- Members should consider how people access the schemes they approve particularly new residential and employment schemes, they should also consider the use of zero hours contracts as these aren't acceptable and employees should be paid more than the minimum wage
- Section 106 monies should be used to help support public transport
- The scheme should include landscaping to reduce CO<sub>2</sub>

Members will be aware that these comments are summarised and the full comments can be appreciated by following the web-link.

### **5. Consultations:**

#### **5.1. Highways England**

Highways England offers no objections to the proposal.

#### **5.2. Transport Planning**

##### **1.0 Background**

1.1 The proposed Gross Floor Development development on the Fireplace Workshop tested in the March 2018 Transport Assessment(TA) site was for 1023sqm GFA M&S Food retail store, 320sqm GFA Nandos and 167 sqm GFA Starbucks Coffee Drive Thru.

1.2 Derby City Council's Highways and Transportation Section (H&T) remains concerned that the trip generation presented in the transport assessment (TA)

## Committee Report Item No: 4

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for the Fireplace are optimistic, particularly during the Weekday Lunch Time Peak (12:00-13:00). The rates calculated by H&T, using a survey of the Wyvern Costa Coffee Drive Thru and the M&S at Kingsway, predict trips rate that are 60% higher. If it transpires that the development operates at a higher trip rate than predicted in the TA, then the consequences on the operation of the Wyvernside Retail Park will cause significant queuing.

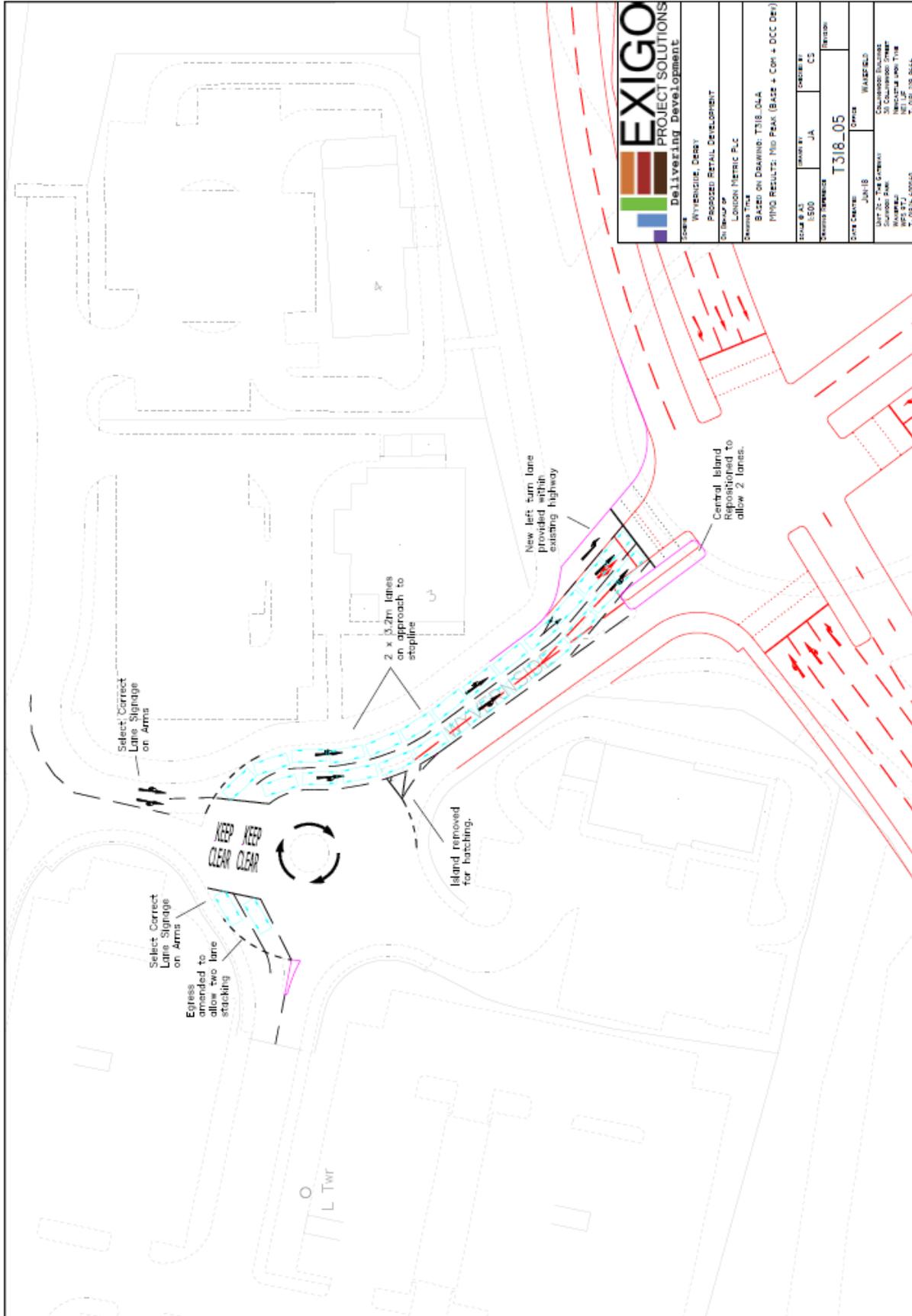
- 1.3 A comparison of the TA and H&T trips for the Lunch Time Peak are provided in Table 1 below.

	Sqm	TA Trips		H&T Predicted Trips	
		IN	OUT	IN	OUT
Food	1023	80	81	112	109
Restaurant	320	22	9	22	9
Drive Thru	167	20	18	58	55
Total		121	108	192	173
<b>Total Trips on Wyvernside Less Internal Linked 10%</b>		<b>109</b>	<b>97</b>	<b>173</b>	<b>155</b>

**Table 1:** Comparison of trips from the Fireplace Workshop TA and H&T Predicted Trips

- 1.4 With only one access point to the Wyvernside Retail area, there is a finite capacity to the amount of retail that can be served. H&T believe that with the opening of the Costco Petrol Filling Station (PFS) that this has almost been reached. To put this into context, comparing traffic surveys of turning movements undertaken in 2014 to EXIGO's March 2018 survey, indicates that between 12:00 and 18:00, two-way traffic has grown by 1,477 vehicles from 3,488 to 4,965, or about 42% on Wyvernside. Based on the TRICS analysis, which considered the impacts using 85 percentile trip rates, the predicted growth over the lunch time peak was predicted to be 199 two-way trips. The actual growth is 342 trips. Further, the recent traffic surveys show queues of up to 14 PCUs or 80.5 metres and mean max queues over the 12:00-13:00 Lunch Time Peak of 6 PCUs or 34.5 metres. With only a 45 metre lane between the Toys R Us Roundabout and the Wyvernside Retail Park internal roundabout, cars are beginning to block access to Chequers Lane.
- 1.5 As such, and in order to allow for the Fireplace development to come forward, in its present form, additional improvements are required to increase capacity at the Derwent Parade/Wyvern Way/A52 Junction. All development proposals were tested against the proposed A52 Wyvern scheme and included a prediction of the traffic generated by the Derwent Triangle development.
- 1.6 Further, it is H&T's view that the mitigation proposal that has been put forward in the TA is not of a suitable design and could lead to safety issues (**see Figure 1**). The scheme does not solve the capacity issues on Wyvernside and the suggestion of formalised queuing around a roundabout is not acceptable. Priority roundabouts by design should be clear of traffic and the scheme does not guarantee that the exits will remain clear.

**Figure 1: Propose TA Mitigation**



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### 2.0 External Review

2.1 In view of the differences in opinion over the issue of trip generation and impact White Young Green (WYG) were commissioned to undertake a review of the Fireplace Workshop TA. Specifically to review the trip rate calculation to understand whether H&T are being over cautious. Secondly, to review the mitigation put forward in the TA and establish whether there are any additional infrastructure improvements that could be implemented to allow the development to come forward in its current form.

2.2 As part of this process H&T Officers, WYG and the developers transport consultant met on the 18<sup>th</sup> July 2018 to discuss further improvements. This note sets out a summary of the conclusions reached by WYG on the trip rate analysis and mitigation.

### 3.0 Trip Rate Analysis

3.1 The forecasting of food retail, Coffee Drive Thru and restaurant trip generation is not as straight forward as other land uses such as housing, office or industrial employment. The industry standard TRICS database, used in the assessment of development traffic generation, offers only limited samples on weekdays and does not provide any specific examples on M&S Food or Coffee Drive Thru outlets. More importantly unlike other land uses, retail trip generation and trip patterns are related to a number of other factors, perhaps the most important and unpredictable of these is market demand and location.

3.2 WYG struggled to establish trip generation rates using the TRICS database. They concluded that the trip rates presented in the EXIGO TA are not considered to be representative of the proposed development.

3.3 They conclude that appropriate trip rates could be obtained from TRICS for the proposed M&S Food store. However, the current sample used in the EXIGO TA does not reflect the characteristics of the proposed M&S in terms of site location, use of non-Friday data to calculate Friday trip rates and inclusion of a site with a petrol filling station.

3.4 Further, WYG concluded that appropriate trip rates cannot be obtained from TRICS for the proposed Nandos or Starbucks and as such, trip rates should be obtained from surveys of existing similar sites for these land uses.

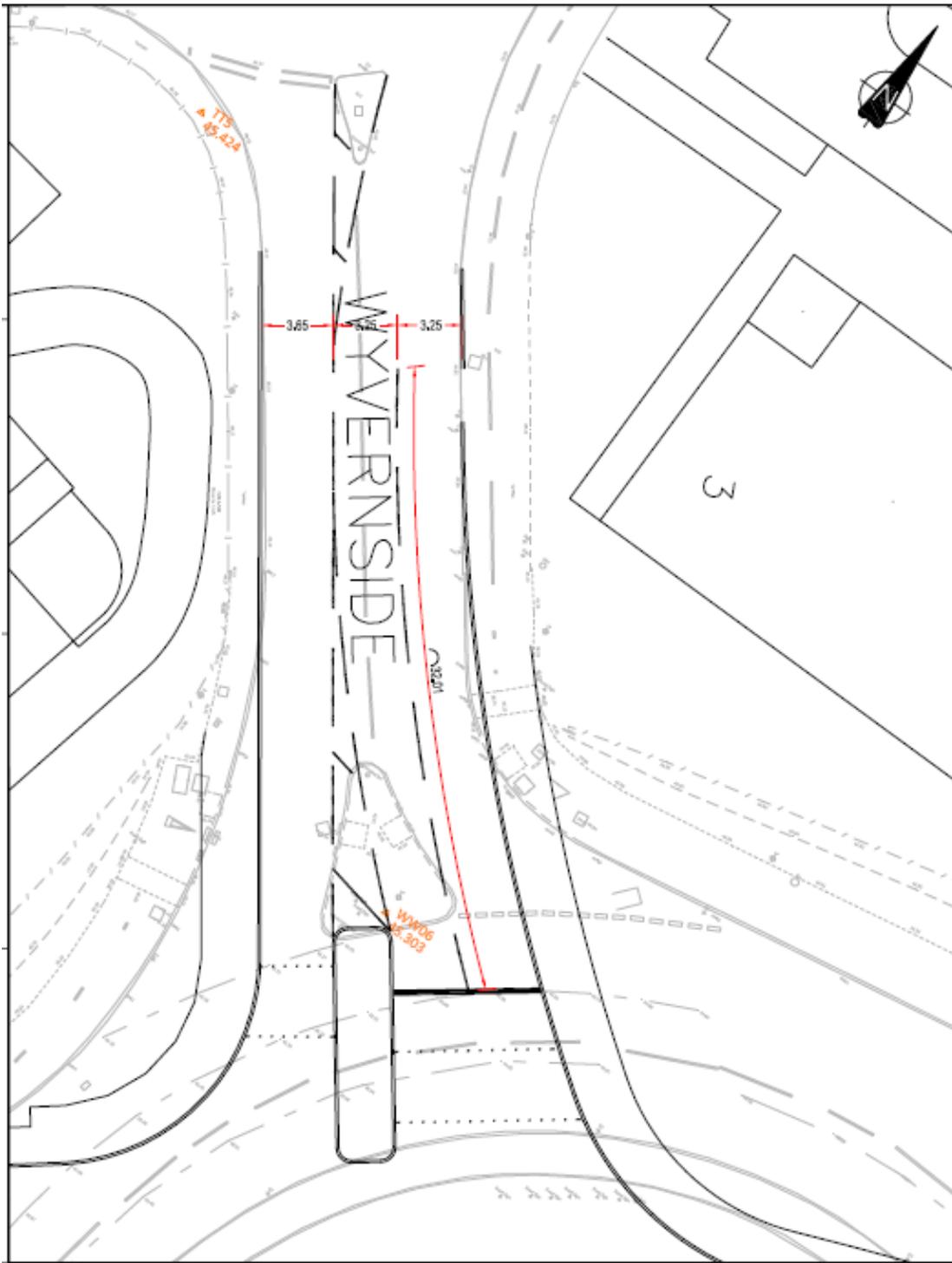
3.5 The technical note identifies that the surveyed rates produced by H&T, and used in the EXIGO June 2018 Technical Note analysis, seem to be more representative of the proposed development than the trip rates in the original TA.

### 4.0 Alternative mitigation Solutions

4.1 From joint discussions with the developer's transport consultant on the 18th July, there is no obvious highway improvement that will provide additional capacity at the Derwent Parade/Wyvern Way junction.

4.2 The basis of the mitigation testing is set against the A52 Wyvern scheme for the Derwent Parade/Wyvern Way junction, to change the current priority give way roundabout to a signalised crossroads junction. The Wyvernside arm would be widened to a two lane approach as set out in **Figure 2**.

**Figure 2: Proposed A52 Wyvern Scheme, Signalisation of Wyvernside**



4.3 EXIGO propose a further improvement to the Wyvernside arm, which is a third short lane for left turn only vehicles, as shown in **Figure 1**. It should be noted that this scheme has yet to be designed up and agreed. WYG did not support the wider mitigation scheme and the use of 'KEEP CLEAR' markings on the Chequers Road roundabout. They state that Paragraph 8.40 of the Traffic Signs Manual Chapter 5 identifies the use of KEEP CLEAR in order to help exit

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blocking problems should only be used after careful consideration of the safety risks. However, they are not to be proposed as mitigation for the impact of development.

- 4.4 Further options include providing a left slip out from the proposed development site for development traffic. This would require a slight redesign of the proposed M&S car park layout and some form of agreement that maintains the operation of the left slip out, which would be under the control of the site operator. This option could be further extended to allow traffic from the rest of the Wyvernside Retail area to use it. However, this option is not considered deliverable because it would require an adopted road through the site, which would significantly change the layout of the car park and not be attractive to the operators.
- 4.5 WYG undertook a review of the LINSIG model used by EXIGO to test the development, and initially provided by H&T based on the A52 Wyvern Scheme. They tested the mitigation options using the predicted M&S Starbuck Drive Thru and development trips generated by H&T. The background traffic flows were based on 2018 observed traffic flows and included the forecast traffic flows with the Derwent Triangle development fully built out.

	A. Wyvern Scheme Only (No Dev)	B. Wyvern Scheme Only + Dev	C. Wyvern Scheme Plus 3 <sup>rd</sup> Lane	D. Wyvern Scheme + 3 <sup>rd</sup> Lane + Left Slip for Dev Only	E. Wyvern Scheme + 3 <sup>rd</sup> Lane + Left Slip for All Traffic
	MMQ	MMQ	MMQ	MMQ	MMQ
Wyvernside	12.5	65.5	33.6	32.1	16.3
Wyvern Way from A52	10.6	58.8	29.7	29.7	29.7
Wyvern Way	14.4	54.9	25.2	25.2	25.2
Derwent Parade	27.4	79.8	56.6	45.7	35.0

**Table 2** below presents the queue length outputs from WYG's option testing results:

- 4.6 **Figure 3** presents a summary of the queue length data for the Lunch Time Peak (12:00-13:00) as modelled by WYG. WYG's report concludes:
- The results for the base scenario of the proposed junction without new development show the junction operating within acceptable limits. The predicted queue on Wyvernside is beyond the desirable threshold of 9 PCUs and is at the maximum limit of the available storage capacity. The queue clears within one cycle of the signal stage.
  - When development traffic is added the junction is significantly over capacity with substantial queuing on all approaches.
  - None of the proposed improvements fully mitigate the impact of the additional development traffic.

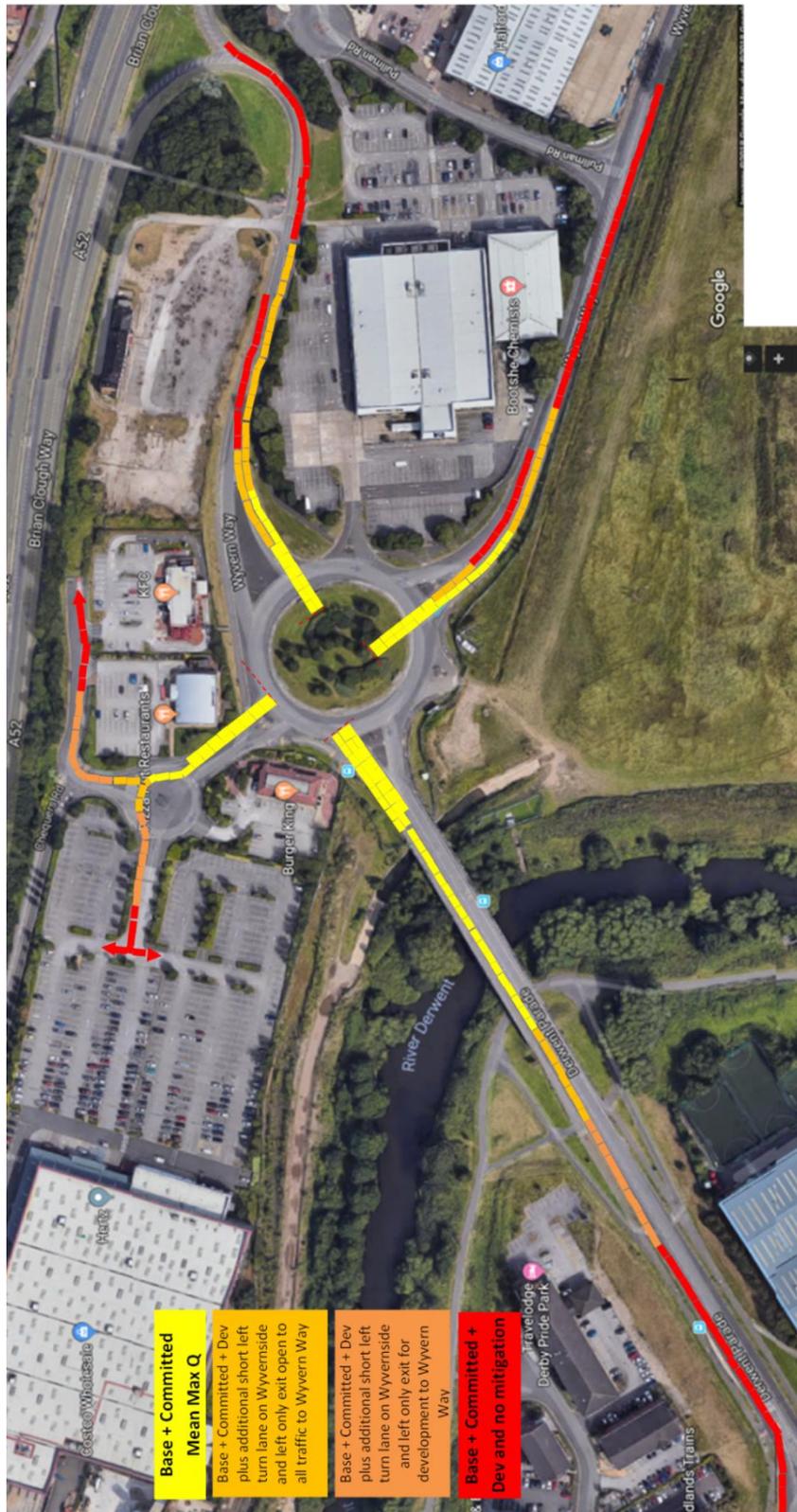
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4.7 The results for the junction with mitigation improvements show that queuing on the Wyvernside approach is predicted to be beyond the storage available, raising the potential risk of the internal roundabout locking up.

**Figure 3: Weekday Lunch Time Mean Max Q Predicted by WYG LINSIG Modelling**



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### **5.0. Conclusion**

- 5.1. The WYG review does not change H&T's view of the predicted impacts of this development and concerns that the trip generation presented in the TA is optimistic, particularly during the Weekday Lunch Time Peak (12:00-13:00). As such, the trip generation calculated by H&T using the survey of the Wyvern Costa drive thru and the Kingsway M&S remain more realistic.
- 5.2. With only one access point to the Wyvernside Retail area, there is a finite capacity to the amount of retail that can be served. We believe that with the opening of the Costco PFS that this has almost been reached and that in order to allow for this development to come forward, in its present form, that additional improvements are required to increase capacity.
- 5.3. WYG could not find a highway capacity solution that, in H&T's opinion, would mitigate the M&S, Starbucks and Nandos proposal sufficiently to allow the development to come forward in its current form. The introduction of a short third lane on Wyvernside and left out slip for development traffic only mitigates the impacts of the development traffic by 40%, based on the H&T predicted trip generation rates.
- 5.4. As a consequence the queues on Wyvernside are still predicted to extend into the Chequers Road/Costco roundabout and that there is a risk of blocking back, which could cause inbound traffic to the retail park to block back and impact on the operation of the proposed improvements at the Toys R US junction.
- 5.5. At this stage, Derby City Council must conclude that a safe and suitable access cannot be provided and that an appropriate mitigation scheme does not appear to be available.

Trip Rates Technical Note –

<http://dcc-otpas/padocumentserver/DownloadDocument.aspx?docid=135314329>

Wyvernside LINSIG Modelling Technical Note –

<http://dcc-otpas/padocumentserver/DownloadDocument.aspx?docid=135314216>

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

The highway comments in respect to the above application are given in Highways & Transportation's technical note TN24082018, August 2018 supplied direct to Case Officer, as set out above. The technical note concludes that despite a considerable amount of analysis the applicant has been unable to satisfactorily demonstrate that a safe and suitable access can be provided to serve the above development.

It should be noted that the applicant has revised their analysis to take account of the Mezzanine GFA, which was excluded from their original analysis. In addition, they have updated their modelling and concluded that with the Fireplace Workshop the junction never exceeds theoretical design capacity and all queues are contained within their respective lanes. However, Highways and Transportation still contest the junction modelling parameters and assumptions that the applicant's transport consultant for the Fireplace Workshop is using.

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As such, the results and conclusions summarised in TN24082018 from Highways and Transport's own modelling still stand.

**Recommendation** - It is recommended that the application should be refused in the interests of the safe and free flow of traffic on the highway.

### **5.4. Derbyshire County Archaeologist**

The existing building on site is the only surviving part of the wagon repair workshops (Derbyshire HER 23646) associated with the extensive former Chaddesden Sidings goods marshalling yard, and dating from 1873. Although only part of the original it is still a substantial survival, with local or perhaps even county/regional significance as a rare survival of a building from Derby's 19th century railway industry. The importance of the building is magnified by its landmark site as a gateway building on the approach to Derby from the east.

I have commented numerous times on applications for this site since 2014, in each case recommending that the significance of the built heritage on site is properly assessed by an accredited heritage professional (CIfA/IHBC), through a process of buildings appraisal, along with sufficient background research to enable the building to be set in context and for its significance to be assessed in relation to regional and national comparators, in other words to understand the significance of the building as required at NPPF para 189.

This has not yet taken place and my previous advice therefore still stands, that the application does not meet the heritage information requirements at NPPF para 189 and should not be granted consent in its current form.

I support the recent comments from the City Council's conservation officer that the applicant should explore the retention of the historic building in the first instance in line with the presumption to 'conserve and enhance' the significance of heritage assets at NPPF and the City Council's Core Strategy policy C20. Should the applicant provide a cogent justification for the loss of the building under NPPF policy then I have correspondence from the Midland Railway Society expressing an interest in re-erecting it on their Butterley site, and this could be explored by the applicant as mitigation for its loss on the current site.

For clarification the following is considered to be missing from the submitted heritage information:

- 1) It doesn't appear to have been carried out by a heritage professional with the appropriate experience, overview and judgement to assess heritage significance. The name and credentials of the author need to be set out. It needs to be an independent report carried out to a credible professional standard rather than assembled 'in-house';
- 2) A couple of historic maps are provided but a fuller map regression would be expected to understand the development of the sequence of buildings on the site;
- 3) No documentary/archive search seems to have been carried out;

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- 4) There is no 'buildings appraisal' photography and description of the building, external and internal;
- 5) There is no discussion of linked and/or contemporary assets which might contribute to group value;
- 6) There needs to be a statement of significance which establishes where the heritage values of the building lie and which aspects of its fabric/setting contribute to this. The importance of the building (e.g. local, county/regional, national) should also be considered in the context of other railway heritage in Derby and in the wider region.

Part of point 1) is addressed by having used an IHBC accredited individual, but it doesn't address any of the other points.

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

Object and recommend refusal: CAAC felt that the former railway workshop building was an attractive and prominent building worth saving. They felt this building was a reminder of the heritage of Chaddesden sidings and strongly considered this to be a landmark heritage asset at the gateway to Derby. They felt the building could be restored and usefully incorporated in any development. Proposed layout needs revising, with more imaginative solution to restore and redevelop the building. This is a non-designated heritage asset but under para 135 of the NPPF this needs to be considered when undertaking the planning balance exercise.

(Please note that reference to para 135 of the NPPF relates to the superseded version of that document but the intent of CAAC remains relevant).

### **5.6. Built Environment:**

#### **The importance of this heritage asset**

This building is a heritage asset (Derbyshire Historic Environment Record 23646) and a rare surviving part of Derby's 19th century railway heritage. It has perhaps also even county/regional significance as a rare survival. It was constructed as a wagon repair workshop in relation to the Chaddesden siding complex which dates from 1873. Apart from this building the only other surviving elements are the nearby cottages which are part of the conservation area. The building is of good quality brickwork with substantial distinctive windows, dental course detail, stone sills and overhanging eaves. Historic photos show that the building used to have a large extension to it which has since been removed.

#### **Lack of information to satisfy para 189 NPPF**

I endorse the comments made by my archaeological colleague on the need for further information on this building and its heritage importance. I note NPPF para 189 which states that the level of detail has to be proportionate to the assets importance, however, the historic record has to be consulted and the heritage assets assessed by an appropriate expert. This does not seem to have been done. This information will enable the harm for its demolition to be weighted in the balance under para 197 of the NPPF. This is the only surviving heritage asset in this area east of the A52. It is a well-loved city landmark that marks the entrance to the City of Derby when travelling along the A52 towards the city.

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### Scope for retention

Even looking at the limited information submitted and looking at the proposals for the new scheme it is clear that the building could be retained as part of the proposed scheme, accommodate a drive through or both retained and extended. I strongly urge that this is relooked at. The NPPF (para 197) states that 'The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. The above also aligns with the Derby Local Plan Core strategy part 1 policy CP20. This policy also states that proposals where designated and non-designated heritage assets of importance are detrimentally impacted upon will be resisted.

### Recommendation

Object on conservation grounds to the demolition of the former railway building and heritage asset. I suggest more information is sort from the applicant along with investigation into the retention and reuse of the building as part of the overall scheme.

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

### Land Contamination:

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

*Before commencement of the development, a Phase I desktop study shall be completed for the site, documenting the site's previous history and identifying all potential sources of contamination and the impacts on land and controlled waters, relevant to the site. A conceptual model for the site should be established, which should identify all plausible pollutant linkages. A report will be required for submission to the Council for approval.*

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

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

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

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

The surveys have been undertaken by suitably licensed and experienced ecologists and at appropriate times of year. The survey work has been undertaken to a good standard following the BCT Bat Surveys Good Practice Guidelines (2016). No evidence of bats was recorded externally and no bats were recorded emerging or re-entering the building during the 2015 or 2017 surveys. It is considered that the survey work that has been undertaken in support of this planning application is adequate and enables the Council to discharge its duties in respect of regulation 9(5) of the Habitats Regulations.

We have reviewed the Illustrative Soft landscape Proposals drawing produced by RPS (P4-016 Rev D, Nov 2017). The proposed landscaping scheme uses non-native species and it is recommended that the opportunity is taken to modify this landscaping scheme to use at least some native species that would be of benefit to pollinating insects.

Paragraph 109 of the NPPF states that “*The planning system should contribute to and enhance the natural and local environment by ....minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity*”.

It is recommended that the landscaping scheme is modified to ensure that biodiversity gains for the site are maximised. We would be happy to review the amended scheme once it is available.

### **5.8. Police Liaison Officer:**

As with the previously withdrawn submission on this site, cycle parking provision for customers looks remote from the main building façade, and for the majority of trading times would be visually annexed by parked vehicles I suspect. Suggest the location is reconsidered.

Leaving the rear service yard unsecured is questionable. The area is not well overlooked, particularly during the evening and night. Staff cycles look vulnerable to interference, bin stores and plant to damage and fire setting. I’d recommend that the applicants reconsider service yard enclosure.

Approval should be conditional upon a lighting scheme, a scheme detailing external CCTV coverage and full details of the proposed drop down barrier at the site entrance.

### **5.9. Environment Agency:**

The proposed development will only meet the requirements of the National Planning Policy Framework if the measures as detailed in the revised Flood Risk Assessment submitted with this application are implemented and secured by way of a planning condition on any planning permission.

### **5.10. Our City Our River**

We note that the site of the application is close to the River Derwent and is located within flood zone 3. The proposals do not conflict with the OCOR consented

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application. The site is located in the benefit area of the OCOR masterplan and will benefit from an enhanced level of flood protection once the package 2 works are delivered. However as the majority of both packages 2 and 3 of the OCOR Masterplan remain unfunded, there is no defined date when the OCOR flood alleviation measures are to be constructed and so no identified date when this site will have enhanced flood protection benefit.

### **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
- CP10 Employment Locations
- CP12 Centres
- CP13 Retail and Leisure Outside of Defined Centres
- CP16 Green Infrastructure
- CP19 Biodiversity
- CP20 Historic Environment
- CP23 Delivering a Sustainable Transport Network
- AC11 The Derby Triangle, Chaddesden
- MH1 Making it Happen

#### Saved CDLPR Policies

- GD5 Amenity
- E13 Contaminated Land
- E19 Listed Buildings and Buildings of Local Importance
- E21 Archaeology
- E24 Community Safety
- T2 City Council Schemes
- T10 Access for Disabled People

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

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

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

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

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

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

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

#### **Key Issues:**

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

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

#### **7.2. Highways Impacts**

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

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

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

The site of the proposal extends to approximately 0.7 ha and is located to the south of the A52 and to the north of the slip road providing access to the adjacent Wyvern Retail Park. The site accommodates a single vacant building, previously occupied by the 'Fireplace Workshop', used as a showroom and workshop. The building is not listed (statutory or locally) but is recognised to have some historic significance, being the last remaining building associated with the former Chaddesden Sidings and relating to Derby's railway heritage. The remainder of the site has for many years been used for informal match day parking.

The site is identified as existing employment land under policy CP10 of the DCLP1, whilst the area more generally (including the site) is identified by policy CP24 for the implementation of improvements to the A52, including improved access to Pride Park.

The proposal seeks planning permission for the construction of a new retail terrace encompassing a single A1 unit with a gross floor area of 1,487sqm (including a mezzanine floor) and two additional food and drink units (A3/A5) totalling 409 sqm and 167 sqm gross. The A1 unit is intended to be occupied by M&S Food whilst the larger of the food and drink units is intended to be occupied by Nandos and the smaller one by a Starbucks drive thru operation. The M&S Food unit will predominantly be used for the sale of convenience goods, although it is acknowledged that a small proportion of floorspace is required for the sale of a limited range of comparison goods such as flowers and greeting cards. The unit will also accommodate a cafe.

In total, the application seeks permission for 2,063sqm (gross) of main town centre use floorspace in an 'out-of-centre' location. The applicant has argued that the uplift in floorspace that is being proposed should be offset by the fact that the site can currently be used for the sale of fireplaces and surrounds. I'm not convinced by this

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argument as the current use is strictly conditioned to the sale and display of fireplaces and doesn't allow for the sale of convenience goods, which is what is being applied for. The fall-back position is only really relevant if the new use also intends to sell the range of already consented goods, which is unlikely to be the case in terms of M&S Food, Nandos and Starbucks.

As noted above, the site is located to north of Wyvern Retail Park, but is not included within the current boundary of the retail park. In either case, the site is considered to be 'out-of-centre' from a retail planning perspective. This engages the need to consider the requirements of the NPPF and DCLP1 policy CP13, which require the consideration of the sequential test and impact in relation to main town centre uses. In addition to these policy matters, it is also necessary to consider the loss of the site from the employment land supply (CP10), impacts on the delivery of improvements to the A52 (CP24) and the loss of a historically significant building (CP20 and E19). The site is also located in close proximity of and is related to (in highways and traffic terms) the Derwent Triangle site which is a strategic employment area identified in the DCLP1 (AC11). It's also necessary to consider the impact of the proposal on the delivery of this site, which forms a fundamental part of Derby's employment land supply.

### **Sequential Test**

In the case of out-of-centre proposals such as this, 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. Consistency with the sequential test is required for both the retail (A1) floorspace being proposed and the food and drink floorspace (A3/A5), which are also considered to be main town centre uses. It is acknowledged that the food and drink uses will have a smaller PCA than the main retail use (assuming that the 'need' is predominantly derived from visits to the adjacent retail park) and therefore it is logical to use the larger PCA to inform the sequential test.

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. Whilst the proposed operator should not be a determining factor in terms of consistency with the sequential test, ultimately it is difficult to separate the issue of 'need' and the proposed operator. In this case, M&S Food are seeking to add representation on the eastern side of the city, adding to their existing stores at Kingsway (west) and the city centre (Intu). The proposal site is generally capable of meeting this 'need' and the applicant has then identified a 13 minute drive time isochrone from the site to establish the broad location of the PCA for the proposed store. I am satisfied that the PCA is broadly logical and is a robust basis for the sequential test.

During the life of the application, the Toys R Us unit on the Wyvern Retail Park became available and the applicant was asked to provide additional information to suggest why the proposed uses could not locate within Toys R Us which is a sequentially preferable location. We reviewed the additional information and concluded that due to the nature of the proposed uses it would not be possible to

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design a suitable layout utilising the existing floorspace as the applicant has stated that they are unable to disaggregate the uses.

Based on the extent of the PCA and following discussions and negotiations with the applicant, they have submitted information which demonstrates that they have considered the merits of alternative sites in the city centre and the District Centres within the PCA (as well as Mickleover and Cavendish). They have also assessed identified out-of-centre locations (retail parks) which are considered by CP13 to be preferable to the creation of new out-of-centre floorspace. Neighbourhood Centres were discounted from the outset due to being too small. The test requires applicants to consider whether alternative sites are suitable, are available, are likely to become available and viable for the development being proposed.

Unfortunately, case law has undermined our ability to require applicants to disaggregate proposals for the purposes of the sequential test. This means that the suitability of sites needs to be assessed in terms of accommodating the full development as proposed – in this case three units and associated parking. Unless there is a viability argument that requires the 3 units to be delivered in conjunction (which I've seen no evidence of), there is no reason why it should be considered unreasonable to see if for example the Nandos or Starbucks could be accommodated in a centre, even if the M&S can't. There is no functional relationship between the two uses and it is simply good planning to take a robust approach to the town centre first concept. However, case law (whilst contradictory) has undermined our ability to this and instead applicants are simply required to demonstrate flexibility. In this case, the applicant has used parameters of 6,395sqm and 7,779sqm based on 10% flexibility and a need to accommodate 2,026sqm of gross floorspace and then 60 parking spaces, trolley bays, service yard etc. In the context of current case law this seems reasonable.

Having reviewed all of the information that has been submitted in relation to the sequential test, whilst not necessarily agreeing with all the conclusions of the submitted information, I am satisfied that there are no sequentially preferable locations within the defined PCA that could accommodate the scale and nature of the development proposed. Whilst the inability to disaggregate such proposals can lead to potential opportunity costs (i.e. missed opportunity to fill in-centre units), I am minded to conclude that the proposal is consistent with the provisions of the NPPF and CP13 in terms 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;

This approach is reflected in policy CP13 which requires all proposals for retail, entertainment, recreation and leisure development outside defined centres, to demonstrate that:

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- the proposal would not, individually or cumulatively, have a significant adverse impact on the role, vitality, viability or competitiveness of any centre in the City's hierarchy or in an adjoining local authority area or on local consumer choice and competition
- the proposal would not prejudice planned public or private investment within defined centres or other development proposed by this Plan

In order to aid consideration of these issues, CP13 sets a threshold of 1,000sqm, above which applicants are required to submit a retail impact assessment. The applicant has submitted various pieces of information following discussions, which, when combined, provide the evidence to consider the issue of impact.

It is important to note at this stage 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 the vitality and viability of an existing centre is through diversion of trade. Therefore I have given most consideration to this type of impact.

The starting point for considering potential trade diversion is to determine the potential turnover of the proposed store. The impact assessment provided by the applicant is based on the M&S Food store totalling 1,487sqm (gross) with a net sales area of 710sqm (700sqm convenience and 10sqm comparison) and a further 100sqm used as a cafe. Based on a sales density of £9,821 per sqm (based on Mintel and M&S data) this suggests a turnover of approximately £8m. My instinct is that this is possibly slightly underplaying the sales density of the proposed store, however in the absence of alternative evidence and given that quantitative assessment is purely indicative, I am willing to accept this figure as the basis for the assessment. However, it should be kept in mind that turnover could be nearer £9m.

The applicant has not considered the impact of the proposed food and drink uses as part of the quantitative assessment. Whilst CP13 requires consideration of impact for all main town centre uses, it is acknowledged that the PPG now specifically states that the test only applies to retail, office and leisure. The question is whether food and drink falls under the retail or leisure category. However, for the purposes of the quantitative assessment it is logical to discount these uses due to the relatively limited amount of floorspace involved and the complexities of quantifying their impacts. It is more logical to consider their potential impacts more qualitatively, as discussed later in this report.

Before looking at where the turnover of the new store will be derived / diverted from, the applicant has attempted to demonstrate that there is some 'headroom' in terms of retail capacity, which means that expenditure is available without being diverted from other stores and leading to impacts. Whilst I acknowledge that this is a logical approach, in the absence of an up to date retail study and associated household survey to understand expenditure patterns, it's not really possible to calculate a robust capacity figure. It therefore needs to be assumed that all of the turnover will be diverted from existing stores – i.e. no surplus capacity. Given the number of

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unimplemented and lapsed commitments this scenario is unlikely; however it is another case of providing a robust basis for the assessment. The new Retail Study to be published later this year will provide updated evidence in this regard.

In the absence of an up to date retail study it is also difficult to robustly determine existing patterns of trade draw, market shares and the extent of any over / under trading. It's therefore necessary to simply use common sense and logic to determine where potential trade diversion and impacts are likely to occur. Following discussions with the applicant, they have submitted a simplified impact assessment.

The simplified assessment demonstrates that a store of the nature proposed in the location proposed is likely to divert the majority of its turnover from similar existing stores in the vicinity, which are already meeting a similar need, whether that be local food shopping and / or bypass trips on the A52. The applicant has assumed that around 40.5% (£3.18m) of the new stores turnover will be diverted from Sainsbury's (Wyvern), with a further 30% (£2.39m) diverted from Asda (Spondon), 10% (£0.8m) from Morrison's (Meteor), 0.5% from existing M&S Food stores at Kingsway and the city centre and 19% (£1.51) from 'other' locations outside of the PCA, given the proximity of the A52. I am satisfied that based on the proposed occupier (M&S Food), this represents a logical pattern of trade diversion (assuming no capacity). Sainsbury's, Asda and Morrison's receive no policy protection as they are also located in out-of-centre locations, so any diversion of trade is simply a case of competition as opposed to impacts to be concerned about. Nonetheless, taking account of the health of these existing stores and assuming some degree of expenditure growth in the future, this level of diversion is unlikely to undermine the business model of these operators.

Whilst M&S Food is the named operator, any future permission will only relate to A1 convenience retail. Therefore the dynamics of trade diversion may be different if an alternative operator occupied the store in future. In order to account for this issue, the applicant has provided some additional information which assumes that 10% of the new stores turnover is diverted from Chaddesden District Centre, as the nearest centre to the application site. Based on various assumptions about floorspace, sales densities and turnover, the applicant has concluded that in a scenario where 10% of turnover of the new store is diverted from Chaddesden District Centre, this is unlikely to create an impact of any more than 5% of the turnover of the centre as a whole.

Concerns have previously been raised about the potential for cumulative impacts on Chaddesden. However, given the nature of existing retail provision in the centre (Aldi, Lidl, Iceland, Tesco Metro, Co-op), the likelihood of impacts being focussed on a single anchor store, to the point which could result in closure, are unlikely. Impacts are more likely to spread across a number of larger operators and in the case of Aldi and Lidl it is anecdotally evident that the stores are likely to be overtrading. Even when accounting for other committed schemes in this area (Derwent Triangle), I am satisfied that the proposed retail floorspace is unlikely to result in significant adverse impacts for any defined centre in the hierarchy. However, this conclusion is based on the assumptions provided by the applicant. Therefore, it is important to ensure that appropriate conditions are applied to formalise some of the assumptions such as the amount of net sales area (810sqm) and the split between convenience and comparison floorspace (700sqm and 10sqm).

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In terms of the proposed food and drink floorspace, as already acknowledged it is difficult to quantify potential impacts. Therefore it is logical to look at more qualitative factors. Wyvern Retail Park is already served by a number of food and drink establishments, including McDonalds and Costa Coffee drive through, as well the cafe within Sainsbury's. Within the wider area between the retail park and Costco there is a Pizza Hut, KFC and Burger King, whilst on Pride Park itself there is a Frankie and Benny, Greggs, Subway, Harvester and Chiquito. In all likelihood, the proposed Nandos and Starbucks will divert trade from these locations, all of which are also out-of-centre, thus receive no policy protection. The bulk of trade to the new facilities will come from people already shopping at the retail park or already bypassing along the A52. Therefore it is doubtful that any significant adverse impacts will result on centres.

In addition to the matters discussed above, CP13 also seeks to ensure that proposals do not undermine the strategy and objectives of the DCLP1. This part of the policy in essence seeks to maintain the complementarity between the role of in-centre and out-of-centre retail locations. Consistency with this element of the policy is generally ensured through the imposition of appropriate conditions to limit the sale of goods from out-of-centre locations that traditional centres rely on for their vitality and viability. Subject to an appropriate condition limiting comparison sales to 10sqm, I am satisfied that the proposal will not undermine the Council's overall retail strategy.

I am also satisfied that the proposal would not have a significant adverse impact on committed and planned public and private expenditure within centres.

### **Food and Drink Uses**

In addition to the consideration of the sequential test and impact, the food and drink uses need to be considered in the context of CP15. The policy is very much written in the context of supporting food and drink uses where they are located in-centre, however paragraph 5.15.6 of the supporting text acknowledges that it is not uncommon for food and drink uses to be located on retail parks, subject to the provisions of CP13 and in terms of impact on amenity, accessibility and traffic. However, in the case of A5 uses, the policy provides useful criteria to consider when assessing such proposals. I am satisfied that an A3/A5 use in this location is capable of meeting the various relevant criteria listed in the policy.

### **Employment Land**

In terms of employment land considerations, as already noted, the site is identified as existing employment land on the Policies Map and therefore CP10 is relevant. CP10 allows for the loss of existing employment land in certain circumstances such as where:

- the alternative use would benefit the economy of the city or other strategic objectives of the Plan
- existing land or buildings no longer meet modern requirements and that they have been adequately marketed for the employment land supply would not be unduly affected in terms of quantity or quality
- surrounding uses would not be adversely affected and in the case of sites near to residential areas would lead to an improved environment for residents;

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The proposal is capable of satisfying these criteria. In any case, it should also be noted that the existing / previous use of the site was as a workshop / showroom, with sales, so the traditional employment function (B use) of the site was relatively limited. The fact that the proposal will provide a step change in the employment density on the site is also highly material in terms of consistency with CP10 and CP9.

### Conclusions on Principle of Development

There are no in principle objections to the proposed uses being introduced in this location. Therefore the proposal is broadly compliant with the relevant national and local planning policies in this regard.

## **7.2. Highways Impacts**

The position of highways colleagues has remained clear and consistent during the life of this planning application; their concerns are in respect of trip generation/trip data and the provision of a suitable mitigation scheme. That being said, colleagues have continued to work proactively with the applicant in respect of seeking to address their concerns.

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

Paragraphs 108 and 109 of the NPPF requires that *“All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:*

- a) *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;*
- b) *safe and suitable access to the site can be achieved for all people; and*
- c) *improvements can be undertaken within the transport network that cost effectively limits the significant impacts of the development.*

*Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”*

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

Colleagues have continually been concerned that the trip generation presented in the submitted Transport Assessment (TA) is overly optimistic and not representative of other similar uses, particularly during the Weekday Lunchtime peak (12.00 – 13.00). Normally, Transport Assessments would consider the AM and PM peaks of the day however survey data shows that traffic levels do increase within the midday peak and in some cases these traffic levels increase above the AM and/or PM peak periods when considering retail parks. Colleagues have observed similar patterns of traffic increases at other retail parks within the City including Kingsway Retail Park. In order to overcome the disagreements with the developer’s team in respect of trip generation colleagues have undertaken surveys of similar uses, including Wyvern

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Costa Drive Thru and the Marks and Spencer's Food hall at Kingsway. The results of survey work showed that trip rates were 60% higher than those set out in the submitted TA.

The principal issue, in respect of highways, is that if the proposed development operates at much higher trip rates, similar to those observed in other locations, then there would be significant consequences on the operation of the Wyvernside Retail Park (Costco, KFS etc.) through increased queuing.

The submitted scheme only provides one point of access to Wyvernside which already serves Costco, KFC, Burger King and Pizza Hut and has a finite capacity to the amount of development it can support. Following the opening of the Costco Petrol Filling Station (PFS) the Council believes that Wyvernside has almost reached this capacity and in order to support the proposal additional improvements are required.

All development proposals have been tested against the completion of the A52 Junction Improvement Scheme as approved under code no. DER/01/16/00087 and includes a predication of the traffic generated by the Derwent Triangle development, under code no. DER/11/14/01570.

The applicant has contested the views of colleagues and in order to progress the matter White Young Green (WYG) were commissioned to undertake a review of the application and submitted information along with the views of colleagues. The applicant was engaged in this process through meeting with WYG and the sharing of information. Specifically WYG have reviewed:

- the trip rates and to establish whether colleagues are being overly cautious
- the proposed mitigation scheme and consider whether there are any other additional infrastructure improvements that could be implemented to allow the development to come forward in its current form

It is important to note that colleagues consider that it is the cumulative impact of all three uses that would have a significant impact on the highway network and the removal of one or more of the units could potentially overcome these concerns. The applicant has confirmed that they are unable to remove any of the units and wish the application to be determined on this basis. Therefore no further work has been undertaken to ascertain whether or not this is the case.

### Trip Rate Analysis

In terms of trip rate analysis, the proposed uses do not fall within the industry standard TRICS database, which is used in the assessment of trip generation. Therefore it has not been easy to assess this scheme as it would have been a housing or office scheme. Furthermore the concerns of colleagues are not within the typical AM or PM peak of the day; it is within the lunchtime peak (12.00 – 13.00). Therefore there are only limited samples and none that are specific to this type of development. Furthermore there are other influences over retail trip generations such as a stores location and market demand which are important and also unpredictable.

In respect of the Marks and Spencer component, WYG shared the concerns of colleagues in that it is difficult to assign trips from the TRICS database and also concluded that the submitted TA is not considered to be representative of the proposed development. Furthermore, they noted that the sample trips within the

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submitted TA do not reflect the characteristics of the proposal in respect of its location, the use of non-Friday data to calculate Friday trips and the inclusion of a site with a petrol station, which this proposal does not accommodate.

In respect of the Starbuck's and Nando's, WYG also found that the trips within the TRICS database were not reflective of these uses and actual surveys should be used to consider the impact of these uses. They considered that the surveyed trip rates produced by colleagues were more reflective of the proposed development.

The applicant has addressed previous concerns, in respect of the lack of consideration of the mezzanine floors and their impact on trip generation.

Furthermore the applicant has stated that the A3/A5 uses will be ancillary to the A1 when the A1 use already proposes to accommodate its own ancillary café. I am therefore at a loss as to how this A1 unit requires 3 ancillary uses, its own café, a restaurant and a coffee shop with drive-thru facility.

As such WYG, confirmed that the impact of the proposed development would be greater than that shown within the submitted TA supporting colleagues initial concerns that the trip rates to the proposed development could in fact be 60% greater.

### **Alternative Mitigation Solutions**

The completion of the A52 junction scheme, as approved, must be the base case for providing and testing any mitigation schemes put forward.

The applicant's initial mitigation scheme consisted of marking two lanes, to formalise queuing around the Wyvernside/Chequers Road roundabout, and marking the exit to the KFC/Pizza Hut arm with 'Keep Clear' markings. However, colleagues did not consider this scheme as suitable mitigation that provided any additional capacity. The Wyvernside/Chequers Road roundabout is a priority roundabout and should, therefore by design, remain clear of traffic. The 'Keep Clear' markings potential could cause confusion to drivers and give an impression of priority for vehicles entering the roundabout from the KFC/Pizza Hut arm. As such, drivers from Costco are likely to ignore the markings and block the KFC/Pizza Hut arm. As such, with increased traffic flow to the proposed development on the KFC/Pizza Hut arm, there is more potential for vehicles to block back onto the Toys R Us Junction.

Following discussions between the parties, on 18<sup>th</sup> July 2018, it was clear that there is no obvious highway improvement that will provide the additional, needed, capacity at the Derwent Parade/Wyvern Way Junction.

Following the opening of the Costco PFS, it is clear that the PFS is over trading and operates above the trip rates provided within their submitted TA and in order to alleviate the congestion caused and as part of the A52 scheme the approach lane to the junction (from the Chequers Road roundabout) would be widened to form two lanes. Therefore the introduction of the additional lane cannot be considered as mitigation for the proposed development.

The applicant has sought to amend this junction further by adding a third short lane for left turners only. However modelling shows that only 14% of vehicles leaving the proposed development would want to leave in this direction. Therefore any benefits arising from this mitigation scheme would be relatively limited. Furthermore, due to its

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short length there is a possibility that cars wishing to make this left move would in fact be stuck behind the two longer lanes. That being said, the scheme was not formally agreed or designed in full.

The applicant's initial mitigation scheme, which comprised of 'KEEP CLEAR' markings across the Chequers Road roundabout, was also not supported by WYG. They state that Paragraph 8.40 of the Traffic Signs Manual Chapter 5 identifies the use of KEEP CLEAR in order to help exit blocking problems, and should only be used after careful consideration of the safety risks. However, they are not to be proposed as mitigation for the impact of developments.

A further mitigation scheme was proposed in providing a 'left out' of the proposed development site onto the slip lane of the A52 westbound carriageway. The proposal would provide egress for users of the development only. However, this would require a slight re-design of the proposed car park. However, an agreement would need to be in place that would maintain the operation of the left slip, which would be under the control of the operator.

WYG have also considered the operation of the signalised Toys R Us junction in the Linsig model concluding that when development traffic is added to the junction it is significantly over capacity with substantial queueing on all approaches. The model has also been run with the proposed mitigation; however, none of the improvements fully mitigate the impact of the additional development traffic. WYG predicted that the best that could be achieved was approximately 40% mitigation with the left slip out from the development and the short third lane on Wyvernside. Furthermore, the model confirms that, even with mitigation, there would be queueing along Wyvernside approach beyond the storage available raising the potential for the internal roundabout (Chequers Road) locking up and queues forming within Costco and towards the development site, up to KFC.

### **Conclusions on Highway Impacts**

Despite the extensive work undertaken by all parties it has not been possible to design a mitigation scheme that would adequately address the concerns raised by colleagues and also shared by WYG. Therefore without suitable mitigation the proposal fails to provide *“safe and suitable access to the site can be achieved for all users; and any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree”*. As such the proposal is contrary to paragraphs 108 and 109 of the NPPF and policies CP23 and MH1 of the DCLP.

## **7.3. Other Material Considerations**

### **Heritage Matters**

As noted earlier in this report, there is an existing building currently on the site. The building is not listed (statutory or locally) but is recognised to have some historic significance, being the last remaining building associated with the former Chaddesden Sidings and relating to Derby's railway heritage. It should therefore be considered as a non-designated heritage asset and its loss should be considered in line with the NPPF, and Policy CP20 of the DCLP and Policy E19 of the CDLPR. CP20 seeks to resist proposals that would detrimentally impact upon all heritage assets, however it is acknowledged that paragraph 197 of the NPPF requires a

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'balanced judgement', taking account of the scale of harm to the asset and the significance of the asset.

The Derbyshire County Archaeologist, Conservation Area Advisory Committee (CAAC) and the Council's Built Environment Team all object to the loss of the Fireplace Workshop building and consider that the submitted information is inadequate concluding that the proposal is contrary to national and local planning policy.

Paragraph 189 of the NPPF requires the applicant to describe the significance of any heritage assets including any contribution made by their setting stating that "*The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.*" It is this point that has caused conflict between the consultees and the applicant. Consultees consider that insufficient information has been provided but the applicant considers that the information provide is sufficient for the non-designated heritage assets as it "*...of low heritage significance*".

The building is clearly part of the City's railway heritage but is considered a non-designated heritage asset. The building has been significantly altered over recent years and was significantly affected by a fire in the 1990's which resulted in significant demolition works with only an element of the building remaining. Furthermore the setting of the building following the construction of the adjoining retail units, retail park and wider Pride Park area has considerably changed the landscape and little now remains of the former sidings leaving the building isolated from other remaining railway buildings.

That being said, the building is a non-designated heritage asset and therefore consideration must be given to the development proposals impact on the non-designated asset. The building appears to have limited interest and has been neglected over recent years with very little remaining of its former railway use and as such I consider the non-designated heritage asset to be of low significance.

The applicant has considered the re-use of the building and provides detailed reasons as to why this isn't possible within the additional Heritage Submission including but not exclusive to the building not meeting current operator's needs. If the building were to be re-used it would require substantial works and the impact of the Compulsory Purchase Order for land for the A52 junction improvement scheme has reduced land around the building making servicing and providing a drive thru nearly impossible.

Policies CP20 and E19 of the DCLP and CDLPR respectively are material and the proposed demolition of this building, albeit not statutorily listed or included on the Council's own local list, would be contrary to these policies.

As the application seeks to demolish the Fireplace Workshop there would be direct harm to the non-designated heritage asset and therefore a balanced judgement must be undertaken having regard to the scale of the harm and the significance of the non-designated heritage asset.

The submitted heritage information considers the NPPF test and concludes that "...the economic benefits of the proposed development would outweigh the removal

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of the surviving building...". I consider that in meeting the policy test further consideration would need to be given to the public benefits arising from the proposal.

I consider the public benefits to be bringing back into use a vacant area of land which is in a prominent location on one of the City's main arterial roads along with service sector employment opportunities. The application states that around 45 full time equivalent jobs would be created and the construction of the development would support the economy in terms of construction jobs.

In determining this application the decision maker must weigh in the balance the impact of the scheme on the non-designated heritage asset and the benefits arising as a direct result of the scheme. If they determine that the impacts on the non-designated heritage asset are not outweighed by public benefits then planning permission should be refused.

In my opinion the matter of whether or not the public benefits arising from the proposed development outweigh the loss of the non-designated heritage asset is finely balanced. That being said, as the building is a non-designated heritage asset that is isolated from its former uses, has gone into disrepair and is now surrounded by relatively modern commercial development I am of the opinion that the public benefits from re-developing this site do tip the balance in favour of accepting the loss of the building. As such I consider that the proposed development satisfies the relevant test within the NPPF.

I note the wishes of consultees and letters of representation that wish to see the building carefully demolished and re-built in another location but do not consider it to be reasonable to impose this on the applicant.

### **Environmental Considerations**

I raise no concerns with regards to the design and external appearance of the proposal and/or its impact on the character of the surrounding areas. The proposed, in my opinion, would integrate reasonably well with the surrounding area.

The application has been considered by colleagues in Land Drainage and by the Environment Agency who do not raise any objections to the scheme subject to compliance with recommended conditions. The same can be said for Environmental Health who wishes to impose a contaminated land condition.

Derbyshire Wildlife Trust have not objected to the proposals but have requested that further considerations is given to the landscaping and the species of plants to be used which can be secured by way of a condition.

### **7.4. Planning Balance**

I am content that the site of the proposal is no longer required for employment purposes and that redevelopment will provide an opportunity to regenerate a prominent brownfield site, creating up to 45 FTE jobs.

The site of the proposal is an out-of-centre location and therefore 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. The information submitted by the applicant adequately demonstrates that the development as proposed cannot be suitably located in any sequentially preferable

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locations within the city. However, it should be noted that there could be an element of opportunity cost due to the inability to require disaggregation of the proposals for the purposes of the sequential test. However, this assumes a wider 'need' for the food and drink uses over and above serving customers already visiting the retail park.

In terms of impact, I am satisfied that the majority of trade to the new store will be diverted from existing out-of-centre locations and that any potential impacts on Chaddesden District Centre are unlikely to be significantly adverse – subject to the imposition of appropriate conditions limiting the net sales area and the convenience / comparison split. Provided such conditions can be applied, there are no concerns from an overall retail strategy perspective.

Whilst the application would result in the loss of the non-designated heritage asset, I am satisfied that the dis-benefits arising from its loss would be outweighed by the public benefits it would bring forward, in terms of overall site regeneration and job creation. That said Policies CP20 and E19 of the DCLP and CDLPR respectively are material and the proposed demolition of this building would be contrary to these policies.

There are no concerns with regards to the overall layout, appearance and impact on the setting of the retail park and surrounding area. There are also no over-riding environmental impacts arising from the proposal, in respect of drainage, flood risk and ecology subject to the compliance with conditions.

The remaining key issue is the impact of the proposed development on the public highway. The comments of colleagues which are supported by independent consultants, White Young Green (WYG) are clear.

There have been discrepancies during the determination of the application regarding the trip generation of the proposed development between the applicant and colleagues. However WYG have confirmed that they consider the trip rates submitted by the applicant to be conservative and support the position of colleagues in that the trip rates are likely to be significantly higher; 60% higher when looking at recent survey data taken at similar uses.

Although the applicant has submitted a highway mitigation scheme this is not considered to be sufficient to mitigate the impacts of the proposed development and it raises concerns over highway safety. Furthermore, following extensive discussions, negotiations and consideration by colleagues and WYG it has been agreed that no mitigation scheme, sufficient to meet the impacts of the scheme, is achievable.

It should therefore be noted that if planning permission were to be granted, despite the recommendation below, and the impacts are as predicted then the Highways Authority has no scheme that can mitigate the queue lengths and congestion envisaged.

Overall, the proposed development on land at the Fireplace Workshop is considered to be an unacceptable form of development for the reasons set out above. The benefits arising from the scheme do not outweigh the significant highway impacts. The proposal also fails to demonstrate the provision of a safe egress and access to the site and confirm that the significant highway works would not have a severe impact on the existing road network.

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In light of the above I recommend planning permission is refused as the proposal does not, on balance, constitute a sustainable form of development. It would not comply with the National and Planning Framework, the Derby City Local Plan – Part 1 Core Strategy (Adopted 2017) and the saved policies within the adopted City of Derby Local Plan Review (Adopted 2016).

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

**8.1. Recommendation:**

**To refuse** planning permission

**8.2. Reason:**

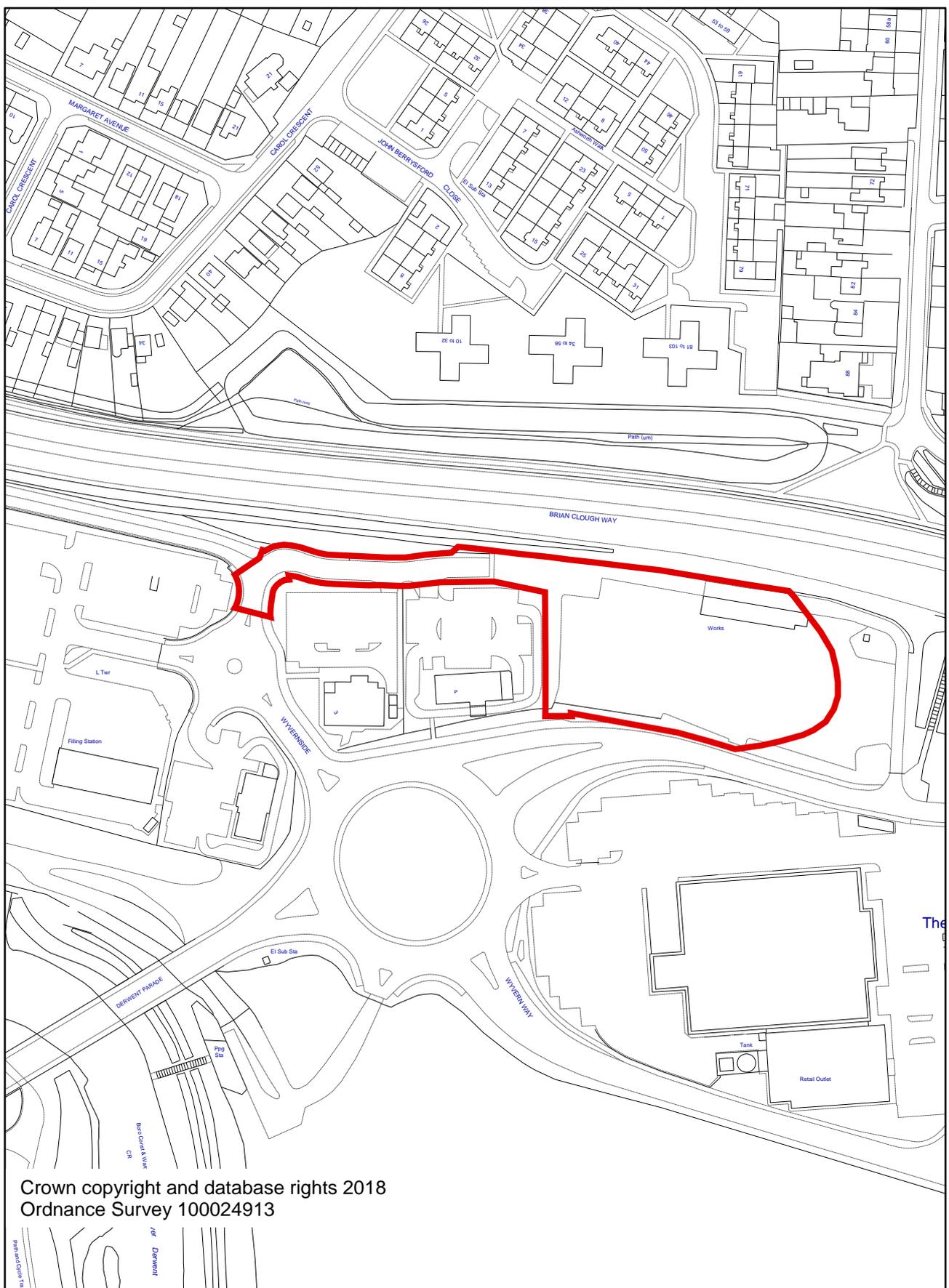
1. In the opinion of the Local Planning Authority the applicant has failed to demonstrate:
  - a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
  - b) safe and suitable access to the site can be achieved for all users; and
  - c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

The proposal is therefore contrary to policy CP23 and MH1 of the adopted Derby City Local Plan - Part 1: Core Strategy and paragraphs 108 and 109 of the National Planning Policy Framework (July 2018).

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## Derby City Council

Delegated decisions made between 01/10/2018 and 31/10/2018

Application No.	Application Type	Location	Proposal	Decision	Decision Date
10/17/01347/PRI	Full Planning Permission	48 Shaldon Drive, Littleover, Derby	Two storey and single storey side and rear extensions to dwelling house (lounge, kitchen, utility room, garage, three bedrooms, en-suite, bathroom and enlargement of dining room) and formation of rooms in roof space (bedroom and bathroom) with rear dormer	Refuse Planning Permission	10/10/2018
12/17/01586/PRI	Full Planning Permission	17 St. Pauls Road, Derby	Installation of replacement windows and door to the front elevation	Granted Conditionally	11/10/2018
01/18/00050/PRI	Full Planning Permission	60 Oregon Way, Chaddesden, Derby	Two storey side and single storey rear extensions to dwelling house (garage, utility room, wet room, summer room, bedroom and en-suite)	Granted Conditionally	03/10/2018
01/18/00114/PRI	Full Planning Permission	Land Mansfield Road, Oakwood, Derby	Formation of temporary site access in connection with previously approved planning permission Code No. DER/03/17/00283	Withdrawn Application	04/10/2018
01/18/00125/PRI	Variation/Waive of condition(s)	Site of California Works, Parliament Street, Derby	Residential development (8 dwelling houses, 6 apartments and formation of car park) - variation of condition 2 of previously approved planning permissions Code No. DER/05/11/00515 and Code No. DER/10/15/01283 to amend the approved plans	Granted Conditionally	04/10/2018
03/18/00477/PRI	Full Planning Permission	Land corner of Uttoxeter Road and Limes Avenue, Mickleover, Derby	Demolition of the existing commercial units. Erection of eight commercial units (use classes A1, A2, A3, A4, D1 and beauty treatment salon)	Granted Conditionally	09/10/2018
04/18/00498/PRI	Listed Building Consent - alterations	117 Chaddesden Lane, Chaddesden, Derby	Installation of replacement windows	Granted Conditionally	03/10/2018
04/18/00555/PRI	Advertisement consent	Units 15 -16 Eagle Park, Alfreton Road, Derby	Display of two non-illuminated fascia signs	Granted Conditionally	01/10/2018

Application No.	Application Type	Location	Proposal	Decision	Decision Date
04/18/00625/PRI	Full Planning Permission	26 Field Lane, Alvaston, Derby	Installation of a new roof to the existing conservatory	Granted Conditionally	04/10/2018
05/18/00724/PRI	Full Planning Permission	3 Whitaker Road, Derby (The Coach House)	Conversion of coach house to include extensions, raising of the roof height and installation of new windows and doors to create ancillary accommodation for the main dwelling	Granted Conditionally	11/10/2018
05/18/00768/PRI	Full Planning Permission	27 Hatfield Road, Alvaston, Derby	Single storey side extension to dwelling (two bedrooms and wetroom)	Granted Conditionally	12/10/2018
05/18/00781/PRI	Advertisement consent	30A Ashbourne Road, Derby	Display of one non-illuminated fascia signs and two non-illuminated notice boards	Granted Conditionally	04/10/2018
06/18/00827/PRI	Full Planning Permission	Land rear of 17 and 19 Derby Road, Chellaston, Derby (access between 19 and 21)	Erection of a dwelling house with detached garage (use class C3)	Granted Conditionally	03/10/2018
06/18/00847/PRI	Full Planning Permission	31 Station Road, Chellaston, Derby	Two storey and single storey side extensions to dwelling house (utility room, w.c., living room, store, bedroom, en-suite and dressing room), installation of a dormer window to the front elevation and erection of a detached garage	Granted Conditionally	11/10/2018
06/18/00865/PRI	Full Planning Permission	30 The Hollow, Mickleover, Derby	Single storey side extension to dwelling house to link the dwelling to the existing garage	Granted Conditionally	04/10/2018
06/18/00870/PRI	Full Planning Permission	997 London Road, Derby (ASG Group)	Extensions to provide additional workshop space and 'drop test' facility	Granted Conditionally	04/10/2018
06/18/00886/PRI	Full Planning Permission	5 Keats Avenue, Littleover, Derby	Side and rear extensions to dwelling house and erection of outbuilding (garden room and store) - amendments to previously approved planning permission Code No. DER/05/17/00608 to include amendments to the roof, windows and materials and re-positioning and enlargement of the outbuilding	Granted Conditionally	02/10/2018

Application No.	Application Type	Location	Proposal	Decision	Decision Date
06/18/00973/PRI	Full Planning Permission	57 Willowcroft Road, Spondon, Derby	Erection of a detached garage	Granted Conditionally	11/10/2018
06/18/00977/PRI	Works to Trees under TPO	2 Arden Close, Derby	Felling of an Ash tree protected by Tree Preservation Order No. 280	Refuse Planning Permission	05/10/2018
06/18/00994/PRI	Full Planning Permission	2 Repton Avenue, Derby	Single storey rear extension to dwelling house (kitchen/dining area and lounge and erection of an outbuilding (garden room))	Granted Conditionally	02/10/2018
06/18/01000/PRI	Works to Trees under TPO	Elmhurst Court, Lonsdale Place, Derby	Works to various trees protected by Tree Preservation Order no. 424	Granted Conditionally	04/10/2018
07/18/01013/PRI	Works to Trees under TPO	10 Fairview Close, Littleover, Derby	Cutting back of the lower branches to give 2m clearance of the footpath of four Lime trees protected by Tree Preservation Order no. 30	Granted Conditionally	03/10/2018
07/18/01041/PRI	Full Planning Permission	The Workshop, The Maltings, Manchester Street, Derby	Retention of the formation of an additional basement flat (use class C3)	Granted Conditionally	04/10/2018
07/18/01048/PRI	Full Planning Permission	56 Crompton Street, Derby	Single storey rear extension to dwelling house (enlargement of kitchen)	Granted Conditionally	01/10/2018
07/18/01074/PRI	Variation/Waive of condition(s)	478 Burton Road, Derby	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) -Variation of Condition No. 2 of previously approved planning permission Code No. DER/09/17/01187 to add a rear dormer window	Granted Conditionally	01/10/2018
07/18/01075/PRI	Full Planning Permission	2 Vicarwood Avenue, Darley Abbey, Derby	Single storey rear extension to dwelling house (enlargement of kitchen and breakfast room)	Granted Conditionally	04/10/2018
07/18/01105/PRI	Full Planning Permission	1 Rannoch Close, Spondon, Derby	Two storey side extension to dwelling house (garage, bedroom, wardrobe and en-suite)	Granted Conditionally	04/10/2018

Application No.	Application Type	Location	Proposal	Decision	Decision Date
07/18/01110/PRI	Full Planning Permission	5 Scarsdale Avenue, Littleover, Derby	Two storey and single storey rear, and single storey extensions to dwelling house (kitchen, sitting/dining room, garage, entrance porch, bedroom and bathroom), alterations to the front elevation roof and installation of render - amendment to previously approved permission Code No. DER/05/17/00711 to amend the front elevation	Granted Conditionally	02/10/2018
07/18/01127/PRI	Advertisement consent	8 Market Place, Derby	Display of one non-illuminated fascia sign	Granted Conditionally	04/10/2018
07/18/01129/PRI	Full Planning Permission	112 Belper Road, Derby	Demolition of existing conservatory, and terrace. Erection of two storey rear extensions to dwelling house (basement level snug, garden room, circulation stair, kitchen, dining and study) installation of a new side window to study, formation of two terrace areas and installation of a new chimney	Granted Conditionally	05/10/2018
07/18/01134/PRI	Full Planning Permission	Unit 13, Eagle Park, Alfreton Road, Derby	Installation of a roller shutter, two air conditioning units and two extraction vents	Granted Conditionally	07/10/2018
07/18/01138/PRI	Certificate of Lawfulness Proposed Use	135 Brighton Road, Alvaston, Derby	Change of use from a dwelling house (use class C3) to a six bed house in multiple occupation (use class C4)	Granted	01/10/2018
07/18/01139/PRI	Variation/Waive of condition(s)	St. James Yard, St James Street and 8 The Strand, Derby	Change of use of two tram shed buildings in St. James Yard from use class B8 (storage and distribution) to use classes A3/A4 (drinking establishments/Cafe), insertion of mezzanine floor, demolition of shop front (8 The Strand) and formation of pedestrian link to the yard - Variation of conditions 2 & 7 of previously approved application code No. DER/09/16/01073	Granted Conditionally	12/10/2018
07/18/01148/PRI	Prior Approval - Telecommunications	Land in front of Castle and Falcon PH, East Street, Derby	Installation of a freestanding structure featuring digital display screens on two sides	Prior Approval Approved	11/10/2018
07/18/01149/PRI	Advertisement consent	Land in front of 79 St. Peters Street, Derby	Display of two digital LED display screens	Granted Conditionally	11/10/2018

Application No.	Application Type	Location	Proposal	Decision	Decision Date
07/18/01150/PRI	Advertisement consent	Land in front of Castle and Falcon PH, East Street, Derby	Display of two digital LED display screens	Granted Conditionally	11/10/2018
07/18/01151/PRI	Prior Approval - Telecommunications	Land in front of 79 St. Peters Street, Derby	Installation of a freestanding structure featuring digital display screens on two sides	Prior Approval Approved	10/10/2018
07/18/01157/PRI	Full Planning Permission	38 Hamilton Road, Derby	Two storey side and single storey front extensions to dwelling house (garage, wetroom, bedroom, en-suite and enlargement of hall and kitchen)	Granted Conditionally	01/10/2018
07/18/01158/PRI	Works to Trees under TPO	11 Church Lane, Darley Abbey, Derby	Removal of deadwood and a limb of a Walnut tree protected by Tree Preservation Order no. 178	Granted Conditionally	03/10/2018
07/18/01160/PRI	Full Planning Permission	36 Danebridge Crescent, Oakwood, Derby	Single storey front extension to dwelling house (enlargement of study and hall)	Granted Conditionally	07/10/2018
07/18/01163/PRI	Full Planning Permission	12 Lockwood Road, Allestree, Derby	Two storey side and rear and single storey front and rear extensions to dwelling house (portico, garage, utility, living/kitchen, three bedrooms and en-suite) and installation of a new first floor window to the side elevation	Granted Conditionally	04/10/2018
07/18/01165/PRI	Full Planning Permission	18 Repton Avenue, Derby	Single storey side and rear extensions to dwelling house (guest room, wet room and kitchen/dining room)	Granted Conditionally	01/10/2018
08/18/01177/PRI	Full Planning Permission	Land at the rear of 460 Stenson Road, Derby (access off Gary Close)	Erection of a dwelling (use class C3) and erection of a boundary fence	Refuse Planning Permission	12/10/2018
08/18/01179/PRI	Full Planning Permission	Presbytery Building, Our Lady Of Lourdes Catholic Church, 36 Uttoxeter Road, Mickleover, Derby	Erection of an entrance porch	Granted Conditionally	07/10/2018
08/18/01187/PRI	Full Planning Permission	77 Kings Drive, Littleover, Derby	Retention of the installation of a front boundary wall and gates	Granted Conditionally	01/10/2018
08/18/01188/PRI	Full Planning Permission	42 Ormskirk Rise, Spondon, Derby	Two storey side extension to dwelling house (lounge, bedroom and en-suite)	Granted Conditionally	04/10/2018
08/18/01189/PRI	Works to Trees in a Conservation Area	St. Matthews Church, 25 Church Lane, Darley Abbey	Felling of a Lawson's Cypress tree within the Darley Abbey Conservation Area	Raise No Objection	11/10/2018

Application No.	Application Type	Location	Proposal	Decision	Decision Date
08/18/01191/PRI	Full Planning Permission	17 Mortimer Street, Derby	Erection of an outbuilding (gym)	Granted Conditionally	01/10/2018
08/18/01192/PRI	Full Planning Permission	1155 London Road, Derby	Single storey side and rear extensions to dwelling house (sun room/lounge) and installation of a dormer to the rear elevation to form rooms in the roof space (bedroom and en-suite)	Granted Conditionally	01/10/2018
08/18/01196/PRI	Full Planning Permission	16 Ypres Road, Allestree, Derby	Single storey extension to dwelling (utility room) together with alterations to roof and formation of additional rooms in roof space (study and en-suite) and erection of a detached garage	Granted Conditionally	03/10/2018
08/18/01197/PRI	Full Planning Permission	20 Tonbridge Drive, Alvaston, Derby	Single storey rear extension to dwelling house (conservatory)	Granted Conditionally	01/10/2018
08/18/01198/PRI	Full Planning Permission	86-88 St. Thomas Road, Derby	Retention of the installation of ATM	Granted Conditionally	01/10/2018
08/18/01199/PRI	Advertisement consent	86-88 St. Thomas Road, Derby	Retention of the installation of an internally illuminated ATM surround	Granted Conditionally	01/10/2018
08/18/01202/PRI	Full Planning Permission	Pride Park Stadium, Pride Park, Derby	Formation of a memorial garden	Granted Conditionally	11/10/2018
08/18/01203/PRI	Full Planning Permission	13 Hardwick Drive, Mickleover, Derby	Erection of a detached garage	Granted Conditionally	04/10/2018
08/18/01205/PRI	Certificate of Lawfulness Proposed Use	16 Crompton Street, Derby	Change of use from a dwelling house (use class C3) to a house in multiple occupation (use class C4)	Granted	02/10/2018
08/18/01206/PRI	Full Planning Permission	Land at the side and rear of 35 Keats Avenue, Littleover, Derby	Erection of a dwelling house (use class C3)	Granted Conditionally	10/10/2018
08/18/01207/PRI	Certificate of Lawfulness Proposed Use	76 Station Road, Mickleover, Derby	Single storey side and rear extensions to dwelling house (utility, study and family room)	Refuse Planning Permission	10/10/2018
08/18/01208/PRI	Full Planning Permission	76 Station Road, Mickleover, Derby	Single storey side and rear extensions to dwelling house (study, utility and family room) and installation of a new first floor window to the side elevation	Granted Conditionally	04/10/2018
08/18/01211/PRI	Full Planning Permission	41 Sunnyhill Avenue, Derby	Single storey front extension to dwelling house (porch and w.c)	Granted Conditionally	09/10/2018

Application No.	Application Type	Location	Proposal	Decision	Decision Date
08/18/01213/PRI	Full Planning Permission	64 Hoult Street, Derby	Single storey side and rear extensions to dwelling house (kitchen/living space) and formation of a excavated patio area with retaining structures	Granted Conditionally	04/10/2018
08/18/01216/PRI	Full Planning Permission	12 Stonesby Close, Oakwood, Derby	Single storey front extension to dwelling house (enlargement of living room)	Granted Conditionally	11/10/2018
08/18/01218/PRI	Full Planning Permission	86 Ladybank Road, Mickleover, Derby	Formation of a vehicular access	Granted Conditionally	03/10/2018
08/18/01219/PRI	Full Planning Permission	Land adjacent to 40 Vicarage Avenue, Derby	Erection of a dwelling house (use class C3)	Granted Conditionally	09/10/2018
08/18/01220/PRI	Full Application - disabled People	11 Albemarle Road, Chaddesden, Derby	Single storey rear extension to dwelling house (bedroom and shower room)	Granted Conditionally	04/10/2018
08/18/01221/PRI	Full Planning Permission	9 Owlswick Close, Littleover, Derby	Two storey and single storey rear extensions to dwelling house (enlargement of lounge, kitchen and two bedrooms)	Granted Conditionally	03/10/2018
08/18/01223/PRI	Full Planning Permission	47 Stonehill Road, Derby	Raising of the roof height and two storey extensions to bungalow to form a dwelling house	Withdrawn Application	29/10/2018
08/18/01224/PRI	Full Planning Permission	121A Nottingham Road, Derby	Change of use from offices to a tattoo studio (sui generis use)	Granted Conditionally	12/10/2018
08/18/01225/PRI	Works to Trees in a Conservation Area	Greenways, Burleigh Drive, Derby	Felling of Lawsons Cyprus and Leylandii trees within the Strutts Park Conservation Area	Raise No Objection	01/10/2018
08/18/01231/PRI	Full Planning Permission	47 Hallgate Close, Oakwood, Derby	Single storey front extension to dwelling house (porch)	Granted Conditionally	09/10/2018
08/18/01234/PRI	Prior Approval - Offices to Resi	Units 13 and 14 Masons Place Business Park, Nottingham Road, Derby	Change of use from offices (use class B1a) to 22 flats use class C3)	Prior Approval Refused	12/10/2018
08/18/01238/PRI	Full Planning Permission	Unit 41 Park Farm Centre, Park Farm Drive, Allestree, Derby	Change of use from retail (use class A1) to a nail salon (sui generis use)	Granted Conditionally	04/10/2018

Application No.	Application Type	Location	Proposal	Decision	Decision Date
08/18/01241/PRI	Full Planning Permission	13 Stockbrook Road, Derby	Change of use from a dwelling house (use class C3) to a 10 bed house in multiple occupation (sui generis use) including installation of a new window to the front elevation	Granted Conditionally	04/10/2018
08/18/01244/PRI	Full Planning Permission	Unit 1, Kingsway Retail Park, Derby	External alterations including installation of new shop fronts, re-cladding, new glazing and service doors	Granted Conditionally	10/10/2018
08/18/01246/PRI	Full Planning Permission	388 Kedleston Road, Derby	Single storey front, side and rear extensions to dwelling house (porch, garage, lounge and enlargement of kitchen/dining area)	Granted Conditionally	04/10/2018
08/18/01248/PRI	Full Planning Permission	26 Muswell Road, Derby	Single storey rear extension to dwelling (utility, w.c., and dining area) - amendments to previously approved planning permission Code No.DER/01/18/00120 to amend the roof design of the extension to a pitched roof	Granted Conditionally	04/10/2018
08/18/01249/PRI	Full Planning Permission	4 Castings Road, Derby	Change of use from gym (use class D2) to storage and distribution (use class B8)	Granted Conditionally	10/10/2018
08/18/01251/PRI	Full Planning Permission	6 Beech Avenue, Alvaston, Derby	Two storey side and rear and single storey rear extensions to dwelling house (garage, kitchen/dining area, two bedrooms, bathroom and en-suite)	Granted Conditionally	05/10/2018
08/18/01252/PRI	Full Planning Permission	5 Mulberries Court, Allestree, Derby	First floor front extension to dwelling house (bedroom and en-suite)	Granted Conditionally	04/10/2018
08/18/01255/PRI	Full Planning Permission	36 Shelton Drive, Shelton Lock, Derby	Single storey side extension to dwelling house (kitchen, utility room, w.c. and enlargement of kitchen/dining area)	Granted Conditionally	10/10/2018
08/18/01256/PRI	Full Planning Permission	10 Bracknell Drive, Alvaston, Derby	Two storey side and single storey front and rear extensions to dwelling house (porch, reception room, bathroom, utility room, three bedrooms and enlargement of kitchen/dining area)	Granted Conditionally	10/10/2018

Application No.	Application Type	Location	Proposal	Decision	Decision Date
08/18/01260/PRI	Full Planning Permission	30 Park Lane, Allestree, Derby	Two storey side and single storey side and rear extensions to dwelling house (dining room, utility room, bedroom, en-suite and enlargement of family room, kitchen and bedroom) and alterations to the front porch	Granted Conditionally	04/10/2018
08/18/01261/PRI	Full Planning Permission	234 Normanton Road, Derby	Two storey rear extension (enlargement of shop and the flat above) and installation of a dormer to the rear elevation	Granted Conditionally	07/10/2018
08/18/01262/PRI	Full Planning Permission	2 Cadgwith Drive, Derby	Single storey front, side and rear extensions to dwelling house (garage, w.c., enlargement of hall and kitchen)	Granted Conditionally	05/10/2018
08/18/01263/PRI	Full Planning Permission	Unit 10, Wyvern Retail Park, Wyvern Way, Chaddesden, Derby (McDonald's Restaurant)	Installation of aluminium cladding to the existing roof	Granted Conditionally	08/10/2018
08/18/01264/PRI	Advertisement consent	Unit 10, Wyvern Retail Park, Wyvern Way, Chaddesden, Derby (McDonald's Restaurant)	Display of various signage	Granted Conditionally	08/10/2018
08/18/01265/PRI	Full Planning Permission	Allestree Library, 2 Park Farm Centre, Park Farm Drive, Allestree, Derby	Installation of replacement windows and roof	Granted Conditionally	11/10/2018
08/18/01268/PRI	Full Planning Permission	27 The Hollow, Littleover, Derby	Single storey rear extension to dwelling house and an increase in height of the existing garage roof (garden room/lounge, bedroom and en-suite)	Granted Conditionally	07/10/2018
08/18/01270/PRI	Variation/Waive of condition(s)	Hanson Building Products Ltd, Alfreton Road, Derby	Erection of 4 industrial units - variation of conditions 2 and 5 of previously approved planning permission Code No. DER/10/13/01215 to amend the finished floor level of the building	Granted Conditionally	04/10/2018
08/18/01271/PRI	Full Application - disabled People	8 Challis Avenue, Chaddesden, Derby	Raising of the roof height of the existing single storey side projection	Granted Conditionally	05/10/2018
08/18/01272/PRI	Full Planning Permission	4 Mill Croft, Mickleover, Derby	Two storey side extension to dwelling house (utility, dressing area and en-suite)	Granted Conditionally	11/10/2018

Application No.	Application Type	Location	Proposal	Decision	Decision Date
08/18/01273/PRI	Full Planning Permission	26 Binscombe Lane, Oakwood, Derby	Single storey side extension to dwelling (utility room)	Granted Conditionally	10/10/2018
08/18/01280/PRI	Full Planning Permission	34 Eardley Close, Chaddesden, Derby	Two storey side and single storey front extensions to dwelling house (porch, kitchen, bedroom, dressing room and en-suite)	Granted Conditionally	10/10/2018
08/18/01284/PRI	Prior Approval - Householder	27 Holloway Road, Alvaston, Derby, DE24 0FN	Single storey rear extension (projecting beyond the rear wall of the original house by 4m, maximum height 4m, height to eaves 3m) to dwelling house	Prior Approval Not required	01/10/2018
08/18/01289/PRI	Works to Trees in a Conservation Area	116 Duffield Road, Derby	Felling of a Beech Tree within the Strutts Park Conservation Area	Raise No Objection	05/10/2018
08/18/01291/PRI	Works to Trees in a Conservation Area	Hallmark Hotel, Midland Road, Derby	Reduction in height and side branches overhanging the car park by up to 2.5m of a group of Lime trees within the Railway Conservation Area	Raise No Objection	03/10/2018
08/18/01292/PRI	Full Planning Permission	20 Colwyn Avenue, Derby	Two storey side and rear extensions to dwelling house (garage, kitchen/dining area, three bedrooms, en-suite, bathroom and dining area) - amendment to previously approved planning permission DER/02/18/00248 to extend the rear extension by an additional two metres	Granted Conditionally	09/10/2018
08/18/01295/PRI	Full Planning Permission	12 Market Place, Derby	Change of use of the first, second and third floors from health and beauty salon (sui generis use) to a tattoo studio (sui generis use)	Granted Conditionally	09/10/2018
08/18/01296/PRI	Variation/Waive of condition(s)	Land to the south of 19 - 21 Old Hall Road, Derby (access off Oak Drive)	Erection of two detached dwelling houses and two garages - variation of condition 2 of previously approved planning permission 07/14/00906 to amend plot 1 in respect of the size and roof height	Refuse Planning Permission	07/10/2018

Application No.	Application Type	Location	Proposal	Decision	Decision Date
08/18/01297/PRI	Variation/Waive of condition(s)	Land to the south of 19 - 21 Old Hall Road, Derby (access off Oak Drive)	Erection of two detached dwelling houses and two garages - variation of condition 2 of previously approved planning permission 07/14/00906 to amend plot 2 in respect of the size and roof height	Refuse Planning Permission	07/10/2018
08/18/01301/PRI	Works to Trees in a Conservation Area	Car Park at the rear of Norman House, Friar Gate, Derby	Crown lift to give 4-5 metres clearance from ground level and removal of any dead/dangerous branches in the crown of 2 Maple trees within the Friar Gate Conservation Area	Raise No Objection	04/10/2018
08/18/01302/PRI	Full Planning Permission	4 Partridge Way, Mickleover, Derby	Single storey side extension to dwelling (garage/workshop and annexe accommodation)	Refuse Planning Permission	09/10/2018
08/18/01303/PRI	Full Planning Permission	20 Bramblewick Drive, Littleover, Derby	Two storey rear extension to dwelling house (kitchen/family room and three bedrooms)	Granted Conditionally	12/10/2018
08/18/01305/PRI	Full Application - disabled People	618 Burton Road, Littleover, Derby	Single storey side and rear extensions to dwelling house (bathroom, bedroom and enlargement of kitchen/dining area)	Granted Conditionally	07/10/2018
08/18/01307/PRI	Advertisement consent	The First Church of Christ Scientist, Friary Street, Derby	Display of a non-illuminated canopy sign	Refuse Planning Permission	25/10/2018
08/18/01309/PRI	Full Planning Permission	9 Cromer Close, Mickleover, Derby	Two storey side extension to dwelling house (garage and bedroom)	Granted Conditionally	12/10/2018
08/18/01311/PRI	Listed Building Consent - alterations	Mews Cottage, 8 Mickleover Manor, Mickleover, Derby	Installation of replacement windows	Granted Conditionally	09/10/2018
08/18/01316/PRI	Temporary COU (from 30/05/2013)	18 Sadler Gate, Derby, DE1 3NH	Change of use from retail (use class A1) to restaurant and cafe (use class A3) for temporary period of two years, commencing 1 October 2018	Prior Approval Not required	01/10/2018
08/18/01317/PRI	Prior Approval - Householder	23 Morley Road, Chaddesden, Derby, DE21 4QU	Single storey rear extension (projecting beyond the rear wall of the original house by 4.95m, maximum height 3.38m, height to eaves 2.66m) to dwelling house	Prior Approval Not required	04/10/2018

Application No.	Application Type	Location	Proposal	Decision	Decision Date
08/18/01318/PRI	Full Planning Permission	31 Woodlands Avenue, Shelton Lock, Derby	Single storey front extension to dwelling house (porch)	Granted Conditionally	10/10/2018
08/18/01323/PRI	Full Planning Permission	Vacant Land on the Corner of Burton Road and Spa Lane, Derby	Erection of a three storey building comprising of five apartments (use class C3)	Granted Conditionally	12/10/2018
08/18/01327/PRI	Prior Approval - Telecommunications	Highway verge Osmaston Road, Derby (opposite the junction with Nightingale Road)	Erection of a 15m high monopole, three antennas and associated equipment cabinets	Prior Approval Approved	12/10/2018
08/18/01329/PRI	Prior Approval - Householder	113 Littleover Lane, Derby, DE23 6JJ	Single storey rear extension (projecting beyond the rear wall of the original house by 4.5m, maximum height 3.5m, height to eaves 2.5m) to dwelling house	Prior Approval Not required	04/10/2018
08/18/01331/PRI	Full Planning Permission	154-160 Burton Road, Derby	Installation of a new shop front and roller shutters to the front elevation	Granted Conditionally	07/10/2018
08/18/01333/PRI	Full Planning Permission	39 Darley Park Road, Derby	Single storey rear extension to dwelling house (w.c. and living space) and landscaping works to the rear garden	Granted Conditionally	12/10/2018
09/18/01334/PRI	Full Planning Permission	52 Woodlands Road, Allestree, Derby	Two storey and single storey rear extensions to dwelling house (kitchen/dining area, bedroom, dressing room and en-suite) - amendment to previously approved permission DER/04/18/00610	Granted Conditionally	07/10/2018
09/18/01338/PRI	Variation/Waive of condition(s)	1 Morledge, Derby	Change of use from multi function business hub (sui generis use) to financial and professional services (use class A2) - variation of condition 3 of previously approved permission DER/03/18/00350 to remove the need for a ground floor window display to the front elevation	Granted Conditionally	09/10/2018
09/18/01339/PRI	Full Planning Permission	Rolls Royce Plc, Wilmore Road, Derby	Erection of a substation	Granted Conditionally	10/10/2018
09/18/01342/PRI	Prior Approval - Householder	32 Darwin Road, Mickleover, Derby, DE3 5HU	Single storey rear extension (projecting beyond the rear wall of the original house by 4.6m, maximum height 3.8m, height to eaves 2.7m) to dwelling house	Prior Approval Not required	04/10/2018

Application No.	Application Type	Location	Proposal	Decision	Decision Date
09/18/01357/PRI	Variation/Waive of condition(s)	Site of the former Normanton Junior School, Grange Avenue, Derby	Erection of a school (use class D1) - Variation of condition 13 of previously approved permission DER/01/17/00088 in respect of surface water drainage	Granted Conditionally	16/10/2018
09/18/01363/PRI	Prior Approval - Offices to Resi	37 Iron Gate, Derby	Change of use of first, second and third floors from offices (use class B1) to 12 apartments (use class C3)	Prior Approval Approved	31/10/2018
09/18/01370/PRI	Full Planning Permission	11 Auckland Close, Mickleover, Derby	Single storey side extension to dwelling house (garage/store and study/office)	Granted Conditionally	11/10/2018
09/18/01382/PRI	Prior Approval - Householder	10 Trowbridge Close, Oakwood, Derby	Single storey rear extension (projecting beyond the rear wall of the original house by 3.94m, maximum height 3.6m, height to eaves 2.55m) to dwelling house	Prior Approval Not required	05/10/2018
09/18/01384/PRI	Non-material amendment	Plot L, Derby Commercial Park, Fernhook Avenue, Derby	Erection of a warehousing unit and ancillary office accommodation, vehicle maintenance unit, gatehouse, servicing and parking areas and landscaping (Plot L)- Approval of reserved matters - Non-material amendment to previously approved permission DER/04/18/00587 to relocate emergency access	Granted Conditionally	03/10/2018
09/18/01386/PRI	Full Planning Permission	25 Wheeldon Avenue, Derby	Single storey side/rear extension to dwelling house (kitchen and living space)	Granted Conditionally	11/10/2018
09/18/01396/PRI	Full Planning Permission	1 Jubalton Close, Allenton, Derby	Two storey side and rear extensions to dwelling house (sitting room, dining room, kitchen, utility room, study and two bedrooms)	Granted Conditionally	12/10/2018
09/18/01400/PRI	Prior Approval - Householder	50 Buxton Road, Chaddesden, Derby, DE21 4JJ	Single storey rear extension (projecting beyond the rear wall of the original house by 3m, maximum height 2.36m, height to eaves 2.36m) to dwelling house	Invalid - Finally Disposed of	02/10/2018

Application No.	Application Type	Location	Proposal	Decision	Decision Date
09/18/01407/PRI	Non-material amendment	105 Locko Road, Spondon, Derby	Single storey front extension (entrance hall) and side/ rear extension to dwelling house (utility room/storage, living/dining area, shower room and family room) to link the dwelling to the existing garage. Formation of a roof terrace, basement storage area, erection of a shed and retention of the erection of an outbuilding - non-material amendment to previously approved planning permission DER/07/17/00987 to amend the fenestration to the converted garage	Granted Conditionally	10/10/2018
09/18/01476/PRI	Non-material amendment	552 Kedleston Road, Derby	First floor rear and single storey side extensions to dwelling house (utility, kitchen, en-suite, dressing room and enlargement of bedroom) - non-material amendment to previously approved planning permission DER/02/18/00289 to widen the approved extension by 830mm	Granted Conditionally	10/10/2018