

THE DERBY CITY COUNCIL (CASTLEWARD) COMPULSORY PURCHASE ORDER 2020
PLANNING

SUMMARY OF THE STATEMENT OF EVIDENCE OF MR. JONATHAN
PHEASANT ON BEHALF OF DERBY CITY COUNCIL

PUBLIC INQUIRY 26 – 29 January 2021

1. This document provides a summary of the Derby City Council (Castleward) Compulsory Purchase Order (“**the Order**”) (CD 1.1) Planning Proof (ACQ/2B). It will set out the main relevant points which are covered in the Proof.
2. The Order has been made pursuant to section 17 of the Housing Act 1985 (CD 5.1) and section 13 of the Local Government (Miscellaneous Provisions) Act 1976 (CD 5.2), and there are no planning-specific statutory requirements to be satisfied before the Order can be confirmed. However, the planning context is relevant to the compelling case being advanced by “**the Council**”.
3. The Government's National Planning Policy Framework (“**NPPF**”) (CD 3.9) seeks to boost the supply of homes, to make effective use of land and to deliver 'sustainable development'. The planning system is 'genuinely plan led' and local authorities should prepare local plans which meet their growth needs and are deliverable.
4. The Derby City Local Plan Part 1 (“**DCLP1**”) (CD 3.2) is the Council's adopted strategic plan and the primary part of the development plan for planning decision making in the City. It was adopted in January 2017 after following the statutory plan making process including Examination in Public. The Plan is consistent with national planning policy and is based on 'sustainable development' and provides a strategy for growth while protecting important land and features. It is based on a robust evidence base, including objectively assessed evidence for housing needs. The evidence indicated that only around two thirds of Derby's housing need could be accommodated within the city by 2028. The DCLP1 sets a housing requirement of a minimum of 11,000 new homes in the City between 2011 and 2028, with over 5,000 further homes of Derby's need being met in adjacent local authority areas.
5. The delivery of the 11,000 dwellings over the 17-year plan period is currently in shortfall and the annual average housing delivery required to meet the 11,000 by 2028, which was originally 647, has increased to 761 at April 2020.
6. The policies of the plan fit into the wider overarching strategy and identify specific strategic housing and housing-led regeneration locations which are fundamental to the strategy and

to meeting the housing requirement. The Plan includes planning policies for the “**City Centre**” and “**Castleward**” itself, within the “**Eastern Fringes**” of the City Centre and establishes housing requirements for both locations.

7. The most relevant policy to Castleward is Policy AC6 (Castleward and the “**DRI**”). This sets out a vision of transformation for the area into a new, high quality neighbourhood delivering a minimum of 800 new homes and supporting facilities. Importantly Policy AC6 also states that the Council may use compulsory purchase powers if necessary, in order to deliver the policy requirements. This strategic allocation establishes that the existing employment uses will be lost due to the transformation of the area and the creation of a new neighbourhood.
8. The Council's aspirations for the regeneration of the area are long-standing and the Timeline (ACQ/2C/3) indicates various documents and milestones in progressing those aspirations. Castleward sits in the City Centre and Policy AC2 sets out a requirement for a minimum of 2,200 dwellings to be delivered in the City Centre over the Plan period and identifies Castleward as an area for regeneration. The strategy and requirements of Policy AC6 are therefore based on a long-standing need to improve and regenerate the area and Castleward is a vital part of the planning strategy for the City.
9. An “**Outline Planning Permission**” (05/12/00563) (CD 2.1) has been approved for the development of up to 840 new homes and complementary uses. An Illustrative Site Plan (ACQ/2C/5) indicates how the applicant envisaged the area being developed, although this layout is not a requirement of the Outline Planning Permission. The permission was granted in 2013 including the details of the first phase in Full. Compendium Living, (“**Compendium**”) have already completed the first phase under the Outline Planning Permission and a further block of apartments under a separate Full permission. A new Primary school and nursery is also under construction.
10. None of the development brought forward in the “**CUV**” to date is within “**the Order Land**” and some of it has not been delivered through the Outline Planning Permission. Two applications for Full planning permission for a total of 158 new dwellings between

Carrington Street and John Street are live but undetermined. This land is within the Order Land but as the applications are for Full permission, they do not sit under the Outline Planning Permission.

11. The loss of employment land within the Castleward area, was a consideration in determining the outline application.
12. The Outline permission includes a number of conditions which require works to be carried out before certain numbers of dwellings are delivered or occupied. A planning application (20/1568/VAR) has been submitted to vary/remove four of the conditions to ensure that they do not impede the future delivery of homes under the “**Scheme**”.
13. An objection has been made to the Order on planning related issues by Tarmac Trading Ltd (“**Tarmac**”) on the grounds that the Acquiring Authority (“**the Council**”) has failed to consider NPPF and Planning Practice Guidance on Minerals sites.
14. Specifically, the objection is that contrary to Paragraph 204(e) of the NPPF, the acquisition of property will cause various minerals processing activities and a viable business to cease, that 4 employees will be made redundant which is contrary to paragraph 80 of the NPPF and the Council fails to have regard to the Government's Planning Practice Guidance (“**The PPG**”) (Minerals) on safeguarding storage, handling and transport sites and the Acquiring Authority is failing to prevent development that would conflict with their business.
15. The PPG indicates that it is for Local Plans rather than Minerals Plans to set out policies relating to safeguarding facilities and sites for the storage, handling and transport of minerals, except where such facilities and sites are located at quarries or aggregate wharves or rail terminals. It is therefore for the City's local plan and not the Minerals Local Plan to include policies for minerals processing plants that are not situated at quarries, wharves or rail terminals.
16. In preparing the DCLP1, the Local Planning Authority needed to balance the requirements of the NPPF and the PPG and prioritise which are the most relevant/important to deliver

through their local plan strategy and detailed policies to ensure development needs are met in a sustainable way.

17. The need for housing in Derby was significant when the DCLP1 was prepared and the NPPF (2012 version) (CD 3.11) requirement to 'significantly boost the supply' of housing (paragraph 47) was a determining factor in arriving at the strategy for the Local Plan, particularly given the constrained nature of the city and lack of deliverable housing land.
18. Most mineral processing facilities/plants outside mineral working sites in the City are in employment locations and as such do have protection through DCLP1 (Policy CP10). However, this does not include Tarmac's site. Instead, the strategic policy for Castleward (within Policy AC6) sees the area being transformed from its current state to a new, high quality, neighbourhood. This policy and the Outline Planning Permission acknowledge that the existing businesses, including the batching plant are not envisaged to form a part of the new neighbourhood at Castleward.
19. There were no objections to the lack of a safeguarding policy for minerals processing facilities or to the allocation of the Castleward Urban Village ("**CUV**"), through policy AC6, on the specific grounds of loss of facilities for the processing of minerals, including by Tarmac.
20. Tarmac did make a representation on the Plan prior to its adoption but this related to them seeking changes to Green Wedge policy at another location and no representations were made about their site in Castleward. It is also noteworthy that Policy AC6 and Policy MH1 of the DCLP1 are explicit in their reference to the use of compulsory purchase powers.
21. Therefore, the Council did not fail to take account of the requirements of the Framework (CD3.11) and the PPG but chose to prioritise other national planning policy requirements and the Plan has been found Sound and Adopted on that basis.

22. In terms of the objection made by Tarmac on the basis of the loss of jobs, the first point to note is that paragraph 80 of the NPPF is aimed at planning policies and decisions and not the exercise of compulsory purchase pursuant to the Housing Act 1985(CD5.1).
23. However, it is, in any event, implicit in the DCLP1 policies and the Outline Planning Permission, both of which have been through due process, that the loss of the existing employment land has been considered and accepted in Castleward.
24. Furthermore, the Council is seeking to assist Tarmac with relocating its business to avoid any job losses, as explained in detail in the evidence of Ms Lister.

THE DERBY CITY COUNCIL (CASTLEWARD) COMPULSORY PURCHASE ORDER 2020
PLANNING PROOF

STATEMENT OF EVIDENCE OF MR. JONATHAN PHEASANT
ON BEHALF OF DERBY CITY COUNCIL

PUBLIC INQUIRY 26 – 29 January 2021

1 INTRODUCTION

- 1.1 This proof of evidence has been prepared in support of Derby City Council's ("**the Council**") application for confirmation of the Derby City Council (Castleward) Compulsory Purchase Order 2020 ("**the Order**") (CD 1.1), which seeks to acquire land in the "**Castleward**" area of the City for the provision of new market and affordable housing.
- 1.2 As the Order has been made pursuant to section 17 of the Housing Act 1985 (CD 5.1) and section 13 of the Local Government (Miscellaneous Provisions) Act 1976 (CD 5.2), there are no planning-specific statutory requirements to be satisfied before the Order can be confirmed. Nonetheless, the established planning context is relevant to the Council's compelling case. Consequently, the proof will set out the planning policies relevant to the development of the Castleward Urban Village ("**CUV**") and explain how they came into being. It will explain that the CUV area is subject to planning permission for the development of up to 840 new homes, complementary uses and associated infrastructure and it will respond to the relevant objections which have been made to the Order relating to planning matters.
- 1.3 The proof will, when read together with the Council's other proofs of evidence, demonstrate that the Council is justified in using compulsory purchase powers to deliver a quantitative and qualitative gain in housing in the area covered by the "**the Order Land**".
- 1.4 Details of the "**Scheme**" and a description of the general location of Castleward are set out in the evidence of Mr Gilman for the Council and are not repeated here.

2. QUALIFICATIONS AND EXPERIENCE

- 2.1 My name is Jonathan Pheasant and I am employed by the Council as a Senior Planning Policy Officer. I hold a Postgraduate Diploma in Urban and Regional Planning and I am a Chartered Member of the Royal Town Planning Institute.
- 2.2 I have worked in the Council's Planning Policy Team since 1998 and my main duties are related to planning policy development and monitoring. I was involved in the preparation of the Council's current Local Plan, the Derby City Local Plan Part 1 (“**DCLP1**”) (CD 3.2), including working on the supporting evidence base and policy development and appearing at the Examination in Public of the Plan.
- 2.3 The main area of planning policy I am involved with is Housing policy and as well as policy development and monitoring, my role involves providing support and information to other Council Officers and elected Members about this topic area.
- 2.4 My main involvement in the Order has been in providing information on the relevance of national and local planning policy to support the compelling case for the acquisition of Order Land in order to deliver established planning objectives and meet identified housing requirements in the City.
- 2.5 Given that my role is a Senior Planning Policy Officer, I have liaised with the Team Leader in the Council's Development Control Team in drafting Section 5 of this proof, which explains the planning applications and permissions that are relevant to the Order Land.

3 SCOPE AND STRUCTURE OF THIS EVIDENCE

- 3.1 In this evidence I will describe the relevant planning policies relating to the development of the CUV. This will include national planning policies, which are set out in the National Planning Policy Framework (“**NPPF**”) (CD 3.9), and the relevant policies of Derby's local plan which are contained in the adopted Derby City Local Plan Part 1 (“**DCLP1**”) (CD 3.2), also referred to as 'the Plan' and 'the Core Strategy'.
- 3.2 I will explain how national planning policies seek to boost the supply of homes, to make effective use of land and to deliver 'sustainable development' and how the national planning system is 'genuinely plan led' and requires local authorities to prepare local plans which meet their objectively assessed growth needs, and that their plans are both aspirational and deliverable.
- 3.3 My evidence will explain how the DCLP1 sets out a sustainable growth strategy for the City in order to meet its development needs. I will describe the relevant policies in the Plan which set the housing requirement for the City and establish how and where the homes required should be provided.
- 3.4 I will explain the specific planning policy for the CUV, which requires the transformation of the area into a sustainable, high quality residential neighbourhood providing a minimum of 800 new homes along with supporting facilities and infrastructure. I will also explain how the policy is part of wider area planning policies relating to the “**City Centre**” requiring the delivery of residential-led growth and regeneration in the City Centre in order to deliver a minimum of 2,200 new homes in that area.
- 3.5 My evidence will demonstrate that the DCLP1 policies are up to date, are consistent with national planning policy and that they have been rigorously tested through an Examination in Public (EiP) and found to be 'Sound' and 'Legally Compliant' by a Government appointed Planning Inspector.

- 3.6 I will then summarise how the relevant policies were developed, including how the local plan evidence base was used to inform them, explaining the reasons for the policies and how they were established.
- 3.7 My evidence will also explain that planning permission has been approved for the development of up to 840 new homes and supporting uses and infrastructure in Castleward, and that the first two phases of homes, commercial uses, open space and a new boulevard have been delivered. It will also describe how a partnership approach has been established between the Council and an appointed developer, Compendium Living ("**Compendium**"), in order to deliver the transformation of the area into a new, high quality residential neighbourhood in the heart of the City. This proof also outlines progress made to date on planning matters and the delivery of the relevant local plan policy objectives.
- 3.8 I will then respond to the single specific planning related objection which has been made against the Order.
- 3.9 This proof forms part of the wider evidence submitted by the Council to demonstrate that it now needs to use compulsory purchase powers in order assemble land in fragmented ownerships to assure the continued delivery of housing in the CUV and meet the local plan objectives.

4. CASTLEWARD URBAN VILLAGE – THE PLANNING CONTEXT

Introduction

- 4.1 In this section, I will introduce the planning policies that underpin and support the development of the CUV, before explaining how they came into being.
- 4.2 The relevant planning policies are set out in a hierarchical manner starting with national planning policy and working down to specific core policies and policies relating to specific identified areas of change within the City, including the specific policy relating to the CUV.

National Planning Policy

- 4.3 The NPPF, also known as 'the Framework', is the Government's planning policy. The Framework was first published in 2012 (CD 3.11) and has been subsequently updated in 2018 and most recently in 2019 (CD 3.9).
- 4.4 At the heart of the NPPF is a presumption in favour of 'sustainable development'. The Framework sets out economic, social and environmental objectives which should be pursued in mutually supportive ways through the planning system. It requires that these overarching objectives should be delivered through the preparation and implementation of plans and the application of the policies in the Framework.
- 4.5 Importantly, the NPPF (CD 3.9) states (Paragraph 15) that the planning system should be genuinely plan led. It requires that planning authorities produce local plans for their areas to provide a vision for their area and a framework for addressing housing needs and other economic, social and environmental priorities. It also requires that plans should set out an overall strategy for the pattern, scale and quality of development, and make sufficient provision for housing and other uses and that they should be aspirational but deliverable.
- 4.6 The NPPF also explains that local plans must pass four tests of 'Soundness' through a process of Examination. These tests include the requirements that plans seek to meet

their objectively assessed needs (including the need for housing) and that they are deliverable over the plan period.

4.7 Once local plans have been adopted, Paragraph 33 (CD 3.9) states that their policies should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary.

4.8 The Framework (CD3.9) gives great importance to the need to deliver a sufficient supply of homes and sets out that:

"To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay." (Paragraph 59)

4.9 It goes on to require that strategic policy-making authorities should establish a housing requirement figure for their whole area, which shows the extent to which their identified housing need can be met over the plan period (Paragraph 65).

4.10 Paragraph 117 sets out the Government's policy on the importance of 'Making effective use of land'. It states that:

"Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land."

4.11 The Framework also sets out the importance of local authorities ensuring delivery of land to meet development needs and advises them to use a full range of powers, including where necessary compulsory purchase powers. Paragraph 119 states that "Local planning authorities, and other plan-making bodies, should take a proactive role in identifying and helping to bring forward land that may be suitable for meeting development needs, including suitable sites on brownfield registers or held in public

ownership, using the full range of powers available to them. This should include identifying opportunities to facilitate land assembly, supported where necessary by compulsory purchase powers, where this can help to bring more land forward for meeting development needs and/or secure better development outcomes."

4.12 In the context of making effective use of land, the NPPF (CD 3.9) continues to say that:

"Planning policies and decisions should support development that makes efficient use of land, taking into account:

- a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;
- b) local market conditions and viability;
- c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;
- d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and
- e) the importance of securing well-designed, attractive and healthy places. (Para 122)"

It continues:

"plans should contain policies to optimise the use of land in their area and meet as much of the identified need for housing as possible. This will be tested robustly at examination, and should include the use of minimum density standards for city and town centres and other locations that are well served by public transport. These standards should seek a significant uplift in the average density of residential development within these areas, unless it can be shown that there are strong reasons why this would be inappropriate." (Para 123)

4.13 In summary, the NPPF is the Government's planning policy and requires local authorities to prepare local plans which set a vision and framework for their area which meets their

objectively assessed housing needs and are deliverable, making effective use of land and meeting the overarching objectives of sustainable development, in order to support the Government's objective of significantly boosting the supply of homes.

Local Planning Policy for Derby

- 4.14 The Council's most relevant planning policies are set out in the DCLP1 (CD 3.2), which is also known as the 'Core Strategy'. This sets the strategic development framework and policies for the City to 2028 and was adopted in January 2017, having been found to be 'Sound' and 'Legally Compliant' (subject to modifications) following an Examination in Public which was carried out in 2016. It should be noted that the DCLP1 was examined in terms of its consistency with the 2012 NPPF (CD 3.11). However, the Plan is considered to be up to date and consistent with national planning policy.
- 4.15 The DCLP1 forms part of the wider 'development plan' for the City which, along with other material considerations, forms the main planning decision making policy for the City. The development plan also includes several Saved Policies of the City of Derby Local Plan Review ("**CDLPR**"), which was adopted in 2006. Although many of the original CDLPR (CD 3.8) policies have subsequently been deleted or replaced by newer policies in the DCLP1, they were a fundamental part of Derby's development plan when the Council considered a Hybrid (Outline and Full) planning application for development of land at Castleward in 2013.
- 4.16 Castleward (known previously as Castle Ward) was originally identified in the CDLPR as a priority for regeneration, but the site specific policies in the CDLPR were deleted and replaced by a new Policy (Policy AC6) which covers the wider "**Eastern Fringes**" area in the DCLP1. How the relevant policies were considered in determining the Hybrid planning application will be explained in section 5 of this proof.
- 4.17 The development plan for Derby also includes separate plans relating to Mineral and Waste matters. The most relevant minerals policies are set out in the Saved Policies of the Derby and Derbyshire Minerals Local Plan (2000) (Amended 2002) (ACQ/2C/1). A new Minerals Local Plan is currently being prepared jointly by Derbyshire County

Council and the Council. However, it has only progressed to Regulation 18 (Issues and Options) stage and therefore currently carries no real weight in decision making. The relevance and content of the saved minerals policies is explained in further detail in Section 6 of this proof in responding to the planning related objection.

4.18 As the policies which are most relevant to the Order are set out in the DCLP1, it is that part of the development plan which will be the focus of this section of the proof.

4.19 It is important to note that all of the planning policies set out in the DCLP1 are part of an overall, comprehensive strategy and vision for the future of the City, which was developed through the preparation of the Plan and is set out within it.

4.20 The strategy for the City can be found in section 4 of the DCLP1. It is a strategy for growth and is based on the fact that the City is environmentally constrained and has limited land on which to fit its increasing development needs. The strategy, which seeks to achieve the three inter-related principles of sustainable development (economic, environmental and social) means that new development needs, including housing needs, must be met while protecting the natural environment and ensuring green spaces and infrastructure are available. Although the strategy is not, in itself, a planning policy, it sets the framework under which all of the policies of the Plan sit, and it is necessary to understand the strategy to understand how the various planning policies fit within it.

4.21 A key part of the strategy is to deliver a minimum of 11,000 new homes over the Plan period by releasing some greenfield land and through the regeneration of previously developed areas in the City. Once greenfield sites are built upon, they are unlikely to ever revert back to an undeveloped state and bring the particular benefits which are associated with greenfield land, but regeneration brings multiple benefits including opportunities to comprehensively reshape and improve an area while also meeting growth needs. The regeneration of brownfield land is an efficient way of delivering new development. Derby has a considerable amount of previously developed land and a

diminishing amount of greenfield land and so regeneration forms a crucial part of the growth strategy for the City.

- 4.22 Paragraph 4.4 of the DCLP1 identifies the City Centre as a strategic growth location to deliver 2,200 homes and in excess of 100,00sqm of office space and Paragraph 4.7 sets out the spatial priorities for regeneration in the City including the City Centre and its Eastern Fringes.
- 4.23 The DCLP1 contains a set of 'Core Policies' which are mainly topic based and set out a policy framework for a wide range of matters including, but not limited to climate change, design and character, affordable and specialist housing, historic environment and heritage assets, retail uses, green wedges, public open space etc. These aim to guide decision making as well as underpin the overall strategy. These 'Core Policies' will be relevant in any planning applications for development of future phases including those related to **“the Order Land”**.
- 4.24 A significant part of the Plan identifies 'Areas of Change'. The areas of change or 'AC' policies set out where growth should be located and provide specific requirements for how that growth should be delivered. In particular, the areas of change policies indicate minimum housing numbers which should be provided on development sites where relevant.
- 4.25 The overarching strategy is a holistic one which requires that all of the sites and locations deliver their minimum identified/allocated quantum of homes within the Plan period in order to ensure that the objectives of the Plan are achieved and that the City's housing requirement is met.
- 4.26 It is important to note that the overarching strategy and the policies set out in the local plan also consider the need for employment land in the City and they work together to ensure that overall evidenced development needs are met. The matter of how the importance of employment land has been considered in both the local plan and in determining the Outline planning application is covered later in this proof.

- 4.27 The policies which are set out in the DCLP1 are all underpinned by the Plan's overarching strategy explained above. The specific vision and policies for Castleward sit within this overall strategy. The main relevant policies in the DCLP1 which relate to the development of the CUV are set out below.

Housing Delivery

- 4.28 Policy CP6 sets out the housing requirement for the City. It states (criterion a) that "the Council will enable the delivery of a minimum of 11,000 new mixed tenure, high quality homes in the City between 2011 and 2028 by allocating land in its Local Plan (Parts 1 and 2) and by setting out a development framework which facilitates the delivery of housing on appropriate sites". It further states (criterion (e)) that the Council will "continue to encourage the regeneration of brownfield sites..."
- 4.29 The policy identifies (Table 2) 15 strategic sites and broad locations which are allocated to deliver almost 7,000 dwellings of the overall housing requirement. One of the strategic allocations includes the Castleward site, which is identified to deliver at least 800 dwellings, one of the largest allocations in the City.
- 4.30 The period covered by the DCLP1 is 2011 to 2028 (the Plan period). It is noteworthy that the Plan period starts in 2011 even though the Plan was adopted in 2017 and therefore all housing delivered in the City from 1 April 2011 contributes towards meeting the minimum 11,000 dwelling requirement in the plan.
- 4.31 Although the DCLP1 housing requirement for the City is a minimum of 11,000 dwellings, it should be noted that Derby City's objectively assessed housing need (OAHN) was evidenced through the preparation of the DCLP1 as being 16,388 new homes over the plan period. However, evidence indicated that only 11,000 new homes could be accommodated within the City over the Plan period in a demonstrably deliverable and sustainable manner. It was therefore agreed by all three of the Derby Housing Market Area (HMA) local authorities that 5,388 dwellings of Derby's total housing need would be provided on sites in South Derbyshire and Amber Valley. This has been reflected in

South Derbyshire District Council's adopted local plan and by written agreement with Amber Valley Borough Council.

Planning Policy for Affordable and Specialist Housing

- 4.32 Policy CP7 relates to affordable and specialist housing. This policy states that "The Council is committed to meeting needs for affordable and specialist housing and will seek to ensure that identified needs are met through a range of mechanisms. A flexible approach will be adopted which seeks to deliver as much of Derby's affordable housing needs as are viable without unduly constraining general housing delivery."
- 4.33 This policy requires that a maximum 30% affordable housing is provided on sites of 15 or more homes, subject to criteria which include consideration of development viability.

Planning Policies for the City Centre

- 4.34 The City Centre is a key strategic location which is identified in the DCLP1. A suite of policies relate specifically to the City Centre and set out the planning vision and policy requirements for the location. The City Centre includes a "**Core Area**" and several 'quarters' which sit within the Inner Ring Road. It also includes the Eastern Fringes which sit broadly between the "**Railway Station**" and the Core Area. The Eastern Fringes provide a gateway into the main retail and commercial core which forms the primary shopping area. Castleward forms part of the Eastern Fringes of the City Centre, along with the site of the Former Derbyshire Royal Infirmary ("**DRI**"). A map (ACQ/2C/2) provides the context of how the Order Land fits into the wider City Centre area.
- 4.35 Policy AC1 is the 'City Centre Strategy' policy and seeks to deliver a renaissance for the City Centre, reinforcing its central economic, cultural and social role by supporting sustainable economic growth and regeneration, improving the quality of the built environment, and creating new residential neighbourhoods.
- 4.36 Criterion e. of AC1 states that the Council will support the delivery of a minimum of 2,200 new homes across the City Centre through the delivery of key regeneration sites.

The policy continues to set out that residential-led regeneration will be supported in principle on a number of sites, including Castleward.

- 4.37 Castleward is within the Central Business District (“**CBD**”), which essentially covers the City Centre, and Policy AC2 states that "within the CBD or the 'Central Business District', proposals that help to promote 'City Centre Living', whether through new development or the re-use of empty or underused floorspace, will be supported where it would not inhibit existing business activity or undermine the vitality and viability of the Core Area."
- 4.38 The CBD covers a wide area across the whole City Centre, including the main shopping and commercial areas which form the Core Area. It is the preferred location for new major office development. It includes various sub-areas, including the Eastern Fringes, and the policy sets out more detail on the vision and specific policy requirements for sub-areas within the CBD.
- 4.39 Policy AC2 states that "The 'Eastern Fringes' will become a vibrant new residential neighbourhood that will complement the City Centre economy and breathe new life into an underutilised area. It will also contain significant commercial uses that can help support the overall City Centre economy. Improvements will be made to links to Bass' Recreation Ground and hope to increase usage of the park to help support the new communities." It goes on to state that "Priority will be given to the implementation of the major mixed-use regeneration allocations at Castleward and DRI sites, in line with requirements of Policy AC6."
- 4.40 Due to its close proximity, the transformation of the Eastern Fringes into a new residential neighbourhood can contribute positively to enhancing the vitality and viability of the Core Area, increasing footfall, activity and vibrance. New residents will have excellent access to the wide range of shops, services and facilities and the new homes provided in the Eastern Fringes will provide excellent housing opportunities for people working in the City Centre.

4.41 Policy AC6 is an 'Area of Change' policy which relates to the Eastern Fringes and, in particular, the areas of Castleward and the DRI site. The policy sets out an overall vision and development requirements for the Eastern Fringes of the City Centre and identifies specific development requirements for Castleward and the DRI site respectively.

4.42 Policy AC6 states that:

"The Eastern Fringes of the City Centre will be transformed into a vibrant residential and commercial neighbourhood where people will enjoy a high quality of life within a distinctive, accessible and sustainable urban environment. New residential neighbourhoods will be created in Castleward and the former DRI site, which will be complemented and supported by a mix of commercial, leisure and community uses that will also serve to support the wider economy of the City Centre."

4.43 At the heart of this policy is a vision of transformation, regeneration and improvement. The aspiration to transform this area of the City is long standing. Paragraph 6.6.2 of the Plan explains that:

"The regeneration of these sites has already been subject to a considerable amount of planning, culminating in the preparation of the City Centre Eastern Fringes Area Action Plan. This process reached the 'preferred options' stage before being suspended to allow resources to be put into the Core Strategy. The CCEFAAP established a detailed vision and framework for the comprehensive regeneration of the area. This has helped guide proposals thus far and is being carried forward through the Core Strategy".

4.44 Policy AC6 then goes on to set out specific requirements for both the Castleward and Former DRI sites. For Castleward, the policy requires that:

"The regeneration of Castleward will deliver:

- a) a minimum of 800 new high quality, mixed tenure homes
- b) new office and commercial uses. Land immediately adjacent to Traffic Street is considered particularly appropriate for major office development
- c) a new primary and nursery school and other community facilities to serve the new neighbourhood and/or replace existing facilities. The sharing of facilities and functions will be supported and encouraged where appropriate

- d) the 'Castleward Boulevard' pedestrian link between the Railway Station and Core Area. Small scale convenience shopping and related commercial and community facilities will be permitted along the route of the 'boulevard' to support day-to-day needs and act as a focal point of the new neighbourhood
- e) improved pedestrian and cycle access to Bass' Recreation Ground"

4.45 The policy then sets out four general criteria which will be applied across development proposals for the Eastern Fringes area. These relate to (1) design, (2) housing mix (3) green links to open spaces and (4) improved accessibility between the City Centre, the Bus Station and the Railway Stations.

4.46 Finally, the policy states that "The Council will work with partners to ensure that regeneration of the Eastern Fringes is delivered in a comprehensive manner and will use compulsory purchase powers if necessary to ensure delivery."

4.47 This final part of the policy is concerned with ensuring that the policy requirements are delivered as part of the overall planning strategy and that the required new homes are delivered and can contribute to meeting the City's housing requirements.

4.48 The supporting text for policy AC6 explains the rationale for the policy requirements and of particular note, paragraph 6.6.3 states that "Castleward occupies a strategic position between the Core Area and the railway station. It has a wide range of uses including offices, industry, car showrooms and warehousing. It also contains a large amount of surface car parking. This area is considered to be under used and is an inefficient and mostly inappropriate use of land in such a prominent, important and sustainable location. The regeneration of this area for a high density mixed-use development will make more efficient use of the land and can provide much greater benefits to the City's economy and environment."

4.49 As will be explained in Section 5 of this proof, part of the wider Castleward local plan allocation is subject to planning permission for up to 840 new homes. The permission (CD 2.1) was granted before the Plan was adopted but the proposals within it reflected

the emerging policy for the location. Although the permission is for up to 840 dwellings, Policy AC6 requires that a minimum of 800 homes are delivered by 2028 (the end of the Plan period) in order to contribute to meeting the overall housing requirement up to that date.

Employment Policies

- 4.50 The local plan is also required to meet needs for employment land and uses. The Plan allocates 199 hectares of employment land across the City, including the allocation of three strategic employment locations. Through Policy CP10, the Plan also identifies and safeguards existing employment land which allows for the recycling and re-use of existing employment land for new employment uses. Strategic regeneration sites are also allocated in the DCLP1 for non-specific regeneration uses and these sites also provide opportunities for employment land uses. The strategy therefore provides a wide range of opportunity sites to ensure that the City's employment land requirements are met.
- 4.51 Castleward is part of a specific area allocation/policy which is explained above. It is not a specific CP10 employment policy area and it is not a strategic employment site allocation, although the policy for Castleward does allow for some new employment uses. It is important to note that both the policy and the **"Outline Planning Permission"** have established that the current mix of uses in the area will be transformed into a new high quality residential-led community and this ultimately means that many of the current employment uses will be replaced.
- 4.52 Policy MH1 of the DCLP1 is called 'Making it Happen' and is about ensuring the delivery of the objectives of the Plan. Criterion (a) states that the Council will "work in partnership with infrastructure providers, grant funders, the development industry and other delivery agencies to seek the necessary infrastructure to support new development, mitigate its impact and improve the lives of people living in Derby."
- 4.53 Criterion (b) then goes on to state that the Council will "take the necessary action to implement the policies and proposals of this Plan including:

- Applying planning conditions
- Securing developer contributions
- Entering into joint development schemes
- Assisting with site assembly
- Using Compulsory Purchase powers
- Seeking external funding
- Enforcement powers"

4.54 This and the other evidence included in this Proof demonstrates how the Council is meeting this policy requirement to seek to deliver the objectives and planning policies for Castleward specifically and the policies for housing requirements generally, including by use of compulsory purchase powers and assisting with site assembly.

Summary of Local Planning Policy Requirements

4.55 The planning policies set out in the DCLP1 are up to date and relevant. They set out that 11,000 new homes should be delivered in the city between 2011 and 2028. The Plan allocates 15 strategic sites/broad locations, including Castleward, to meet the majority of this requirement.

4.56 Castleward is in the Eastern Fringes of the City Centre and the City Centre policies support the delivery of a minimum of 2,200 new homes across the area through the delivery of key regeneration sites, including Castleward, and set out that the Eastern Fringes will become a vibrant new residential neighbourhood.

4.57 Policy AC6 requires the transformation of the area into a vibrant residential and commercial neighbourhood where people will enjoy a high quality of life within a distinctive, accessible and sustainable urban environment. The policy requires that a minimum of 800 new homes should be provided on the site and sets out that the Council will work with partners to ensure it is delivered and use compulsory purchase powers if necessary.

The Evolution of the Vision and Policy for Castleward

- 4.58 The Council has been planning the regeneration of the Eastern Fringes of the City Centre, including Castleward, for many years. A timeline (ACQ/2C/3) demonstrates how the plans to redevelop Castleward have progressed up to the adoption of the DCLP1 (CD 3.2).
- 4.59 The CDLPR (CD 3.8) was adopted in 2006 and identified Castleward as a priority for regeneration. Policy CC13 of that plan, allowed a range of new uses including commercial, leisure and residential uses. Around the time that the CDLPR was adopted, work began on the CCEFAAP (CD 3.7). This identified Castleward as an area in need of significant regeneration, primarily due to its gateway location into the core retail and commercial areas of the City Centre and its disparate mix of low quality and low density uses. From an early stage, the vision was about delivering qualitative improvements to the area.
- 4.60 The location is a highly sustainable area for people to live due to the close proximity of City Centre facilities and the Railway Station. City living has been a long-time aspiration of the Council because the City Centre is such a sustainable location and the provision of new homes can enhance the vitality and viability and add to footfall in the City Centre and particularly the Core Area.
- 4.61 The vision which emerged through the CCEFAAP (CD 3.7) was one of transformation. It is to redevelop the area comprehensively and improve the quality of the gateway location, and to deliver a sustainable new 'urban village' on the edge of the City Centre.
- 4.62 Work on the CCEFAAP (CD 3.7) involved engagement with the local community, including businesses in Castleward.
- 4.63 Due to the Council's need to direct resources to its emerging local plan, the DCLP1, work on the Action Plan was halted at preferred options stage but fed into the preparation of the new local plan (DCLP1) and ultimately contributed to shaping the new, current policy for Castleward and the Eastern Fringes. As the work progressed, the Council

appointed a development partner, Compendium, and planning permission for the development of up to 840 homes, other complementary uses and infrastructure was granted in February 2013 (CD2.1).

4.64 As the DCLP1 then progressed through the required process, it passed through several further stages of public engagement as the policies relating to Castleward were formed. It then progressed through Examination in Public and was adopted by the Council. This then replaced the relevant policies of the CDLPR (CD 3.8) and brought together the emerging vision which was established in the CCEFAAP (CD 3.7) along with the Outline Planning Permission (CD2.1), housing needs evidence and strategy for the City, resulting in a policy based on delivering a new, high quality residential neighbourhood in Castleward.

4.65 By the time the DCLP1 was adopted in 2017, the first phase of development including a new boulevard connecting the Railway Station to the Core Area of the City Centre and new homes were already being delivered.

4.66 The vision and planning policy requirements for Castleward which are set out in the DCLP1 form a crucial part of the overall growth strategy for the City to 2028. The housing requirement set out in the Plan relies on the delivery of the strategic sites, including Castleward, to ensure that the Plan's housing requirements and Derby's housing needs are met.

Progress Towards the Local Plan Housing Requirement

4.67 As explained earlier in the proof, the Plan (CD 3.2) sets out development requirements over the plan period (2011 to 2028). The housing requirement over this period is that a minimum of 11,000 new homes are provided in the City. This is an average of 647 homes a year over the Plan period. The Council monitors the delivery of new homes to keep check on progress towards meeting this requirement.

4.68 Between 1 April 2011 and 31 March 2020 (the first 9 years of the plan period) there were 4,909 net new additional homes provided. This leaves a further 6,091 new

dwellings which need to be provided as a minimum from 1 April 2020 to 31 March 2028 (8 years). Therefore, an average of 761 new homes is required every year going forward, which is a significant increase on the original 647 homes a year which were required.

4.69 At 1 April 2020 a shortfall of 914 dwellings had accrued against the requirement over the first 9 years of the Plan period. This data can be observed in the table below:

Table 1: Derby City Housing Delivery

Housing Requirement (2011 to 2028)	11,000
Annualised Requirement	647
Actual Delivery (2011 to 2020)	4,909
Shortfall in Delivery at April 2020	914
Residual Dwelling Requirement to 2028	6,091
Annualised Residual Requirement	761

5. THE RELEVANT PLANNING PERMISSIONS

Introduction

- 5.1 In this section of the Proof I will explain the relevant planning permissions which relate to the CUV. This includes an Outline Planning Permission (CD 2.1) for up to 840 new homes as well as other complementary uses. There are also several relevant Full and Reserved Matters planning applications and permissions which relate to the CUV.
- 5.2 I will explain that several conditions were applied to the Outline Planning Permission which set out certain requirements that must be met at various trigger points. I will also explain how a planning application has been submitted to vary or remove some of these conditions and that they do not form an impediment to the continued delivery of housing in later phases of the development of the CUV.

Outline Planning Permission

- 5.3 There is an extant Outline Planning Permission (CD 2.1) for a residential led re-development of a significant part of the Castleward area of the City, granted on 8 February 2013 (DER/05/12/00563) which gives 20 years for the approval of all phases of the development. The permission, which includes demolition of buildings, is for the development of up to 840 dwellings and various other complementary uses including; retail (Use Class A1), restaurant/cafes (Use Class A3), offices (Use Class B1), hotel (Use Class C1), non-residential institutions (Use Class D1), assembly and leisure (Use Class D2), school (Use Class D1), community centre, (Use Class D1), bingo hall (Use Class D2). The planning application was a hybrid resulting in outline consent being granted for up to 840 dwellings and with detailed full permission being granted for the development of Phase 1 works, for 163 residential units and complementary A1, A3 and D1 uses with alterations to vehicular accesses, formation of the boulevard and refurbishment of public realm.
- 5.4 The Outline Planning Permission gives approval, in principle, only for residential development of up to 840 units and the various complementary uses set out above. Apart from the full permission which has been granted in respect of Phase 1 as part of

the hybrid application, all matters are reserved, except for means of access, which gives approval for:

- a) The provision of a new pedestrian crossing to Bass' Recreation Ground over Station Approach
- b) Re-configured junction of Siddals Road and Station Approach
- c) Re-alignment of sections of Copeland Street and Canal Street
- d) Reinstate sections of Liversage Street, Carrington Street and Hope Street to take vehicular traffic (delivered under Phase 1).

5.5 An illustrative site plan (ACQ/2C/5) and parameter plans were submitted with the outline application and although they are not approved under the permission, they do form the basis of the vision for the residential-led re-development of Castleward which was considered in determining the application.

5.6 The loss of employment uses within the Castleward area was a material consideration in determining the outline planning application, given the large number of commercial and industrial premises, which were and are currently still operating within the approved red line of the site. The proposals in the illustrative site plan would result in re-development of those employment sites within the application site and this is a key issue which was addressed in the Planning Officer's report to the Planning Control Committee (page 19) (ACQ/2C/6).

5.7 When the application was considered by the Council's Planning Control Committee the DCLP1 was the emerging local plan, which carried limited weight in the decision making on the application. The CCEFAAP (CD 3.7) also carried limited weight although both this and the emerging local plan were considered to have a high level of consistency with the NPPF. The adopted CDLPR (CD 3.8) was the principal part of the development plan when the outline application was determined and allocated the Castleward area as a Regeneration Priority area under Policy R1. Large areas of the site were also allocated for regeneration under Policies CC13 (Castleward) and CC14 (Wellington Street) and the only areas of the site not covered by these policies were south of Liversage Street and

Carrington Street and some buildings fronting Traffic Street. CC13 and CC14 have since been replaced and incorporated into adopted DCLP1 Policy AC6 (Castleward and the Former DRI). Policy R1 gave priority to implementation of schemes identified in that policy and as the policy was developed, it provided part of the basis and justification for preparing the CCEFAAP (CD 3.7). Both CC13 and CC14 supported the regeneration and the potential for new commercial, food and drink (A3 uses), leisure and residential development. These CDLPR policies gave considerable support in principle to the comprehensive re-development of the Castleward area.

- 5.8 CDLPR (CD 3.8) policies EP11 and EP12 dealt with employment land, which is now dealt with under DCLP1 Policy CP10 (Employment Locations). The committee report for the outline application considered the loss of employment land by reference to Policies EP11 and EP12, which sought to ensure that important employment sites were not lost. Most of the application site was identified for regeneration under Policy R1, but the implications of the loss of the existing employment sites in the red line area were considered having regard for the intentions of Policies EP11 and EP12. In the report, it was noted that the overall supply of employment land in the City was reasonably healthy and that there were key factors which would mitigate for the removal of existing employment sites; these were the opportunities for relocation of businesses to other sites in the City, some owned by the Council, and the phasing of the development over a 20 year period which allows for a period of transition for businesses to find alternative employment sites. In quantitative terms, it was calculated that the proposed loss of around 7,000 square metres of employment land would not be significant in the overall City-wide context. In qualitative terms the existing employment area was identified as being of below average quality in the 2008 Employment Land Review (ACQ/2C/7). In conclusion, the loss of employment land in Castleward was considered, in both quantitative and qualitative terms, to not be critical to the City's overall employment land supply and did not justify setting aside the Council's vision for the regeneration of this area.

Planning Conditions Applied to the Outline Permission

- 5.9 The Outline Planning Permission includes a number of precedent conditions for provision of infrastructure and community facilities which would normally have been dealt with through a Section 106 Agreement, but were instead dealt with by conditions due to the complexity of the number of land owners who would have needed to be party to a legal agreement. These include the provision of: affordable housing, a primary school and nursery, public open space and community facilities and a pedestrian crossing and footbridge from Castleward to Bass' Recreation Ground.
- 5.10 Section 8 of the Council's Statement of Case (CD 1.5) identified certain conditions to which the Outline Planning Permission is subject and which may be engaged by the phases of development that it is intended will be delivered pursuant to the Order (CD 1.1). It further noted the opportunity to amend the conditions through variation of condition applications under Section 73 of the Town and Country Planning Act 1990, to remove the conditions or vary their wording to ensure that they do not undermine or impede delivery of housing through the Order process.
- 5.11 Four planning conditions are in fact proposed to be varied through a Section 73 application (20/01568/VAR) which has been submitted to the Council and is pending determination. The Council has agreed with the applicant, Compendium, through pre-application discussions with Council Officers, that a variation to those conditions identified (Conditions 10, 13, 14 and 36) would be acceptable, in principle, subject to formal consultation and determination of a planning application.

Other Relevant Full and Reserved Matters Planning Applications and Permissions

- 5.12 There are several other Full and Reserved Matters planning applications and permissions which relate to the CUV. The Map and corresponding Table (ACQ/2C/8) set out details of the boundaries and permission/application information. Further details of the proposed delivery and phasing of the future phases of the Scheme are explained in Mr Bullock's proof.

- 5.13 To date, 164 residential dwellings have been delivered through Phase 1 of the approved development. An additional apartment was added to the Phase 1 scheme, which initially provided for 163 dwellings, through a variation to the detailed approval during construction. The completed Phase 1 included public realm and highway improvements to form the Castleward Boulevard and enhancements to the existing public open space.
- 5.14 The residential development of a site within the red line area of the Outline Planning Permission has been delivered through a separate full application on land off Carrington Street (54 residential units) granted in 2018 which contributes towards the delivery of housing led redevelopment in the CUV. It should be noted that this site is not within the Order Land and does not contribute towards the 840 units approved under the outline permission. However, it does contribute towards the housing requirement (a minimum of 800 homes) in Castleward as set out in Policy AC6 of the DCLP1.
- 5.15 Two planning applications are also currently live seeking Full planning permission for residential development of a total of 258 units on land between Liversage Street and John Street. The applications were submitted by Elevate Property Group and were originally for 178 dwellings on the Liversage Street NCP Car Park (19/01766), later reduced to 164 dwellings and 94 Dwellings on the adjacent John Street Site (20/00684). The two sites are also subject to objections to the Order from **“Liversage Street (Derby) Limited and John Street (Derby) Limited”** and both sites sit within the Order area. This land is in a central location within the red line of the outline permission and within the Order Land (CD 1.2) but is not being proposed for approval under the outline permission. The relationship between the Order and this land, and particularly negotiations with the objectors, is covered in greater detail in Ms Lister's and Mr Gilman's Proof.
- 5.16 The next phase of the re-development of Castleward to come forward under the Outline Planning Permission has recently been granted reserved matters approval (20/00518) for 82 residential units on land to the south of John Street. It comprises a development of four storey apartments and maisonettes with private car parking and amenity space. This land is also within the Order Area.

Conclusion

- 5.17 A significant area of Castleward was granted Outline Planning Permission in 2013 (CD 2.1) for up to 840 dwellings and other complementary uses. The application was hybrid with full details of Phase 1 of the Scheme which included 163 apartments (later amended to 164). The permission allows 20 years for the submission of all Reserved Matters.
- 5.18 The first phase of 164 homes, a boulevard, commercial units and open space have been delivered. The second phase of 54 apartments has also been recently completed (November 2020) but this was delivered through a Full application outside the Outline Planning Permission. None of the homes delivered to date sit within the Order Land but all contribute to the requirements of Policy AC6 and the minimum 800 new homes required in that policy.
- 5.19 The next phase of the Outline Planning Permission has been granted Reserved Matters permission for 82 apartments on the east side of John Street and this remains unimplemented and sits within the Order Land.
- 5.20 A number of planning conditions were applied to the Outline Planning Permission and some of these set restrictions on the number of dwellings which can be developed or occupied before specified works are carried out. A planning application (20/01568/VAR) has been submitted by Compendium to vary or remove four of these conditions. Council officers have confirmed that the principle of varying/removing these conditions is acceptable subject to the application passing through due process. No planning conditions are therefore considered to be an impediment to the delivery of future phases of the Scheme.

6. RESPONSE TO OBJECTION TO THE SCHEME

Introduction

- 6.1 This section of my evidence turns to consider the single objection to the Order (CD 1.1) that raises planning related issues.
- 6.2 Tarmac Trading Ltd ("**Tarmac**"), have objected to the Order on a number of grounds. This Proof addresses their objection made on the grounds that the Council as "**Acquiring Authority**" has failed to consider Planning Policy Guidance (PPG) on safeguarding existing minerals sites contrary to the advice in the NPPF (February 2019) (CD 3.9).
- 6.3 In making this part of their objection, Tarmac raise three issues related to national and local planning policy. They state that:
- 1) Contrary to the advice at Paragraph 204(e) of Chapter 17 to the NPPF for planning policies to safeguard existing sites for the processing of minerals, the manufacture of concrete and concrete products, and the processing and recycling of secondary aggregate material, the acquisition of their property will cause such activities and a viable business to cease;
 - 2) Furthermore, 2 Full Time and 4 Part Time employees will be [made] redundant, contrary to Paragraph 80 of the NPPF, which provides that "[p]lanning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development".
 - 3) In addition, the Statement of Reasons fails to have regard to the Department of Housing, Communities and Local Government's Planning Practice Guidance (Minerals) that planning authorities should safeguard existing storage, handling and transport sites (Paragraph 006, Reference ID: 27-006-20140306), and accordingly the Acquiring Authority is failing to ensure that the land used by the Objector will remain available for the current mineral processing purposes, and is failing to prevent sensitive or

inappropriate development that would conflict with the Objectors' mineral processing business.

- 6.4 I will deal with points 1 and 3 together below, before moving on to point 2.

Minerals Planning Context

- 6.5 Firstly, it is helpful to explain the relationship between the City's Local Plan, DCLP1 (CD 3.2), and the Derby and Derbyshire Minerals Local Plan. As a Unitary authority, the City Council holds the full range of planning powers for the preparation of local plans as well as minerals and waste plans and whilst the Council prepares its own Local Plan, this is only part of the overall development plan for the City. The Council also works jointly with Derbyshire County Council to prepare joint Minerals and Waste Local Plans for the whole of Derbyshire, both City and County (excluding the Peak District National Park).
- 6.6 The development plan for the City and County areas in respect of minerals comprises the saved policies of the Derby and Derbyshire Minerals Local Plan adopted in 2000 (with an amendment to the coal policies adopted in 2002) (ACQ/2C/1). A new joint Minerals Local Plan is currently being prepared, however preparation is not sufficiently advanced to provide any policy guidance that should be considered material to this objection.
- 6.7 The saved policies of the Derby and Derbyshire Minerals Local Plan (2002), Policy MP17 - Safeguarding Resources and Policy MP12 – Mineral Related Development are of relevance in so far as they demonstrate those matters that fall to be considered in the context of the Minerals Local Plan as opposed to the City's Local Plan. Policies MP12 and MP17 deal with the safeguarding of mineral resources and minerals related development where the development is located at a mine or quarry.
- 6.8 Neither of these policies seek to safeguard sites for the handling, processing or transport of minerals, including concrete batching plants that are not located at a mine or quarry, as required by the NPPF. This approach is in line with the requirements of Planning Practice Guidance ('the PPG'), which states that:

“In areas where there are county and district authorities, responsibility for safeguarding facilities and sites for the storage, handling and transport of minerals in local plans will rest largely with the district planning authority. Exceptions will be where such facilities and sites are located at quarries or aggregate wharves or rail terminals. (Paragraph: 006 Reference ID: 27-006-20140306)”.

- 6.9 The City is (and has been since 1997) a Unitary authority, and it has continued to jointly prepare a Minerals Local Plan with the County Council. This joint approach to Minerals Planning with the County Council is equivalent to the approach taken in the PPG. Therefore, it is for the Minerals Local Plan to include policies to safeguard mineral resources and infrastructure where facilities are located at mines or quarries or aggregate wharves or rail terminals. It is for the Council’s Local Plan to include policies to safeguard mineral related infrastructure that is located elsewhere, for example, on industrial estates. As such it is for the DCLP1 to assess the need for policies to safeguard facilities and sites for the storage, handling and transport of minerals, including concrete batching plants.

NPPF and PPG Requirements

- 6.10 The requirement to safeguard existing, planned and potential sites for concrete batching plants has been included in the NPPF since it was first published in 2012 (CD 3.11, paragraph 143 refers) and prior to this in later iterations of Minerals Planning Statement 1 (MPS1) (ACQ/2C/9). The requirements were therefore in place during the preparation and examination of the Council’s adopted and up to date Local Plan, DCLP1. The intent behind these specific requirements has remained largely unchanged since the NPPF was first published and can now be found at paragraph 204 of the current (2019) NPPF (CD 3.9).
- 6.11 Paragraph 204(e) of the NPPF sets out that planning policies should:
- “safeguard existing, planned and potential sites for: the bulk transport, handling and processing of minerals; the manufacture of concrete and concrete products; and the handling, processing and distribution of substitute, recycled and secondary aggregate material”

- 6.12 As noted above, the PPG sets out that it is for Local Plans rather than Minerals plans to set out policies relating to “safeguarding facilities and sites for the storage, handling and transport of minerals..... Exceptions will be where such facilities and sites are located at quarries or aggregate wharves or rail terminals.”
- 6.13 The NPPF and the accompanying PPG place a number of requirements upon Local Planning Authorities to include policies in preparing their local plans on a wide range of topics. Not all of these requirements will be relevant to every local plan and nor are they necessarily mutually exclusive. In some instances there will be a degree of conflict between what the NPPF is trying to achieve when interpreted ‘on the ground’ especially in the case of largely built up areas such as Derby where there are competing interests for land and development.
- 6.14 In instances such as this, it is for the Local Planning Authority to balance the requirements of the NPPF and PPG and prioritise which are the most relevant/important to deliver through their local plan strategy and detailed policies to ensure development needs are met in a sustainable way.
- 6.15 As set out in section 4 of this proof, in preparing the DCLP1 the need for housing in Derby was significant and the NPPF (2012 version)(CD 3.11) requirement to ‘significantly boost the supply’ of housing (paragraph 47 refers) a determining factor in arriving at the strategy for the Local Plan. Derby, an area largely built up to its boundaries, has not been able to accommodate all of its housing need within its administrative boundaries and has had to export housing growth to neighbouring authorities to help meet those needs.
- 6.16 The fact that the Council has needed to export almost a third of its housing need to locations outside of the City due to lack of capacity and deliverable sites, makes those sites capable of meeting housing needs within the City all the more important to allocate and deliver. This is what the Council has tried to achieve in allocating the land

that is the subject of the Order through the Local Plan, as part of policy AC6, and by pursuing this Order.

6.17 This does not mean that the Council has failed to take account of the requirements of the Framework or the PPG in respect of safeguarding minerals processing sites. Indeed, as set out below, the Council has considered the requirements to safeguard sites through its employment (most minerals processing plants in the City being found in employment areas) and Green Wedge policies. Instead, having considered the evidence and the submissions made through the Examination in Public, the Council has developed a sound, robust and up to date Local Plan containing a coherent vision, ambitious strategy and detailed site allocation policies that seek to prioritise the allocation of land to meet the City's needs, especially in respect of the pressing need for housing delivery.

6.18 It is of note that, during consultation and examination of the Local Plan, there were no objections to the lack of a safeguarding policy for minerals processing facilities or to the allocation of the CUV, through policy AC6, on the specific grounds of loss of facilities for the processing of minerals.

6.19 The objector, Tarmac, did make a representation on the Plan prior to its adoption. Their representation (ACQ/2C/10) sought to object to the Plan on the basis of how their aggregates recycling facility at Chaddesden Sidings would be impacted by being retained in a designated Green Wedge and whether the Green Wedge policy (CP18) complied with the requirements of paragraph 143 of the 2012 NPPF, which is now largely transposed into paragraph 204 of the 2019 NPPF.

6.20 In response to this objection and through discussions at the Examination, the Council proposed a main modification to the supporting text of policy CP18. This was agreed by the Inspector and the modification is included in the adopted version of the DCLP1 at paragraph 5.18.7, which states:

“any existing ‘non-conforming’ operations or permitted uses within Green Wedges will not be prejudiced by this policy. This will include the consideration of any renewal of permission, variation of conditions and any reserved matters applications. An example of this is the existing aggregate recycling facility at Chaddesden Sidings which was in use prior to the designation of the Green Wedge. Any extension of timescales associated with this use will not be prejudiced by being within a Green Wedge.”

- 6.21 Significantly, Tarmac did not object to the employment land strategy (CP10) and instead focussed their objection to CP18, relating to Green Wedges. No reference was made by Tarmac to the impact of any of the other Local Plan policies or allocations with regard to compliance with national policy, guidance or on their operational requirements at that time.
- 6.22 Furthermore, no concerns were raised to this approach by Derbyshire County Council as the Council’s partner in the preparation of the Joint Derby and Derbyshire Minerals Local Plan, in terms of failing to address the requirement of the Framework and PPG.
- 6.23 It is also of note that both Policy AC6 and MH1 of the DCLP1 are explicit in their reference to the use of compulsory purchase powers, where required, to deliver local plan policy requirements. In examining the soundness of the DCLP1 during 2016, the Inspector considered the appropriateness of the Local Plan strategy and policies in regard to both the requirements of the Framework and the PPG. The DCLP1 has been found consistent with the NPPF and ‘sound’ on this basis.
- 6.24 I therefore conclude that the Council did not fail to take account the requirements of the Framework and PPG in terms of their requirements in relation to safeguarding concrete batching plan sites but that the Council as Local Planning Authority chose to prioritise other national planning policy requirements and guidance to arrive at the most appropriate strategy for the sustainable growth of the City. The Order facilitates that strategy and as such is not failing to prevent inappropriate development.

Loss of Employment Land

- 6.25 Turning now to the remaining area of Tarmac's objection, namely in promoting the Order and acquiring the Tarmac site the Council as Acquiring Authority will cause the activities at the property and a viable business to cease, resulting in the redundancy of 2 full time and 4 part time employees. Tarmac claims that this is contrary to Paragraph 80 of the NPPF.
- 6.26 Paragraph 80 of the NPPF states:
- "Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential."
- 6.27 The first point to note is that the approach outlined at paragraph 80 is aimed at planning policies and decisions, not decisions as to whether to make or confirm a compulsory purchase order, where the grant of planning permission is not in issue.
- 6.28 It is implicit from the adoption of DCLP1 policy AC6, along with the approval of planning applications, that the loss of employment land has been considered and accepted as an inherent part of delivering housing and the wider regeneration benefits of the Scheme, as explained in sections 4 and 5 previously.
- 6.29 In developing the Local Plan, policies AC6 and those addressing Economic Development (particularly CP9 and CP10), the Council's approach was informed by both the requirements of the Framework in place at the time (2012 version – paragraphs 18-22) and the evidence of the Employment Land Review 2008 (ACQ/2C/7) undertaken by BE Group on behalf of the Derby HMA authorities.

6.30 The Employment Land Review (2008) (ACQ/2C/7) found that the Castleward area, in employment terms, was of below average quality and was characterised by a low intensity of use. The report also noted that the area could be better used for City Centre regeneration, incorporating mixed uses.

6.31 As set out previously, the Local Plan and Outline Planning Permission for Castleward were adopted and granted in the context of the 2012 NPPF (CD 3.11). In relation to the need to build a strong, competitive economy, the 2012 NPPF set out the Government's commitment to:

"ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore, significant weight should be placed on the need to support economic growth through the planning system" (paragraph 19).

6.32 Paragraphs 20 and 21 go on to state that "to help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.....Investment in business should not be over-burdened by the combined requirements of planning policy expectations. Planning policies should recognise and seek to address potential barriers to investment, including a poor environment or any lack of infrastructure, services or housing".

6.33 In relation to planning policies the 2012 NPPF (CD 3.11) requires local plans, inter alia, to:

- a) set out a clear economic vision and strategy for their area which positively and proactively encourages sustainable economic growth;
- b) identify priority areas for economic regeneration, infrastructure provision and environmental enhancement; and
- c) facilitate flexible working practices such as the integration of residential and commercial uses within the same unit

6.34 Whilst the detailed wording of the 2012 and 2019 version of the NPPF differ, the general thrust of the Framework in supporting economic growth through local plan policy and planning decisions remains strong.

6.35 In addressing the requirement of both the 2012 and 2019 versions of the NPPF, in relation to supporting economic growth, it is appropriate for the Local Plan to seek to strengthen those areas of greatest importance to economic growth and productivity by allocating and protecting those sites referred to in policy CP10. It is also appropriate for the Local Plan to have sought to address any weaknesses, which in this instance includes repurposing the Castleward area to deliver much needed housing in a way that delivers comprehensive regeneration and a step change in the character of the area. This is what policy AC6 of the DCLP1 and the accompanying planning permissions for CUV seek to achieve.

6.36 This approach accords with, rather than being contrary to, the requirements of paragraph 80 of the Framework (CD3.9) in terms of “allow[ing] each area to build on its strengths, counter any weaknesses and address the challenges of the future”. I therefore consider that the DCLP1 policies and decisions made on the planning applications for Castleward have been found to be, and remain, in line with the requirements of the NPPF.

6.37 Furthermore, the Council continues to create the conditions in which businesses can invest, expand and adapt, in line with the requirements of paragraph 80 of the Framework, by seeking to support those businesses and premises affected by the Order to relocate. The assistance provided to Tarmac in respect of relocation is addressed in detail in the evidence of Ms Lister.

Conclusion

6.38 In conclusion, the approach taken both to Local Plan policy and to the determination of the planning applications for CUV accords with the overall intent of the Framework and the PPG. As explained above it will not be possible to satisfy every requirement of both the Framework and PPG, especially where available land is in short supply.

6.39 It is therefore appropriate for the Council in their role as Local Planning Authority to balance and where necessary prioritise meeting the requirement of those elements of the Framework and PPG that best meet the spatial and development needs of the City. This is what the Council has sought to do in developing their approach to Castleward.

7. CONCLUSION

- 7.1 This proof supports the Council's case for the use of CPO Powers to acquire land at Castleward. Although the Council is not required to satisfy any planning-related statutory criteria in connection with the confirmation of the Order, the planning context is relevant to its compelling case.
- 7.2 Section 4 of this proof demonstrates that the Council has an adopted strategy and local planning policies (CD 3.2) which have been through the required statutory process. The policies set out how the City must meet its development needs, crucially including its housing needs, up to 2028.
- 7.3 The housing requirement set in the DCLP1 is that 11,000 new homes should be provided in the City between 2011 and 2028. The Plan also includes Policy AC1 which sets out the vision for the City Centre including the regeneration of Castleward, and policy AC6 which sets out that Castleward should be transformed into a new, high quality neighbourhood with a minimum of 800 new homes. The policy sets out the importance of the policy requirements being met in order to deliver the regeneration and contribute to the City's overall housing requirement and that if necessary, the Council will use CPO Powers to ensure that the policy requirements are delivered.
- 7.4 This proof then explains that a significant part of Castleward is covered by an Outline Planning Permission (CD2.1) granted in 2013 for up to 840 new homes and complementary uses. A delivery partner, Compendium, has already delivered the first phases including some 218 homes, a new boulevard and open spaces and other complementary uses. A new primary school and nursery to support the new housing is currently under construction expected to be completed in summer 2021.
- 7.5 The proof clarifies that there are no planning impediments to the further delivery of the Scheme and that relevant conditions can be met, varied or removed.

- 7.6 Section 6 of the proof then explains that the objections made to the Order on planning grounds are unfounded and that the issue of the loss of employment uses had already been considered through the processes of dealing with the Outline Planning Permission and preparing the local plan policies. It also sets out that the Council has considered the need for policies to protect mineral operations such as batching plants and there is adequate employment land within the City to meet such needs. It also explains that the requirements of Policy AC6 have already established that the batching plant on John Street, within the Order Land will be lost through the delivery of the policy objectives.
- 7.7 The Order is made under Section 17 of the Housing Act 1985 (CD 5.1) and section 13 of the Local Government (Miscellaneous Provisions) Act 1976 (CD5.2) and there are no planning specific statutory requirements to satisfy. The content of this proof is relevant in supporting the Council's compelling case for acquiring the Order Land to ensure the continued delivery of high quality homes in the location, to see the transformation of the area as set out in DCLP1 and to meet established housing requirements in the City.
- 7.8 The Order Land: is allocated in the adopted local plan (DCLP1) for housing-led regeneration; has planning permission for residential development; and has a developer working in partnership with the Council who have delivered the first phases. The Council now needs to acquire the Order Land to ensure the continued delivery of the Outline Planning Permission and policy objectives.

DECLARATION AND STATEMENT OF TRUTH

I confirm that the facts stated within my evidence are true.

Jonathan Pheasant

Senior Planning Officer

Derby City Council

4 January 2020

THE DERBY CITY COUNCIL (CASTLEWARD) COMPULSORY PURCHASE ORDER 2020

APPENDIX 1

DERBY AND DERBYSHIRE MINERALS LOCAL PLAN EXTRACT

STATEMENT OF EVIDENCE OF MR. JONATHAN PHEASANT

ON BEHALF OF DERBY CITY COUNCIL

PUBLIC INQUIRY 26 – 29 January 2021

- b) processing and industrial activities, plant and buildings dealing principally with the mineral from the site, both on "land at a mine" and "ancillary mining land"; this permission is subject to the approval of the Mineral Planning Authority.

Other developments not so permitted will need a specific planning permission granted on an application.

- 6.12 Where a specific planning permission or other planning approval is needed for mineral related development at a mine or quarry, or on ancillary mining land, applications will be determined by the Mineral Planning Authority. For most such proposals elsewhere, applications will be determined by the appropriate District Planning Authority.
- 6.13 Where development is permitted by the GPDO subject to the Mineral Planning Authority's approval, such approval will depend on whether it has been demonstrated that the proposal would not injure the amenity of the neighbourhood and that it could not and should not be sited elsewhere. Where the development is subject to an application for planning permission, the proposal will have to demonstrate net environmental benefits in a close link between the industrial and mineral development, having regard in particular to its likely implications for traffic generation and its impact on the environment. In order to prevent the establishment of unacceptable industrial sites in the open countryside, conditions will normally be imposed to link the development to the mine or quarry e.g. through a requirement to use minerals principally from that site, and requiring the removal of the industrial development when the mineral working ceases.

Policy MP12 - Mineral Related Development

- 6.14 Proposals for mineral related development which require planning permission will be permitted where there are net environmental benefits in a close link between the industrial and the mineral developments, and provided that:**

- 1) the development is located, designed and landscaped to minimise any adverse effect on the environment and**
- 2) the development will not create unacceptable traffic problems.**

Where permission is granted, conditions will be imposed to ensure that:

- 1) the mineral to be used is produced mainly on site and**
- 2) on completion of mineral working, all plant and machinery is removed, and the site is satisfactorily reclaimed.**

Mineral Exploration

- 6.15 Many proposals for mineral exploration are small in scale, involve quite short time

periods, and have a limited effect on their surroundings. Most such activities, including the drilling of boreholes, the carrying out of seismic surveys and minor excavations, are permitted development, under the Town and Country Planning General Permitted Development Order 1995, although the Environment Agency must be consulted on the drilling of boreholes greater than 15 metres in depth. Operations lasting more than 28 days must be referred to the Mineral Planning Authority who can make an Article 7 Direction requiring a planning application to be submitted. Larger proposals including exploration for oil and gas, and proposals involving large buildings or excavations, and operations affecting sites of archaeological or special scientific interest will normally require specific planning permission.

- 6.16 Explorations not permitted by the GPDO require a specific planning permission. Where planning permission is necessary the Mineral Planning Authority will apply the normal environmental safeguards that would be applied to other forms of mineral development as set out in the general policies for controlling mineral development. These may include measures to control the duration and hours of working, the visual impact, noise, pollution and traffic effects of the proposal, and to ensure the satisfactory reclamation of the site. Furthermore, whilst mineral exploration is a temporary use of land which normally has little lasting impact, there are interests of acknowledged environmental importance that require particular protection. In these areas mineral exploration will not be permitted where it would result in irreparable or unacceptable damage to these interests.
- 6.17 Exploration for oil and gas is a special case usually involving substantial operations including deep drilling. The general policy set out below will apply to such proposals, but in addition more specific proposals for controlling the exploration, appraisal and commercial exploration of hydrocarbons are set out in chapter 14.

Policy MP 13 - Mineral Exploration

- 6.18 Proposals for mineral exploration which require planning permission will be permitted provided that their impact on the environment is acceptable and they would not cause irreparable or unacceptable damage to interests of acknowledged environmental importance.**

Where permission is granted it will be for a temporary period only, and conditions will be imposed to ensure that:

- 1) operations are regulated to minimise the effect of the development on the environment and**
- 2) any land disturbed as a result of the operations is satisfactorily reclaimed to an acceptable after-use.**

Disposal of Mineral Waste

- 6.19 Mineral workings produce waste, but such waste can often be turned to positive use. In

be sufficient for at least 7 years production. For crushed rock the landbank will be sufficient for at least 15 years production.

Mineral Resources Safeguarding Resources

- 7.5 Mineral resources are finite and it is an aim of sustainable development to conserve minerals as far as possible and encourage the efficient use of materials. As MPG1 indicates, the planning system has an important role to play in safeguarding deposits which are, or may become, of economic importance from unnecessary sterilisation by surface development. The conflict between mineral working and other development interests for housing, industry, schools and roads, is greatest around the existing built-up areas. Mineral resources may be sterilised directly, or indirectly where other forms of development are allowed to encroach so closely as to inhibit the working of adjoining areas. In addition, it will be important to ensure that mineral operations, including tipping, do not themselves prejudice the future working of important mineral resources e.g. opencast coal proposals should be designed so as to avoid the sterilisation of any important clay resources.
- 7.6 Where there is an overriding need for development to take place on land containing a workable mineral deposit, the mineral should, wherever possible, be extracted in advance of the development unless this would give rise to unacceptable impacts or lead to excessive delays for the development. This is most likely to apply to opencast coal where the relatively short-term nature of some schemes may permit advance extraction and restoration within a reasonable time-scale.
- 7.7 Whilst the Mineral Planning Authority is not normally the determining authority for non-mineral development proposals, it is consulted on applications which could have the effect of sterilising mineral deposits. In exceptional cases the Authority could request the Secretary of State to exercise a power under Article 14 of the Town & Country Planning (General Development Procedure) Order 1995 to direct the local planning authority to deal with an application in a particular manner.

Policy MP17 - Safeguarding Resources

- 7.8 **The mineral planning authority will resist proposals for any development which would sterilise or prejudice the future working of important economically workable mineral deposits except where:**
- 1) **there is an overriding need for the development and**
 - 2) **where prior extraction of the mineral cannot reasonably be undertaken, or is unlikely to be practicable or environmentally acceptable.**

Where the development of land for non-mineral purposes is considered essential and proven mineral deposits would be permanently sterilised, planning permission for prior extraction will

be granted provided this does not prejudice the timing and viability of the proposed development and does not lead to unacceptable environmental effects.

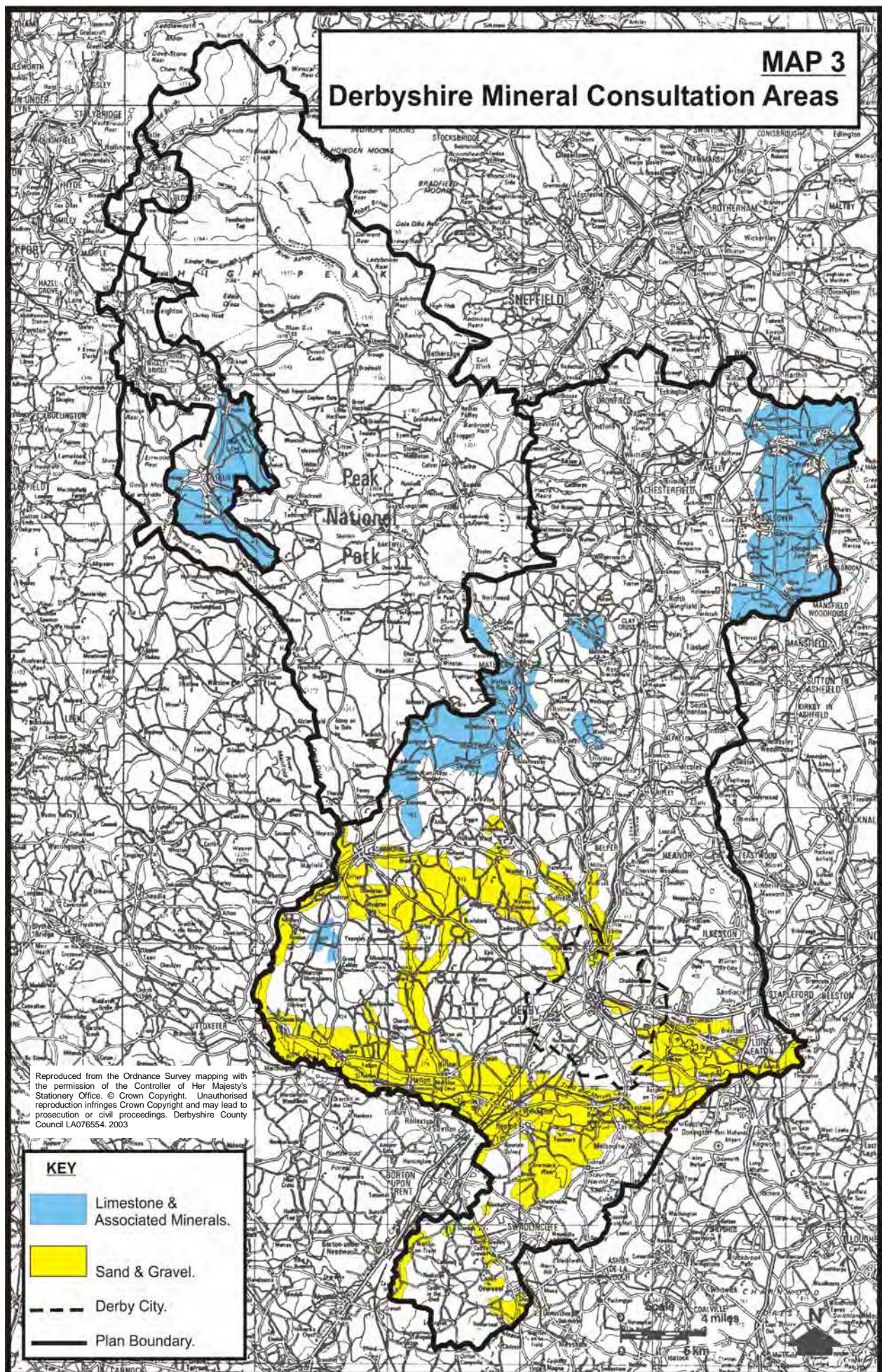
Minerals Consultation Procedures

- 7.9 Under the provisions of the Town and Country Planning Act 1990, the Mineral Planning Authority is empowered to establish Minerals Consultation Areas within which the District Council Planning Authorities are required to consult the County on applications for development which could have the effect of sterilising mineral deposits. Following local government re-organisation, and the establishment of Derby City as a Unitary Authority handling applications for both mineral and non-mineral development within the City, there is no longer a requirement to establish Mineral Consultation Areas within the City boundary. Resources within the City will be safeguarded through internal consultation procedures and are shown on Map 3 for information purposes. The inclusion of land within a Consultation Area does not imply a presumption for or against mineral working. It does, however, help to ensure that important deposits are not sterilised, that development within these areas takes into account the existence of mineral resources and workings, and that the siting of other development in close proximity to mineral workings is avoided.
- 7.10 The Mineral Planning Authority has notified the District Councils of two main Minerals Consultation Areas relating to Limestone and Associated Minerals, and Sand and Gravel resources (Map 3). These areas cover the resources where the pressure for future working is greatest, (sand and gravel, and limestone). They also cover the vein mineral and high purity limestone and dolomite resources which are of national significance by virtue of their relative scarcity and commercial importance. Steps are being taken to define a Consultation Area for high alumina clay through the usual procedures. Other mineral resources such as brick clay are less in demand, or relatively abundant so that it is not considered necessary to define further Consultation Areas at this stage. Development affecting coal resources is covered by a separate system of consultation operated by the Coal Authority.
- 7.11 Where applications for non-mineral development are within established Minerals Consultation Areas, the Mineral Planning Authority will continue to require that it is consulted by the District Council Planning Authorities in accordance with the Town and Country Planning Act, 1990, Schedule I, para 7(3)(c). Where mineral reserves are believed to exist within a Consultation Area, but are not proven, the Mineral Planning Authority (through the District Council) may require the prospective developer to establish whether or not the mineral deposit is present before any application for development is determined. Where allocations of land for non-mineral development are being considered in the preparation of District Local Plans, normal consultation procedures enable the need to safeguard important mineral resources to be taken fully into account before proposals are finalised.

Extensions to sites

- 7.12 MPG6 indicates that it may be generally preferable to allow extensions to existing

MAP 3 **Derbyshire Mineral Consultation Areas**



mineral workings rather than allowing mineral workings at new greenfield sites. This approach has a number of advantages:

- it avoids the proliferation of sites and confines future working to areas where some degree of environmental disturbance has already taken place
- it permits greater control over the release of resources. Extending an established site can be carried out progressively in a number of carefully designed phases. A new site by contrast is likely to require the release of substantial resources at the outset to ensure an adequate return on capital investment, and
- it may help to safeguard existing jobs and investment, and make the best use of improvements already carried out to protect the local environment, eg, screening, access improvements, etc.

7.13 However, there may be some cases where established mineral workings are unsuitably located, or cannot reasonably be extended to meet demands or where the cumulative effect of extensions would be unacceptable, as is often the case for opencast coal sites (see paragraph 3.22), and it will do less environmental harm to open a new site rather than grant permission for an extension. There may be other circumstances where a new location is justified particularly if the mineral deposit has special characteristics not otherwise available locally, or related to special demand circumstances. "Borrow Pits" to provide material for specific major construction projects are a particular example, considered in more detail in Chapter 6.

7.14 Finally it should be stressed that a general preference for extensions is based on land-use planning reasons and does not represent a policy for the protection of existing suppliers or the constraint of competition; the Mineral Planning Authority will not automatically release reserves simply in order to maintain the continuity of production at established mineral working sites.

Policy MP18 - Extensions To Sites

7.15 Proposals for extensions to established mineral working sites will be permitted in preference to new sites provided they can be accommodated in an environmentally acceptable manner.

Additional Sites

7.16 MPG1 advises that plans should indicate areas for possible future working. How precisely this can be done will depend on the extent of knowledge of mineral resources within the plan area, the availability of demand forecasts, and the urgency with which new permissions are needed.

7.17 In this plan two different approaches have been adopted. For bulk minerals - sand and

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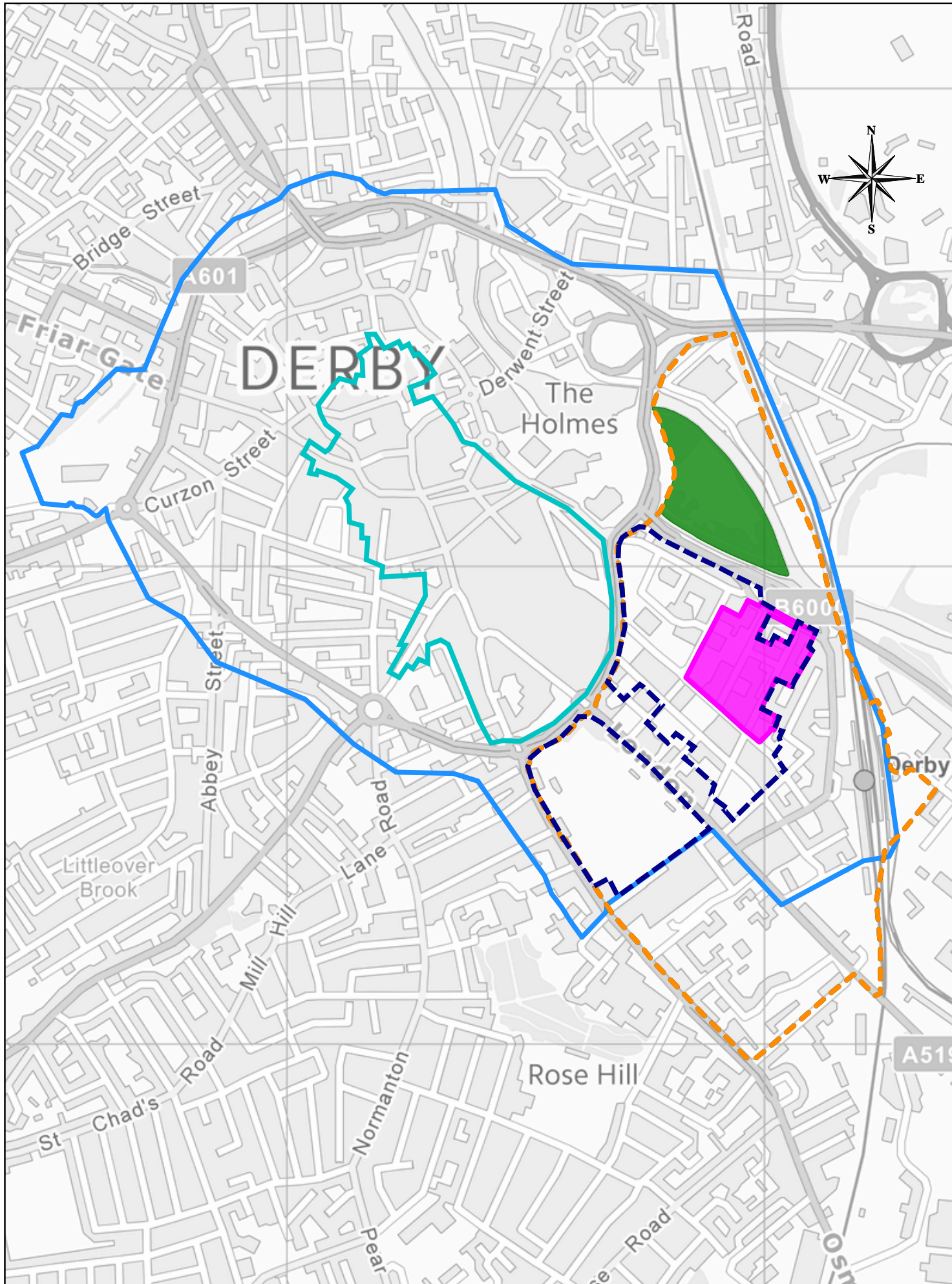
APPENDIX 2

CITY CENTRE CONTEXT PLAN

STATEMENT OF EVIDENCE OF MR. JONATHAN PHEASANT

ON BEHALF OF DERBY CITY COUNCIL

PUBLIC INQUIRY 26 – 29 January 2021



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APPENDIX 3

CASTLEWARD TIMELINE

STATEMENT OF EVIDENCE OF MR. JONATHAN PHEASANT

ON BEHALF OF DERBY CITY COUNCIL

PUBLIC INQUIRY 26 – 29 January 2021

CASTLEWARD TIMELINE



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APPENDIX 4

STATEMENT OF EVIDENCE OF MR. JONATHAN PHEASANT

ON BEHALF OF DERBY CITY COUNCIL

PUBLIC INQUIRY 26 – 29 January 2021

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APPENDIX 5

ILLUSTRATIVE SITE PLAN

STATEMENT OF EVIDENCE OF MR. JONATHAN PHEASANT

ON BEHALF OF DERBY CITY COUNCIL

PUBLIC INQUIRY 26 – 29 January 2021



Key

- 1 Castleward Square
- 2 Liversage Gardens
- 3 Siddals Square
- 4 New crossing to Bass Recreation Ground
- 5 Francis Thompson Square
- 6 Proposed School

revision	date	drawn	description
-	30.04.12	DAS	Initial issue

Notes:-
Do not scale from drawings unless by agreement with HTA. Use figured dimensions only. Check all dimensions on site prior to commencing the works.
Drawing to be read in conjunction with other relevant consultant information
This drawing is the copyright of HTA Architects Ltd. and must not be copied or reproduced in part, or in whole, without the express permission of HTA Architects Ltd.

Legend:-
Notes:-
Landscape Masterplan based on Architects Masterplan 08.03.12
Masterplan to be updated.



Illustrative Site Plan

drawing title

client / job name

COMPENDIUM LIVING
Castleward, Derby - Masterplan

106-110 Kentish Town Road London UK NW1 9PX
P (020) 7485 8555 F (020) 7485 1232 hta@hta-arch.co.uk

DER-AL-02-9010

drawing number

job reference

COM-DER-101

scale

1:1000 @ A1

0m 20m 40m 60m 80m 100m

FOR PLANNING

-

revision

drawn

JRW

200

THE DERBY CITY COUNCIL (CASTLEWARD) COMPULSORY PURCHASE ORDER 2020

APPENDIX 6

HYBRID APPLICATION COMMITTEE REPORT

STATEMENT OF EVIDENCE OF MR. JONATHAN PHEASANT

ON BEHALF OF DERBY CITY COUNCIL

PUBLIC INQUIRY 26 – 29 January 2021

1. **Address:** Castle Ward including Siddals Road/ Canal Street/ John Street/ Carrington Street/ Copeland Street/ New Street/ Liversage Street, Derby

2. **Proposal:**

Outline application for the redevelopment of Castle Ward, involving demolition of existing buildings and erection of residential development (up to 840 dwellings), retail (Use Class A1), restaurant/ café (Use Class A3), offices (Use Class B1), hotel (Use Class C1), non-residential institutions (Use Class D1) including community centre and primary school, assembly and leisure (Use Class D2) including replacement bingo hall, alterations to vehicular accesses and pedestrian crossing and refurbishment of public realm.

The application includes **full** details of Phase 1, for demolition of buildings and erection of 163 dwellings and associated car parking, 1742 square metres of commercial floorspace (comprising retail, restaurant/ cafes, offices and D1 uses), formation of boulevard, refurbishment of public open space, including formation of play area and landscaping.

3. **Description:**

This is a “hybrid” type planning application, which means that it is in outline but includes the details of Phase 1 of the development, for which full permission is also sought as part of this application. Outline permission is sought, for an indicative “masterplan” scheme, with means of access to be determined at this stage.

The whole Castle Ward site is approximately 16 hectares in area and roughly encompasses land between Station Approach and properties to the south of Hope Street and Carrington Street and from Traffic Street to Wellington Street. The site adjoins the Railway Conservation Area, which lies to the north and east of the site boundary. The area is located to the south east of the city centre, adjacent to the Inner Ring Road. Castle Ward is primarily an industrial estate, characterised by post-war commercial and industrial premises. The area also has various surface car parks, including the public car park at Liversage Street and a mix of other leisure and community uses, including Gala Bingo on Liversage Street and fitness club on Carrington Street. There is a landscaped area of public realm and pedestrian walkways, which runs east to west along Liversage Street and Carrington Street, with avenues of mature trees along the street frontage. The area is strategically important in the city, in terms of its connections between the city centre shopping area, Westfield Centre and the railway station and conservation area, although these are currently not very legible or particularly attractive routes for pedestrians and cyclists to use. It is a highly accessible central location, alongside the main transport routes Station Approach and London Road into city centre. Existing development within the site is of limited architectural merit or historic interest. However, in the surrounding area there are historic buildings in and around the conservation area and along London Road. Grade II listed Liversage Almshouses and Railway Cottages lie close to the site and the development may affect their setting. The Canal Street mills, Holy Trinity Church and other properties on London Road are on the Local List and abut the site boundary. Basses Recreation Ground lies to the north of Station Approach, a large area of public open space on the edge of the city centre. A spur of the River Derwent runs alongside the recreation ground and Station Approach.

To the north western edge of Castle Ward, outside the application site, land adjacent to Siddals Road and Traffic Street, has extant planning permission for a large office, hotel and retail development, granted in March 2010. This scheme is for buildings up to nine storeys high, with undercroft car parking.

The outline proposals for demolition of buildings and re-development of Castle Ward are in the form of a master plan, which shows the likely parameters for development. These proposals are as follows:

- Up to 840 dwellings with associated car and cycle parking
- Up to 5,250 square metres of retail (A1 use), restaurant/ cafes (A3 use), offices (B1 use), non-residential institutions (D1 use), assembly and leisure (D2 use)
- Hotel (C1 use)
- Primary school
- Community centre
- Replacement bingo facility

Access is a matter to be determined under this application and details to be agreed are:

- New pedestrian crossing to Bassetts Recreation Ground over Station Approach
- Re-configured junction of Siddals Road with Station Approach
- Re-alignment of sections of Copeland Street and Canal Street
- Reinstate sections of Liversage Street, Carrington Street and Hope Street to take vehicular traffic.

In general the existing street pattern and junctions would be retained, with some improvement works proposed within the adopted highway.

Parameters for the master plan have been submitted to give an indication of possible layout, based on the current street network, scale, heights and density of development. These indicative plans suggest that the greatest concentration of built forms is to be along the Traffic Street and Siddals Road areas, nearest to the city centre. The eastern and southern parts of the site, adjacent to the conservation area and historic buildings would see a lower scale of development, of up to 3 storeys.

An indicative landscaping strategy for the master plan has also been provided, which shows a hierarchy of open spaces and semi-private courtyards through the development. These would include new areas of public realm, incidental open space and private residential courtyards.

Full permission is being sought for the details of Phase 1, which include the formation of a tree lined boulevard along the existing route of Liversage Street and Liversage Walk and refurbishment of an existing area of open space to create a landscaped public square, with a children's play area, seating and a multi-purpose paved space. The boulevard would fit within the alignment of the existing public highway. The design of the route is intended to lower traffic speeds, give pedestrians and cyclists priority and create a pleasant urban environment. This would be achieved by a 6

metre wide footway on the south side and an avenue of street trees about 20 metres apart, between designated parking bays, cycle parking and pedestrian crossing places.

Various different types of houses and apartments are proposed within the development, arranged in street blocks, with residential courtyards in the centre. In terms of private amenity space, most units would be provided with private gardens or roof terraces. The details of the development are as follows:

- 163 residential units comprising a mix of 1, 2, 3 and 4 bed dwellings and apartments.
- 1742 square metres of commercial floorspace, to ground floor units along boulevard. The floorspace would be for a mix of A1, A3, B1, D1 and D2 uses.

40 of the residential properties are to be affordable units, for rent and shared ownership. This amounts to about 25% of the proposed housing in Phase 1. The affordable housing is spread throughout the development.

The heights of buildings are lower at the eastern end of the development, close to the conservation area, at 2 and 3 storeys. Most of the built form is no more than 3 storey, with the exception of two corner blocks, fronting the public realm, which are 4/5 storeys. There is also a proposed apartment block, with 36 units at the western end of the boulevard, which is up to 6 storeys in height. The design and form of development uses traditional built forms and materials for the residential units, with a simple modern approach to external treatment and layout. The commercial and apartment blocks are more contemporary in their appearance and form and would provide focal points of interesting architecture along the boulevard. The architectural style of buildings changes along the length of the development to reflect the differences in urban context from the historic character of the Railway Conservation Area to the modern commercial development fronting the city centre ring road, including the Westfield Centre.

The parking strategy for Phase 1 is for the provision of a combination of parking options for the residential units. Some housing would have one or two parking spaces on the plot. Other properties would have a private garage space or parking bay within the communal courtyard. A final group of properties would use on-street parking bays, controlled via a permit system. The provision car parking within the development is to be about 220 spaces, including the on-street bays, for the 163 residential units and the commercial floor space. Visitor and public parking would also use parking bays within the highway.

The redevelopment of Castle Ward is proposed in five phases, over a period of about 20 years. The first phase, which incorporates the boulevard and public realm, is intended to commence at the end of 2012. A phasing plan has been submitted in support of the application to provide indication of the likely delivery of the phases, although this may be subject to some adjustment, depending on availability of land.

4. Relevant Planning History:

DER/10/08/01500 – (Adjacent land off Siddals Road and Traffic Street) Erection of offices, hotel, retail development with associated piazza and car parking, Granted subject to Section 106 Agreement – March 2010

5. Implications of Proposal:

5.1. Economic:

The applicant is the preferred development partner of the City Council, to undertake a long term project for the re-generation of the Castle Ward area. The proposed vision for the area is to enhance strategic connections to the city centre and rail station and form an urban residential community, with supporting amenities and facilities for the residents and businesses within the neighbourhood.

5.2. Design and Community Safety:

The overall scheme is guided by a Design Code, which gives a strategy for the design and layout, including the landscaping and street hierarchy. A strategy for external surfacing materials, public art and tree planting across the whole masterplan area has also been devised. The Code identifies six character areas within the masterplan area, in terms of their function and existing urban context. Different design aspirations are sought for each of these areas, reflected in the proposed mix of uses and types of dwellings, street layout, architectural style and palette of materials.

The design process to form the masterplan proposals have been formulated in the context of the Building for Life criteria. The criteria seek to raise the standards of urban design and living environment for residential developments. The proposal has been measured against the four criteria; Environment & Community, Character, Streets, Parking and Pedestrianisation and Design and Construction. These criteria look at issues such as accessibility, mix of housing, legibility and local distinctiveness, pedestrian friendliness of streets and spaces and parking, design and energy efficiency of buildings.

5.3. Highways – Development Control:

All phases of the development propose to use and enhance the existing road network within Castle Ward. The proposed improvements to the public highway do not require either through their "General Powers of Improvement" under Section 62 of the Highways Act (as amended) or Part 13 of the (General Permitted Development) Order 1995 (as amended). The developer cannot undertake improvements to the highway, without first obtaining from the Highways Authority. This requires them to enter into an agreement under Section 278 of the Highways Act. A Section 278 requires a full technical approval process where engineering drawings showing details of the proposed changes in the highway would be submitted and approved by the Highways Authority. The technical approval drawings would need to be supported by a "Quality Audit" as recommended in Local Transport Note 1/11 (October 2011). It should be noted that the drawings provided for planning purposes are not engineering drawings and therefore the highway layout as shown on the submitted drawings may be subject to changes.

Castle Ward predominantly consists of employment uses and there would be a period following completion of Phase 1 and implementation of later phases, when the development will need to co-exist with existing businesses.

The development would have a significant impact on both existing and proposed on and off-street car parking as well as pedestrian and cycle routes.

Phase 1: The aim of the re-development is to create a high quality, sustainable residential development, where pedestrians and cyclists feel comfortable, traffic speeds are low and the nature of the scheme indicates to drivers that driving slowly is expected. These are principles taken from Manual for Streets. The proposed “boulevard” links Liversage Street to Park Street and incorporates a one-way section between Canal Street and Liversage Street. The proposal also links up Carrington Street and Traffic Street. This will require a “no entry” into Hope Street from Traffic Street and into the “boulevard” from Liversage Street. These have been included to prevent rat-running through the site. The introduction of one-way sections of road will involve the introduction of traffic regulation orders (TROs). The TRO process is subject to a separate regulations and consultation process, which can attract objections which would be subject to consideration. The requirement for the developer to fund the TRO process would be controlled through the Section 278 Agreement.

It is also proposed that there are vehicular linkages between the two north to south routes, Canal Street and Liversage Street to Liversage Road. The existing streets are to be resurfaced with high quality materials to enhance the modern feel of the area.

The surfacing materials to be used in the public open space improvements would be extended out into the highway to give the feel of a larger public space.

Liversage Street – Liversage Street from its junction with Traffic Street is to remain an important route linking the site with the wider highway network. This is likely to be the case both in short term, whilst existing employment uses operate and in longer term when delivery vehicles serve the development and the “One Derby” office scheme. Manual for Streets indicates that minimum width for two large vehicles to pass is 5.5 metres. To enable construction of the “boulevard” under Phase 1, it has been agreed that the eastern footway on Liversage Street can be narrowed to 1.5 metres until a later phase of the development when it would be restored to minimum of 2 metres. The existing bend in Liversage Street is to remain as existing to accommodate two-way HGV traffic.

Hope Street – The end of Hope Street at the junction of Traffic Street would need amending to reinforce message to drivers that there will be no left turn from Traffic Street.

Design Speeds – The linking of the existing routes as described above would produce some long straight roads and to achieve low traffic speeds, would require some form of traffic calming and other speed reducing measures. This could include traffic calming measures at the start of the scheme, at junctions of Wellington Street, with Park Street and Carrington Street. Further detail of these measures will be required for approval under the Section 278 Agreement.

The following issues with the street design are still outstanding and can be subject to suitable conditions:

- Exact interface between public open space and public highway are still to be agreed. The open space currently encroaches into the desire line of the footway.
- A proposed pedestrian/ cycle crossing on the “boulevard” to form route from Midland Place towards the city centre is located to accommodate a development aspiration in later phases. This location does not adequately take account of the existing desire line for people using the route, on completion of Phase 1 only.
- Intersection of Liversage Street and link to Carrington Street, is considered to be very tight design, which should be redesigned to more workable solution.

The proposals include sustainable urban drainage features in the highway, including swales on specific streets.

The surfacing materials to be used in the public highway would need to be agreed under Section 278 Agreement.

Parking – The proposed parking for Phase 1 is approximately 105 % of the proposed number of dwellings. This includes both off-street and on-street spaces. About 50% of the dwellings would have off-street parking spaces, including garages. No specific provision has been included for on-street parking for public use or servicing on the street. Due to its proximity to the city centre and railway station, the streets within Castle Ward would be very attractive to commuters/ shoppers, if not subject to parking controls and therefore it is sensible to make use of available road space for benefit of residents. A “residents only” parking scheme will be required to be in place from first occupation of Phase 1, which requires a TRO process.

Whilst the level of off-street parking provision is low, Castle Ward is ideally located in terms of the access to the city centre and railway station. Low rates of parking provision are therefore most likely to be appropriate in this location. It is impossible to estimate how many new residents would wish to own a car, until Phase 1 is largely completed. It is likely that following completion of Phase 1, visitors would park on adjacent streets, although if parking becomes an issue then remedial measures would need to be incorporated into subsequent phases. Given the limited amount of car parking being provided on the site, a condition is recommended to remove permitted development rights to change garages into habitable rooms and also that garages should be available for parking of vehicles.

Servicing is proposed to take place mainly from the street.

Cycling - There is currently a direct two-way cycle route between the city centre and the Railway Station along the line of the proposed “boulevard”. The Department for Transport (DfT) recommend that cyclists sharing footways with pedestrians should only be considered as a last resort where traffic volumes and speeds cannot be reduced or carriageway space cannot be provided for cyclists. Current best practise is to accommodate cyclists safely on the

carriageway to provide the most coherent facilities for cyclists, minimise conflicts with pedestrians and avoid undue conflict with traffic where cyclist would otherwise have to cross junctions. Given the width of the proposed “boulevard” and relatively low traffic volumes and vehicle speeds, a contra flow cycle route along the carriageway is proposed. Normally this would be denoted by the use of thermoplastic white lines on the carriageway, however it is considered this could compromise the design aesthetic for the area, and so it has been agreed that a contrasting material can be used to demark the cycle route. The DfT have very recently changed its rules such that cyclists can now be exempt from ‘no entry’ orders and this will be the case on the entry to the “boulevard” from Liversage Street.

Stopping up of the Highway – the developer proposes to straighten Canal Street between Carrington Street and Park Street this will involve the removal of highway rights from a small section of Canal Street. The applicant proposes to apply to the Secretary of State under Section 247 of the Town and Country Planning Act 1990 (as amended) to achieve this.

Travel Plan – Travel Plans would be required for each phase of the development.

Outline (Phases 2 – 5) – The site layout is indicative at this stage and may be subject to change and would therefore need to be controlled by condition.

Station Approach Crossing – There is an aspiration to form a new route through the development between the Arboretum and Basses Recreation Ground, including a new pedestrian/cycle crossing over Station Approach. There is no objection in principle to the formation of a new crossing in a location similar to that shown on the indicative site layout plan.

Re-alignment of the Siddals Road Junction – The proposal is change the priority of this junction. It should be noted that this scheme cannot be implemented until the existing buildings in the block bounded by Liversage Street, Siddals Road and John Street have been re-developed because at present the scheme would require the removal of an important footway that cannot be replaced, which is not acceptable. It is suggested that a condition be imposed to allow this matter to be re-considered when the appropriate phases of the development comes forward. The change in priority has a number of potential benefits i.e. it improves the route for buses, access to Station Approach from the development and may deter shortcutting along Midland Road.

Access for Disabled people - Section 149 of the Equalities Act 2010 imposes specific duties on public authorities when exercising their functions. Of particular relevance in this context is for them to have due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, such as those persons with a disability. It is clearly important that these matters are duly assessed. As stated above the Highway Authority will require the developer to submit a ‘Quality Audit’ in support of their application for technical approval, which is part of the Section 278 process. The ‘Quality Audit’ will need to be in line with Local Transport Note 1/11.

Highways – Land Drainage:

Any permission should be subject to planning conditions, to require details of a surface water drainage scheme, based on sustainable urban drainage (SUDs) principles and an assessment of the hydrological and hydrogeotechnical context of the development, to be submitted and approved before development commences. Further conditions are recommended to control details of SUDs features and hydrological assessment for each phase, in relation to any connection to existing public sewer.

5.4. Disabled People's Access:

All the affordable housing units would meet Lifetime Homes requirements, as well as some of the market housing. The external spaces and routes are to be accessible too and provide minimum gradients, as well as level access to all dwellings. Some of the on-street parking bays are to be of greater width, to provide for disabled drivers.

5.5. Other Environmental:

Within the Phase 1 site, there are avenues of existing Lime trees alongside Liversage Street/ Liversage Walk and the public car park. There are also mixed groups of trees in the open space, which currently form a dense shaded canopy between Liversage Street and Hope Street/ Carrington Street. The remaining areas of open space and walkways are mainly grassed with some shrub planting.

There are a total of about 179 trees on the Phase 1 site and the proposed layout and design of the new boulevard and streetscape requires the removal of most of these trees, in order to meet the objectives of the scheme, to form an attractive pedestrian and residential environment. The existing street trees are close together and their roots are likely to be damaged by the proposed works in the highway to form the boulevard. 17 of the trees within the open space are intended to be retained and incorporated into the landscaping scheme. About 110 new trees are to be planted in Phase 1, including 38 along the boulevard. Those planted on both sides of the boulevard are to be mature trees, using a type of slender Plane species. Semi-mature trees are proposed for the public square, secondary streets, including Hope Street and standard trees would be planted in the gardens and courtyards.

In the master plan proposals removal of existing trees around the site area, is indicated, although all landscaping details are a reserved matter, for any future applications. Tree survey details would be required to inform loss of existing trees in later phases of the scheme.

The master plan proposals seek to develop a highly energy efficient scheme, which would achieve the BREEAM Communities standard for design of sustainable communities. The design of the development in Phase 1 is intended to meet a minimum Code 3 for Sustainable Homes and BREEAM Excellent standard for non-domestic units.

6. Publicity:

Neighbour Notification Letter	162	Site Notice	
Statutory Press Advert and Site Notice	Yes	Discretionary Press Advert and Site Notice	
Other			

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

Prior to submission of the application, the applicant undertook extensive consultation with local stakeholders, businesses, community groups and the general public in the Castle Ward area. Initial consultation in the form of questionnaires, events and focus groups was used to inform the preparation of the master plan proposals. The OPUN Design Review Panel was also invited to give an assessment of the initial master plan scheme and their comments were taken on board in the final design.

Various techniques were used in the consultation process, to engage with the relevant stakeholders, which included:

- Stakeholder interviews
- Exhibitions
- Website
- Walkarounds
- Consultation with community groups and residents
- Presentations
- Focus groups
- Meetings

7. Representations:

Seven representations have been received to date, including six objections and one of comment in regard to the applicant's consultation process and notification procedure. In respect to the latter, the applicant has since served statutory notice on the owner of the Stuart Hotel, in accordance with Certificate B of the Development Management Procedure Order. The main issues raised in regard to the master plan and Phase 1 are as follows:

- Castle Ward is a successful and thriving employment area, providing jobs and contributing to city's economy. Master plan proposals would destroy the employment vitality and does not provide replacement opportunities for existing businesses and represent a departure from the adopted Local Plan policies.
- Master plan proposals would seek to remove important concrete batching plant in John Street and a coach works. If the development is implemented the existing businesses would become non-conforming uses and not complementary to new development. Removal of these businesses would require transport over significantly longer distances, increasing carbon emissions.

- The Phase 1 scheme fails to compensate the local area for loss of significant car parking facilities. A replacement facility should first be provided before existing parking is displaced.
- The Phase 1 development would significantly change the status of Liversage Street and Hope Street, creating a potential “rat run”, with detrimental impact on the amenities of local residents, in the Liversage Trust’s sheltered housing and care home. Adequate management of traffic should be imposed to prevent a “rat run” developing and to control construction traffic.
- The proposed siting of a primary school, under the master plan proposals, would have detrimental impacts on amenities of residents of adjacent care home, due to excessive traffic flows and noise levels.
- Recognise importance of the proposal in Castle Ward and benefits of establishing boulevard link between railway station and city centre. This should be opportunity for highest architectural design. Proposed design criteria are considered uninspiring and fail to create exciting boulevard environment or a sense of innovation.
- Development of petrol station under master plan proposals would be unacceptable to landowner.
- Castlefields Church should be regarded as a key feature in the Castle Ward development, to serve spiritual needs of the new community which would result from the proposal.
- Building density would be too high.
- There would be reduction in green spaces.
- There would be public safety issues with some of the proposed traffic routes.
- Amenities proposed for children would not be sufficient to cope with increase in population.
- Midland Place is not wide enough to cope with huge expected volume of pedestrians and traffic.
- Pedestrian crossing onto Besses Recreation Ground would facilitate large events, which would cause disturbance to quiet atmosphere of the area.
- No justification for the provision of retail floor space within the development, given its proximity to the city centre and Westfield. Proposed retail uses in this location would be contrary to Local Plan policies and the City Centre Eastern Fringes Area Action plan. A sequential test analysis has also not been carried out for the retail element, contrary to planning policies.

Copies of all the representations are available to view on the Council’s eplanning service:- www.derby.gov.uk/eplanning

8. Consultations:

8.1. Conservation Area Advisory Committee:

No objections raised. Only reservation was in respect of the deflection of the pedestrian route across Midland Place onto Park Street.

8.2. Environmental Services-Trees:

The proposal includes a considerable amount of tree loss and it is essential that replacement planting in the development mitigates for the tree removal and replaces canopy cover with equivalent or greater cover than is removed.

Any permission for Phase 1 should include conditions requiring method statements for wall/ seat protection and height, for construction of path and play area on the public open space.

There are concerns about preferred tree species for the “boulevard”. London Plane is considered unsuitable for the location. An alternative Plane species, included in tree strategy would be more appropriate. Proposed use of Hornbeam for residential streets also not considered acceptable, due to proximity to buildings and density of canopy. Details of tree species should be subject to condition.

Tree planting pits within the highway should be designed to contribute to surface water drainage and allow trees to benefit.

8.3. Environmental Services-Landscape:

To be reported.

8.4. Environmental Services- Pollution:

No objections in principle.

Land Contamination – Sensitive uses are proposed as part of the development, including residential. Consequently there is a potential risk to future occupants from land contamination given history of some areas of the site. A Phase 1 desk top study has been submitted and therefore recommend conditions, relating to site investigation and possible remediation proposals.

Noise – The submitted Noise Impact Assessment uses appropriate methodology and observes relevant guidance. Accept conclusions of the report, which are that noise from traffic need not be a constraint on planning permission for the site. Proposed insulation scheme for the residential properties is based on a fairly limited amount of data, although specific details are yet to be decided. Further monitoring should be undertaken in order to accurately characterise noise across the site, particular in respect to most exposed residential uses. Further assessment of noise from the commercial development should be considered to determine if may have effect on insulation for residential uses. Conditions are recommended to secure comprehensive noise survey for residential proposals and acoustics survey for commercial/ industrial elements.

Air Quality – Conclusions of the traffic assessment are that traffic flows are not predicted to increase significantly from current levels and in most cases are expected to decrease, as a result of the development. Significant impacts on air quality are not therefore expected from traffic and further assessment of air quality is not deemed necessary. Recommend that any proposed biomass or

CHP boilers are assessed for potential effects on air quality. Such details should be required by condition.

Construction Phase - Concerns over effects of construction activities on local residents. Dust and noise management should be considered fully before construction activities commence.

8.5. Environmental Services- Food Safety:

No objections in principle. Specific details of individual units should comply with all current food and health legislation.

8.6. Derbyshire County Council Archaeologist:

The proposal area is not within known areas of Roman or medieval occupation and later development makes it unlikely that any archaeology of pre-industrial periods survive. The site was open fields until the early 19th Century when a spread eastwards from the city centre began. The basic pattern of streets, terraced housing and industry remained relatively unchanged until the later part of 20th Century, when wholesale clearance and redevelopment took place.

Those areas which have remained relatively open have potential for the survival of below ground archaeology associated with the 19th Century development. It is not known, the level to which these remains were impacted during 20th Century clearance. This is consequently a significant unknown factor in assessing archaeological significance of the site. Recommend that application does not clearly establish archaeological significance and as such a scheme of trial evaluation trenching to assess levels of archaeological preservation across the site. The results should be submitted before determination of application.

8.7. Environment Agency:

No objections in principle, but recommend that if permission is granted then conditions are imposed.

Phase 1 – Development is acceptable in terms of flood risk, subject to condition for surface water drainage scheme, based on sustainable urban drainage principles. Following submission of further drainage information, in regard to discharging surface water to foul drainage, it is noted that on site drainage following development would have separate foul and surface water drainage. If in future the existing drainage is separated the site will be able to utilise this. This satisfactorily deals with issue of foul and surface water drainage in the development.

In terms of ground water and land contamination, the submitted desk top studies have been reviewed. It is recommended that further post-demolition site investigation is undertaken and included in this, should be soil sampling targeted to potential contaminated activities.

Outline masterplan – In terms of flood risk, permission could be granted subject to conditions being imposed requiring for surface water drainage scheme, based on sustainable urban drainage principles.

In terms of groundwater and land contamination, permission could be granted, subject to conditions being imposed, for the following:

- Prior to each phase of development being implemented a scheme to deal with risks associated with contamination of the site, shall each be submitted for approval. This includes a risk assessment, site investigation and if necessary, remediation strategy.
- A verification report demonstrating completion of any remediation works shall also be submitted for approval.
- Not previously identified contamination found to be present on the site shall be subject to a remediation strategy.
- No infiltration of surface water drainage into ground would be permitted unless demonstrated that there is no resultant risk to controlled waters.

In terms of environmental management, conditions should be attached to ensure all foul and contaminated waters should be directed into main foul system and control storage of oils, fuels and chemicals to minimise pollution of controlled waters.

In terms biodiversity, Japanese Knotweed is present on the site and its removal should be controlled by means of condition. A number of biodiversity elements could be included in the development and it is requested these are considered within the masterplan proposals.

Waste generated by demolition and construction phases of development should be handled in accordance with a Site Waste Management Plan.

Waste management should be considered alongside other spatial planning issues, recognising the positive contribution that effective waste management can make to the development of sustainable communities. Proposal should take a holistic approach to waste management and ensure the design will contribute towards sustainable management of waste throughout life of the development.

8.8. Derbyshire Wildlife Trust:

The submitted habitat survey has identified the site as having potential to support bats, nesting birds and white clawed crayfish. The survey did not identify bat roosts and found levels of Pipistrelle bats foraging in the area. The Trust supports the recommendations made in the bat survey report, although the survey only covers the habitats and buildings within Phase 1 of the proposed development, rather than the whole site. There has also been a lack of bird survey work relating to buildings within the site.

Further ecological information should be sought in respect to:

- Foraging bats across the whole site and in particular, the Mill Fleam, to assess impacts of works associated with this area (to form bridge).
- Roosting bats across the whole site, except for Phase 1 of the development.
- Breeding birds in association with habitats and buildings.

The results of this work can then be used to inform the need for appropriate mitigation, compensation and enhancement measures. The lighting scheme

for the development should fully take account of nature conservation issues, in particular taking account of otters and foraging bats on the Mill Fleam.

Opportunities should be investigated to incorporate green corridors and green infrastructure into the development. As many trees should be retained as possible and native tree and shrub planting to enhance area.

8.9. Police Liaison Officer:

Defensible space must be built into all residential frontages that face the street, for privacy and security. Perimeter block layouts are safe, except when they are punctuated with accesses behind dwellings and into core. Squares and public spaces must be overlooked with surveillance to avoid problems of anti-social activity. Overhangs on retail/ commercial buildings fronting the street should be minimised for similar reasons. Physical security standards should also be considered at early stage as part of design strategy to ensure safer places.

In regard to Phase 1, the central tree lined boulevard must be wide and open and trees should not block out or conflict with natural surveillance, lighting and any CCTV. Blank elevations at ground floor level should be avoided. They reduce and interrupt the active frontages and may attract graffiti. False fenestration or similar methods can be used to reduce problems. Hedges with railings look more attractive for some fencing boundaries.

Pleased to see the blocks do have setbacks and offer a strong presence to the street and public spaces. Where they have access built in for vehicle and pedestrian access they have symbolic barriers which changes in surface materials, which show transition from public to private space. Set backs allow defensible space and natural surveillance to be successful in designing out crime. Positioning dwellings within these inner courtyards is also a successful and welcoming strategy. Providing space through set backs fronting the public domain adds guardianship and creates an affinity with the street beyond. Place making, safer places and community cohesion can be enhanced by these simple measures.

8.10. Natural England:

The proposal does not appear to affect any statutorily protected sites or landscapes, or have significant impacts on conservation of soils.

On basis of the submitted bat survey and mitigation strategy, there are suitable features for roosting bats within the site that would be affected by the proposal, although no evidence of roosts was found. Permission could be granted and recommend mitigation by incorporating range of roosting features. Support recommendations for further survey work to support future applications and surveys of Mill Fleam area to consider impacts of river crossing.

The proposal has potential for some ecological harm, which must be mitigated out of proposal with appropriate measures. The site also has potential for significant biodiversity gain, with careful design and making wildlife measures an integral part of the scheme. A good assessment of potential impacts and opportunities has been made.

There is potential harm in construction of bridge over River Derwent tributary. Bridge span should be as large as possible in order to minimise impacts on the bank sides of the Mill Fleam. The greater span will also provide a habitat corridor under the bridge. Bridge design and methodology for construction will need to be presented in a future application.

Habitat loss should be minimised and existing habitats incorporated into and enhanced by the scheme wherever possible. Proposed landscaping scheme should seek to include new habitats that are in keeping with local character.

For nesting birds, recommendations are supported and advise vegetation removal is undertaken outside bird nesting season.

For invasive species, recommendations for further study and mapping are welcomed on and close to site. Method statements should then inform the application, for removal of species from site.

8.11. Chief Executive's Office (Regeneration):

The Castleward development emerged through the former Cityscape Masterplan which was taken forward in the City Centre Eastern Fringes Area Action Plan and is now embodied in the City Centre Regeneration Framework. The development is to be delivered through a partnership with a private sector partner. The City Council and the Homes and Communities Agency (HCA) would be putting in land and the partner putting in capital and development expertise. In order to ensure delivery of a scheme, the Council with the HCA have ensured strategic land acquisitions to facilitate Phase 1 and later phases. As part of this process, where possible, commercial concerns have been afforded the opportunity to relocate within Castleward, often in the later phases. In addition a site is to be secured elsewhere to facilitate further relocations at the right time.

The applicant, as development partner, was selected to take forward the scheme after a long procurement bidding process based on quality of the proposed scheme and ability to deliver. The development partner is a specialist in urban renewal and also includes as its partner, a leading provider of affordable homes and a major housing association.

The vision for the development includes a sustainable neighbourhood, a high quality of life and a distinctive urban environment. Some of the factors which go towards achieving this vision exist in the locality and some are to be created. These include high quality housing, good access to employment, shops, open space, leisure, health and educational facilities and legibility, place making and distinctiveness of the new development.

Within later phases, there is provision for other features considered desirable to create a sustainable, high quality development which cannot all be provided at the start of development for reasons of viability, especially in the current economic climate, and where many of these only become requirements in later phases. This includes the school provision, which has been brought forward to have a site safeguarded in the Section 106, identified in phase 2 with a half form entry school provided within that phase and the remainder in phase 3. The link to Basses Recreation Ground is to be provided in a later phase as well as enhancements to the open space.

9. Summary of policies most relevant: *Saved CDLPR policies / associated guidance.*

GD1	Social Inclusion
GD2	Protection of the Environment
GD3	Flood Protection
GD4	Design and the urban environment
GD5	Amenity
GD6	Safeguarding Development Potential
GD7	Comprehensive Development
GD8	Infrastructure
GD9	Implementation
R1	Regeneration Priorities
CC1	City Centre Strategy
CC7	Residential Uses within the central area
CC13	Castle Ward
CC14	Wellington Street
CC15	Improvements within the central area
CC16	Transport
CC18	Central area parking
CC19	Public car parking
H11	Affordable housing
H12	Lifetime Homes
H13	Residential development – general criteria
S1	Shopping hierarchy
S2	Retail location criteria
S9	Range of goods and alterations to retail units
S12	Financial and professional services and food and drink uses
E5	Biodiversity
E7	Protection of habitats
E9	Trees
E10	Renewable energy
E12	Pollution
E17	Landscaping schemes
E18	Conservation Areas
E19	Listed buildings and buildings of local importance
E21	Archaeology
E23	Design
E24	Community safety
E27	Environmental Art
L1	Protection of parks and public open space
L2	Public open space standards
L3	Public open space requirements in new development
L8	Leisure and entertainment facilities
L11	New community facilities
L12	Protection of community facilities
LE1	Education uses
T1	Transport implications of new development
T4	Access, parking and servicing
T5	Off-street parking

T6	Provision for pedestrians
T7	Provision for cyclists
T8	Provision for public transport
T10	Access for disabled people

The NPPF is a material consideration and supersedes the earlier PPG and PPS

The above is a summary of the policies and guidance that are relevant. Members should refer to their copy of the CDLPR for the full version or the department prior to the meeting.

10. Officer Opinion:

General Policy context

a) Introduction

The proposed re-development of approximately 13 hectares of the Castle Ward area, to the south east of the city centre represents a significant regeneration scheme for this part of the city. It is a key location, in terms of its proximity to the city centre and has connections with the main railway station and Railway Conservation Area. The site currently contains various employment premises, surface car parks, a bingo hall, leisure and community uses. The site also includes the adopted highway network and public realm, in particular an area of public open space between Liversage Walk and Carrington Street.

The planning application is in an unusual form, being in outline for the whole site, with full details of Phase 1 to be determined as part of the overall scheme. Members will note that separate sets of planning conditions are suggested in Section 11.3 for both the outline and Phase 1 of the development. This is for clarity and to distinguish between the outline and full permissions. The outline proposals take the form of a master plan, which is an indicative layout showing the proposed parameters of any development. A mix of commercial, residential and community uses are proposed, including provision of up to 840 dwellings and significant alterations to the public realm and highway network. The details of Phase 1 relate to the parameters of the masterplan and include 163 residential units and a mix of commercial uses. The detailed scheme also incorporates the formation of a “boulevard” along the existing route of Liversage Street, Liversage Walk and Park Street. This new section of road is to be created within the confines of the adopted highway and as such, involves works within the highway, which are permitted development under Part 13, of the General Permitted Development Order (as amended).

This is a significant mixed use development in a strategically important area of the city. The Castle Ward area is currently perceived as an under utilised area, although it is a gateway to the city in terms of its connections to the railway station and the city centre. It therefore is an area, which visitors to the city first see when they arrive at the transport hubs, but does not currently give good first impressions. The aspirations are that the area is in a highly sustainable location and should have vibrancy, activity and a thriving community. In order to be successful as a piece of urban regeneration, the scheme would need to be comprehensive and provide the necessary community facilities, mix of commercial and residential uses and physical infrastructure to achieve a self- contained and sustainable community, on the edge of the city centre.

b) Policy context

In policy terms, a large scale re-development with a mix of different land uses would be in line with the objectives in the National Planning Policy Framework (NPPF). The NPPF gives a “presumption in favour of sustainable development” and in particular support “sustainable economic development to deliver homes, business and industrial units, and infrastructure”, “encourage the effective use of land by reusing land that has been previously developed” and “promote mixed use developments and encourage multiple benefits from use of land in urban areas.” The proposed masterplan is considered capable of meeting these objectives, subject to according with specific design, transport, environmental and implementation policies.

The Local Plan Review policies relevant to this development are considered to be generally consistent with those in the NPPF and as such a considerable amount of weight should still be given to those policies in the Local Plan.

The application site is largely allocated as a Regeneration Priority area under Policy R1. Large areas of the site are also allocated under Policies CC13 and CC14. The only areas not covered by this policy are along the southern boundary of the site, including Liversage Car Park, buildings south of Carrington Street and some buildings fronting Traffic Street. Policy R1 states that priority will be given to implementation of schemes identified in that policy and it provided a basis and justification for preparing the City Centre Eastern Fringes Area Action Plan (CCEFAAP). Both CC13 and CC14 policies support the regeneration and potential of new commercial, food and drink (A3 uses), leisure and residential development. Subject to the details of the proposals being acceptable, there is considerable support in policy terms for the comprehensive re-development of the Castle Ward area.

The site is located within part of the area, south east of the city centre, which is covered by the draft CCEFAAP. This Area Action Plan (AAP) sets out a vision for the whole area, with three main ideas, which seek to achieve; a sustainable neighbourhood, high quality of life and a distinctive urban environment. This vision and the supporting objectives have been incorporated into the applicant’s planning submission, which is encouraging as it demonstrates a shared vision for the area between the City Council and the developer to guide regeneration of the Castle Ward area. The AAP provides the steer for the Council’s aspirations for the regeneration of Castle Ward. It was suspended at the Preferred Options Stage in 2009, following extensive public consultation, to allow progression of the Core Strategy. Whilst the AAP has a high level of consistency with the aims and policies of the NPPF, I am mindful that the Secretary of State and the Inspector in the recent DRI appeal decision afforded little weight to the plan, in the decision making on that application. As such the AAP must therefore be given limited weight in the determination of this proposal.

The City Centre Regeneration Framework (CCRF) is not part of the development plan, although it has been subject to public consultation and approved by the City Council as a material consideration in decision making. It sets out broad guidance on design and public realm issues for developments in the city centre. Castle Ward is included and identified as a “priority project”. The CCRF supports the development of an urban village of around 800 homes, in this area, with the “boulevard” and

associated open space identified as public realm enhancement opportunities. This document also supports the principle of regeneration of the Castle Ward area.

c) Existing land uses

The masterplan proposals for Castle Ward would result in the re-development of a number of existing commercial and industrial premises in the area and surface car parks, as well as displacement of some existing community facilities.

The loss of existing employment land is addressed in Policies EP11 and EP12. Both these policies seek to ensure that important employment land is not lost, particularly where it would lead to a quantitative and qualitative shortage of land. Castle Ward is not specifically covered by these policies and equally most of the application site is identified for regeneration under Policy R1. Having said that, it is important to consider the implications for the city's economy of the removal of existing employment uses, particularly since third party comments have mentioned the loss of particular business premises.

The overall quantitative supply of employment land in the city has been reasonably healthy and the objective of promoting brownfield housing continues to be a high priority for the City Council. Whilst it is recognised that some businesses may be happy in their current location, it is the overall impact of development on the supply of employment land and economy, which is a material consideration and needs to be taken into account. I understand that the Council has already purchased land to allow relocation of existing businesses from Castle Ward and is in discussions with companies about relocating to other sites. The master plan also includes some commercial development along Siddals Road, which may be suitable to accommodate some of the businesses who wish to remain in the area. The proposed phasing of the development over a 20 year period means that there would be a period of transition, to allow businesses time to find alternative accommodation or sites. There are some proposed employment sites elsewhere in the city, which are likely to become available during the lifetime of the proposal. The Phase 1 part of the scheme does not directly affect any of the existing commercial premises within the overall masterplan area.

The applicant has calculated that the proposals would result in loss of around 7000 square metres of employment uses and a further 3 340 square metre of sui generis uses. In quantitative terms, this is not significant in the overall city wide context. The loss is also mitigated to an extent by the approved office scheme, to north east boundary of the site, known as "One Derby" and the employment generating uses that form part of the proposal. The existing employment area on Castle Ward was identified as being of "below average quality" in the 2008 Employment Land Review. Therefore, I do not think it could be argued that the area is critical to the city's overall employment land supply.

The potential benefits of the master plan proposals in terms of sustainable housing delivery, improving connections with the city centre and provision of new employment floorspace within the development are considered to outweigh the loss of existing employment land from both a quantitative and qualitative point of view.

In terms of impact on community uses, the West Indian Community Centre and Castle Nursery are both affected by later phases of the scheme. Policy L12 indicates that loss of community facilities would only be permitted where it can be

demonstrated that there is no longer a demand or appropriate alternative accommodation has been provided. There has been no evidence provided that either uses are no longer needed and as such suitable alternative accommodation would be required to be provided, before development on these phases could be implemented. This could be secured by planning condition on the outline permission.

d) Residential use

The proposal is for up to 840 dwellings over the whole masterplan area, incorporating a mix of houses and apartments. This constitutes a significant amount of brownfield housing in a highly sustainable location. The proposals are for a varied range of house types and sizes of accommodation on Phase 1 and this is also an aspiration for the rest of the development. The NPPF states a preference for brownfield housing and provision of choice and high quality homes in the context of sustainable development. The proposed housing provision therefore meets these objectives.

The application site can assist in provision of brownfield housing, to meet long term housing needs for the city in a sustainable way. Policies CC13 and CC14 include residential as acceptable uses in this location, which includes the area covered by Phase 1. Housing development on this site is considered appropriate in principle, in terms of national and local planning policy. Policy H13 relates to the design and layout of all residential developments and seeks the provision of a high quality living environment and developments which create interesting townscapes and urban forms with good standards of amenity. The housing development on Phase 1 is to be at a relatively high density, with innovative layouts and built forms and visual interesting house types and use of materials, which respect the different character and streetscene through out the site area. The proposal has the feel of an urban village and a distinctiveness, which would make a positive contribution to the visual amenities and character of the Castle Ward area. The housing development on Phase 1 is therefore considered to meet the requirements of Policy H13.

This site is appropriate for a higher density of housing development, due to its central location. The benefits of regeneration would only be maximised by achieving a relatively high level of housing delivery. In the later phases of the scheme, some certainty of this delivery could be secured by means of a planning condition.

The applicant has indicated that 25% affordable housing would be provided across the whole development, including Phase 1. This represents 40 of the residential units in Phase 1, split between social rent and shared ownership. This is lower than the 30% target sought by the Supplementary Planning Guidance (SPD), although in line with the 20 – 30% figure in Policy H11. The applicant has sought to demonstrate that the viability of the scheme, can only deliver the 25% affordable provision and this has generally be accepted, assessment of the final figures, including any potential overage which may be sought through the Section 106 is yet to be completed.

e) Commercial uses

Policy CC13 allows for B1 office uses in this area. There is to be an element of B1 in the mix of commercial uses on the boulevard within Phase 1. Approximately 2400 square metres of B1 use are proposed in the later phases in the Siddals Road area included within the approximately 5000 square metres of mixed commercial use over the masterplan area, which includes B1. The proposed locations of office uses in Castle Ward are generally considered acceptable in principle. The provision of

employment uses would make the development more sustainable and compensate for loss of existing employment land.

Phase 1 includes up to 1700 square metres floorspaces for a mix of commercial, community and leisure uses. Within this amount would be an element of retail and food and drink uses. Of these uses, A1 retail is not covered by Policy CC13. The concept of the “boulevard” is underpinned by the idea of active frontages along its length. One of its functions is to be a vibrant and safe route between the railway station and the city centre. Retail and food and drink uses are a key means of creating a vibrant community, provided that they are at a scale that meets the needs of the local residents. Whilst A1 retail use would be appropriate to fulfil the aims of the “boulevard”, it still needs to be justified under the NPPF and Policy S2.

The proposed retail uses within Phase 1 are in the form of convenience floorspace and of a modest scale, to serve the new community which would be formed as a result of the development. I am satisfied that there is a case for retail on the “boulevard” to support a sustainable residential scheme. It is recognised that the city centre shopping area is very close, however the provision of small scale, convenience shopping is considered reasonable in this location, to form a sustainable neighbourhood. Policy S2 requires any retail development outside designated centres, to satisfy a sequential and impact tests. On the basis that the retail would perform a local shopping function to support the new residential units, the area of search in any sequential test would reasonably be restricted to the Castle Ward area. As such the proposal is accepted to have passed the sequential test and thereby satisfy Policy S2.

If appropriate controls are placed on the scale and range of goods of potential A1 uses, then impacts on the city centre shopping area should be minimised. The scale of any retail floorspace within Phase 1 should be limited to no more than 1000 square metres in area, which can be secured by a suitable condition. The justification for retail in this location can only really be made on the basis of convenience shopping to serve the local community. A condition to restrict the types of goods which can be sold, to those which are appropriate to a local function, is therefore necessary on any permission, to accord with the provisions of Policy S9. Even when taking the schemes at DRI and Friar Gate into account, it could not reasonably be argued that this level of retail floorspace could have a significant adverse impact on the city centre.

A3 restaurant and café uses are considered acceptable in principle in Castle Ward area, under Policy CC13 and also under S12. This can be considered as an edge of centre location under S12. The main proviso is that such uses should not have an adverse effect on residential amenities or prejudice new residential uses. Within Phase 1, the A3 uses would be confined to the “boulevard” and to ground floor units. There would be new residential accommodation above these uses, although their amenities would be satisfactorily safeguarded by planning conditions, to control ventilation, sound insulation and opening hours.

In the later phases, retail and A3 uses are included in the mix of 5200 square metres of commercial floorspace. It is not clear what proportion of these uses would be provided in the rest of the development, although this is in outline with a long delivery period. It would not be desirable for the whole of this floorspace to be in A1 retail use,

without justification and assessment of the impacts, under policies in NPPF and Policy S2. A condition restricting A1 uses outside Phase 1 would be imposed to ensure the impacts of additional floorspace can be fully considered.

f) Community uses

The masterplan proposals include an element of community uses and provision of a primary school. Proposed community facilities are in the potential mix of ground floor uses on the boulevard, within Phase 1. New community facilities are acceptable in this location, in line with Policies CC13 and L11. The provision of such facilities to serve the local neighbourhood also is in line with the terms of the NPPF, for the creation of sustainable development.

The main community facility to be provided in the later phases of the development is the provision of a 210 place primary school. The scale of the whole development generates a requirement for a new primary school, under the SPD and this a fundamental part of the overall scheme. Although there is pressure for schools place in the locality Phase 1 would, on completion, generate only 46 school places using the ratio specified in the Planning Obligations SPD (which is approximately 15 per year over the three year construction period) and this additional number could be accommodated in existing schools in the area. A new free school is due to be opened this school year, in the city centre, which would provide up to 60 places initially. This would provide some flexibility with school places in this area, prior to the new primary school being provided. The costs of providing the “boulevard” and the provision of a high quality urban design associated with this are such that, the provision of the school is not viable in this initial phase.

The Section 106 Agreement relating to phase 1 would require a site to be identified for provision of a primary school. Within phase 2, the requirement is to provide accommodation for a half form entry primary school, whilst Phase 3 would see the completion of a full entry primary school. The Section 106 Heads of Terms in relation of the school provision have been formulated in consultation with the Council’s Education team, taking into account the number of pupil places in existing schools in the local area. Final details of the arrangements are still being negotiated with the applicant.

The master plan shows an indicative location for the school site to the south of Carrington Street, on the site of an existing fitness club. This site has not been secured by the applicant at this stage and a different location may be chosen, dependent on land availability. This application seeks approval only for the principle of a new school as part of the masterplan proposals. In policy terms, the provision of a school meets the requirements in Policies L11 and LE1, being well related to the local population, which it would serve and accessible for walking and cycling. LE1 also requires the proposal to be in keeping with the general scale, character and level of activity of the surrounding area and to ensure no significant harm to the amenities of nearby residential properties. On the assumption that the identified site is chosen for the school, the amenities of nearby residential accommodation would be considered. The sheltered housing at Liversage Court and Almshouses are on the opposite side of Liversage Road and the resident’s living environment should not be unreasonably affected by the proposal, subject to appropriate layout and scale.

g) Leisure and hotel uses

Leisure (D2) uses are included within the mix of 1700 square metres of commercial floorspace, in Phase 1, to be located on the “boulevard”. This is in line with Policy CC13 and also acceptable in terms of Policy L8 and the NPPF, where leisure uses are appropriate in edge of centre locations and where there are good public transport links.

Approximately 4250 square metres of D2 floorspace are proposed under a later phase of the masterplan, as a replacement for the existing bingo hall on the application site. This is identified as being sited adjacent to the approved “One Derby” office scheme, presumably as a buffer between this large commercial development and the residential uses. There are no policy issues, with this proposed leisure use, particularly to replace an existing leisure facility, being acceptable in line with the above local and national policies.

Hotel (C1) uses are included in the masterplan proposals, but not in Phase 1. This is acceptable under Policy CC13 and EP16 indicates that new visitor accommodation should be well related to the city centre and public transport links. This location meets these requirements and as such hotel uses are appropriate in principle.

Policy Conclusions

Overall, the Castle Ward area is considered to be one of the most sustainable locations in the city for the various types of land uses proposed in this application. The site is well related both to the main bus and rail interchanges and close to the city centre and large employment areas on Pride Park. It also helps to meet the objective of developing brownfield land. As such the proposed uses are all in accordance with the NPPF and general policies of the Local Plan. The development seeks to create a new urban village in the heart of the city, which would help to support the large scale residential development and support the city’s economy. Subject to controls over the amount and type of retail uses in this scheme, to protect the vitality and viability of the city centre shopping area, the whole development is considered to meet national and local policy objectives.

Highway and transport issues

a) Transport policy

The NPPF and Local plan policies all have similar objectives in regard to transport, which promote sustainable transport choices and encourage options which reduce the need to travel, lead to reductions in traffic congestion and achieve safe access for all. Policy T1 seeks to ensure that development would not result in increased traffic congestion, have a detrimental effect on the local environment or lead to a reduction in road safety. It also requires a Traffic Assessment to be provided, the provision of measures to promote public transport, walking and cycling and use of traffic management measures, where appropriate. This is consistent with the requirements of the NPPF, which gives an indication that development should only be refused where the traffic impacts of development are severe.

The applicant has provided the required transport information to demonstrate that the master plan proposals would not result in a significant increase in traffic flows in and around the site.

The overall vision, which has been put forward for the development is to create a new townscape and street hierarchy, which is pedestrian and cyclist friendly and an urban neighbourhood, which provides alternative transport options and reduces reliance on private car. The master plan proposals and Phase 1 in particular, would make significant improvements to the pedestrian environment, specifically by the formation of the “boulevard”. The development also proposes new cycle routes, through the site, including a north – south route to improve links between Arboretum and Basses Recreation Ground. A safe and accessible street network is proposed, including Phase 1. Level access to buildings and within the highway is a requirement under Policy T10 and this has been considered within the scheme.

Phase 1 of the development, is to be provide just over 1 parking space per dwelling/ commercial unit, with a small amount of parking provision for visitors. Visitor parking would be all in on-street parking bays. The applicant is seeking flexibility in the provision of parking for residential properties, with some units having a private garage space, others would have a space in the communal areas in the central courtyards, whilst some residents would have a permit to park on-street, in lieu of private parking provision. Taking into account the innovative nature of the development, in terms of its layout and high density of housing delivered, this mix of parking provision for residents would still achieve 100% parking for the site. I am also mindful that this is location which lends itself to reduced car use, since it is highly accessible to public transport interchanges, cycling and walking opportunities. The Highways Officer is satisfied with the level of car parking to be provided in Phase 1 and with the general access and servicing arrangements to be provided within the development. I am therefore satisfied that Phase 1 meets the requirements of Policy T4 and also that the master plan proposals are capable of being compliant.

In terms of the provision of new highway infrastructure, a significant proposal is the installation of a new surface level pedestrian crossing over Station Approach, to Basses Recreation Ground. This is considered important to better integrate the major area of open space to the north of the site, with the proposed new community on Castle Ward. The new highway feature also would have benefits in terms of health, leisure and open space provision. The crossing is part of the master plan proposals and is to be implemented under one of the later phases. In principle, the new pedestrian link is considered acceptable and it has been satisfactorily demonstrated that is capable of protecting highway safety on this major transport route into the city centre. The detailed highway design of the crossing has not be provided at this stage, since it is part of the outline proposals. This would need to be secured under a future application.

A new junction is also proposed at the Siddals Road/ slip road onto Station Approach, to give priority to bus traffic through the site, on Siddals Road. The details of a new highways design have been negotiated with the Highways Officers, although this would form part of the later phases of the development. As such the requirement for such a junction improvement can be assessed once the later phases come to fruition. The details of the highways design for this can be secured by planning condition.

The overall objectives of the proposals in terms of transport provision and highway design are consistent with the requirements of the NPPF and Policies T1, T6, T7, T8 and T10. Travel Plans for each phase of the scheme, including Phase 1 are required

to ensure that there is travel choice for the residents and businesses within the development. These would be secured through every phase, by means of suitable planning conditions.

b) Loss of parking

The proposed development would result in the loss of a number of surface car parks, including the public car park at Liversage Street, which is to be affected by Phase 1. The application does not include any replacement public car park facilities. Phase 1 development incorporates designated on-street parking bays along the “boulevard” and Hope Street/ Carrington Street. The impacts of removing car parking provision from Castle Ward on existing car parking within the city centre must be considered. The loss of the existing off-street public parking spaces must be weighed against the criteria in Policy T1. The highway modelling undertaken in support of the application indicates that traffic flows into Castle Ward would be reduced as a result of the proposal, which should not significantly add to congestion in the local area. It is accepted that the traffic implications of the overall development would not contribute to poor air quality in the nearby Air Quality Management Areas, which would therefore not have adverse environmental impacts. The Highways Officer has assessed the overall scheme in regard to impacts on road safety and is generally satisfied with the highway design layout, in terms of road safety. On the assumption that Westfield parking is currently operating at around 80-90% capacity, it could be argued that actual demand has been less than anticipated, which has created some surplus supply within the city centre. The existing parking demand, which would be displaced from Castle Ward, may be able to be satisfactorily accommodated in existing public parking, in proximity to the site where there is spare capacity. In regard to the potential requirement for new car parking, to off-set the removal of existing provision, officers will negotiate with the development partner to assess if public parking is needed under future phases, as the implications of Phase 1, in terms of parking demand are realised. If it is concluded at a later date that a new public car parking is required in the master plan area, then this would be subject to a full application. Members will also have noted from the site visit, that the public car park at Liversage Street appears to be underused. The benefits of re-development of the existing surface car parks, with a high quality residential based scheme, which reinstates the historic street pattern, could be argued to outweigh the impacts of lost public car parking and as such Policy T1 is considered to be satisfactorily addressed.

Design and layout

a) Buildings and streets

The NPPF encourages good design as a key part of sustainable development and of particular importance is the need to create a sense of place, respond to local character and reflect local identity. Also important is the provision of safe and accessible environments within the development. Policies GD4 and E23 also seek high quality design in development. The broad aim for design, in the Area Action Plan for the area, is to achieve high architectural quality and local distinctiveness. In respect to the residential elements of the scheme, Policy H13 requires the formation of a high quality living environment and layout of buildings to create interesting townscapes, as well as achieving satisfactory standards of residential amenity. The housing part of the masterplan proposals and Phase 1 has been assessed against

Building for Life Standards, which is welcome and should help to ensure well designed neighbourhoods are provided within the scheme.

The general layout of the overall scheme would utilise the historic grid street network and form perimeter blocks of development, with active frontages onto the street. The layout has clear legibility and significantly enhances connections between the city centre and Railway Conservation Area. The blocks are designed to enclose semi-private courtyards for residential parking and amenity of the properties within the block. This design concept is brought forward in detailed form in Phase 1, with dwellings and flats accessed directly off the street and some within the semi-private courtyards set back from the main streets. All dwellings and some flats would have their own private outdoor space within the perimeter blocks, which provides a relatively secure and defensible environment for the occupants.

The “boulevard” is the main street in Phase 1, which forms the east – west spine of the development and is intended to enhance linkages between the railway station and the city centre. In design terms, the “boulevard” takes account of the transition in the scale and form of the surrounding urban context. The Traffic Street end of the “boulevard” reflects the large scale of development and contemporary architectural style, in particular the Westfield Centre and approved office scheme at “One Derby”. The details of Phase 1 include a 5-6 storey apartment building at this end of the “boulevard”. Proposed building forms in this area are contemporary in their appearance. Taller elements, up to 4 storeys, are also proposed on either side of the public open space to punctuate the corner features. Whilst scale is a reserved matter under the outline proposals, the parameters of the masterplan indicate that tall buildings, of 5 – 10 storeys are proposed on this western edge of the site to address the existing scale in this part of the city centre. At the eastern end of the “boulevard”, the development connects with the Railway Conservation Area, characterised by low rise, two storey 19th Century dwellings and complementary architecture. The development in proximity to the conservation area is to be 2 and 3 terraced housing, of more traditional style and form, to respect the special character of the historic townscape in this part of the city. The master plan proposals reflect this lower scale of the built form, to the eastern edge of the site, within its parameters.

The master plan proposals and Phase 1, incorporate a mix of housing types and apartments, which would contribute to the creation of a sustainable neighbourhood and have considerable vibrancy and visual interest in the new street blocks. Most of the housing is to be in two or three storey terraced blocks. The form and external appearance of these blocks evolves through the Phase 1 of the development, responding to the different characters of the local areas within Castle Ward. The applicant has identified six “Character Areas” within the master plan proposals as part of a Design Code for the whole scheme. The aspirations for each area take reference from the local character and materials in the existing townscape context. The key characteristics identified, have shaped the indicative design and layout of the scheme, in particular the design of Phase 1. This should result in a locally distinctive and coherent layout and urban forms across the site. The “boulevard” area in Phase 1 would be characterised by mixed uses, public realm improvements and tree lined street pattern, with activity and vitality along the main route. This part of the scheme would have a strong sense of place and unity, with changes in the overall

scale and architectural style of building form along the main street, reflecting the surrounding urban context.

Overall, the applicant has demonstrated that they have considered the existing characteristics of Castle Ward and taken account of this information to inform the layout, form of development, public realm, landscaping and palette of materials. The master plan proposals and Phase 1, which follow from it, are of a good quality design, which would significantly enhance and regenerate the Castle Ward area in line with the requirements of GD4 and E23. An important factor in the success of the Phase 1 development will be in the choice of building materials and surfacing materials to be used in the scheme. Building details and boundary treatment are also important to the quality of urban design, particularly the area close to the conservation area. A palette of materials has been included in the submission, although the final details can effectively be controlled by use of suitable planning conditions.

The application is supported by a sustainability strategy for the master plan proposals, to create a holistic approach to sustainable design for the whole development. This approach is embodied in the BREEAM Communities framework, which covers eight areas of activity, including climate and energy, place shaping, transport, resources, ecology, business and employment and building. Ensuring that the overall scheme meets these standards, would meet the objectives of the NPPF and Policy E10, to minimise energy consumption and maximise energy efficiency. In terms of renewable energy, the application proposes the use of photo voltaic panels within the development. The Castle Ward site is also in a highly sustainable location, which should have benefits in terms reduced car use.

b) Public open space and Public realm

The master plan proposals and Phase 1 incorporate a strategy for the provision of green infrastructure and open spaces, which is an important element of the whole development. In a large scale scheme, such as this, Policies L2 and L3 require the provision of public open space to serve the new development in line with specified standards in L2. The policies do allow for lower open space provision where this would facilitate higher densities of development and high quality design, especially in areas close to the city centre. In such cases, a high quality treatment of open spaces is required. These policies are consistent with the NPPF, which promotes access to high quality open spaces and creating opportunities for sport and recreation in local communities. In the Castle Ward area a lower amount of open space is considered appropriate, provided that the public realm provision has a high standard of treatment. Basses Recreation Ground lies directly to the north of the site and it is envisaged that this will act as the area of major open space for the Castle Ward area. The master plan proposals have an aspiration for a new pedestrian crossing to Basses Recreation Ground to encourage greater use of the open space by the local community. This is explored further in the Highways opinion.

The proposed landscaping and open space strategy for the whole development, indicates that there would be a hierarchy of open spaces linked by tree lined streets. The new neighbourhoods within the site would have distinct characters, reinforced by different planting and materials. Four public open spaces have been identified, which includes the refurbishment of the open space on the new “boulevard”, as part of

Phase 1. This is renamed “Castle Ward Square” and would form the main area of public realm in the whole development. These open spaces would be supplemented by semi-private courtyards, within the residential street blocks, which incorporate residents parking, communal space and private gardens. A children’s play area is to be provided in Castle Ward Square, in Phase 1 and informal play space is identified in other open spaces and courtyards in the master plan. Precise details of the layout of the main play area would be secured by means of a suitable condition. Whilst no new public realm is to be created under Phase 1, the existing open space is to be subject to a new landscaping scheme, retaining a group of the existing trees. The proposals envisage significant improvements to the appearance and layout of the existing public realm, which should enhance levels of activity and usage and provide a focal point for the new community to be created on the site. A distinct street hierarchy is proposed in the masterplan so that the development is legible and distinguishes between the residential streets and the “boulevard”, the main route through the area. In Phase 1, these streets are to be tree lined, with different species to reinforce the distinct characters of each area.

The quality of the overall landscaping strategy for the masterplan and the details in Phase 1 is considered to be high and has the potential to introduce a coherent network of green infrastructure throughout the development. The combination of open spaces and tree lined streets would enable visual and ecological linkages within the development and create an attractive environment for local residents, businesses and visitors to the area. This will help to integrate the development into the surrounding urban context and contribute to a high quality of urban design throughout the scheme, in accordance with Policies E17 and E23. The refurbishment of the existing open space, in Phase 1, is likely to add significant value to the local area.

The quality of the proposed public realm is an important consideration. The “boulevard” is a key part of public realm improvements for the overall vision. It is to be a focal point for the new community and a major gateway to the city centre. The formation of “boulevard” should exhibit high quality materials and an attractive, pedestrian friendly environment, for residents, businesses and visitors.

The precise details of the layout, materials and new planting in the open space, would be subject to agreement with the Council’s Park section, since it is adopted public realm. There are also some issues with areas of planting, which would encroach into the pedestrian footway. These matters are yet to be resolved and as such I recommend that full details of the open space, be controlled by means of a suitable condition. Subject to appropriate details being agreed, I am satisfied that the proposed public realm improvements would satisfactorily meet the needs of the new community and be in an accessible location alongside the “boulevard” and as such, is in line with the requirements of Policies L2 and L3.

Amenities

The re-development of Castle Ward includes the demolition of all existing buildings within the site and formation of a new layout and built forms across a large area. The master plan proposals are indicative at this stage, although they include parameters for development, which provide a guide for the form, scale and layout of the proposal. The overall scheme indicates the provision of up to 840 dwellings across the site, which would amount to a relatively high density of development, in addition to a mix

of commercial and community uses. The proposals would utilise the existing historic street pattern and seeks to form street blocks fronting onto the highway. I am generally satisfied that the master plan is capable of achieving satisfactory standards of amenity within the development and provide a high quality living environment for the new residents. There are existing properties, including residential accommodation in the Railway Conservation Area to the east of the site and off London Road to the southern boundary, which would be affected by the proposed development. Based on provision of a satisfactory scale and layout of development, which respects the living environment of nearby properties in the surrounding area, the master plan proposals are considered acceptable in terms of protecting local amenities.

Phase 1 of the development has a dense residential layout, comprising of terraced blocks and apartments above commercial uses on the “boulevard”. It also incorporates residential units and flats above garages, within the central semi-private courtyards. It is an innovative layout, with tailored dwellings and flats, which are designed to provide high quality living environment for the occupants. The individual units would have satisfactory relationships with each other and all the dwellings and some flats would be afforded private amenity space. The proposed layout provides natural surveillance of the central courtyards with all dwellings on the outer blocks, fronting onto the street. Only one of the flats over garage blocks within block B2 of Phase 1 would have an unacceptable massing effect on the private gardens of two dwellings, fronting onto Hope Street. The first floor flat in this location backs onto the rear of those two dwellings with a 6 metre flank wall, abutting 6 metre gardens. This would result in an oppressive tunnel effect on the modest rear gardens and a poor living environment for the occupants. Negotiations with the applicant to revise the design of the flat block have not resulted in a satisfactory solution and as such I recommend that the first floor flat be omitted from the scheme, with retention of the garage block. This can be achieved by use of an appropriate condition. This would bring the total of residential units in Phase 1 down to 162.

The development in Phase 1 would have an acceptable relationship with existing residential properties on Liversage Court and the terrace on Wellington Street. I am satisfied that the existing housing would not be unreasonably overlooked. Overall the proposals would not have an undue impact on the living conditions of the residents, in accordance with Policy GD5.

Built Heritage and Archaeology

It is important to assess how the proposed development would impact on the historic built environment around the edge of Castle Ward. The relationship of the scheme with the adjacent Railway Conservation Area and listed and locally listed buildings on the London Road frontage has been considered in the supporting information. The “character areas” identify the local character of these heritage areas and in general, the proposals seek to respect the setting and character of historic buildings and the conservation area.

The setting of the Railway Conservation Area would be most affected, in term of views in and out of the area, by the formation of the “boulevard” and proposed re-development of buildings fronting Midland Place and Park Street. Midland Place is a recently refurbished area of public realm and important linkage with the railway station. Further assessment has been provided of the visual impacts of the scheme

on views in and out of Midland Place. This satisfactorily demonstrates that the Phase 1 development, of two and three storey built form along the “boulevard” would be of appropriate scale and massing to give sense of enclosure to Midland Place. On the indicative master plan, there are substantial concerns about the height and scale of proposed new build on the western side of Midland Place, which is on the site of the existing residential on Florence Court. The applicant’s aspiration is that new four storey development would better enclose the public realm and create opportunity for new open space on site of Midland Place. This aspect of the scheme raises issues in terms of the impacts on setting of the conservation area and legibility of the key route from station to city centre. I am mindful that scale and layout of development on later phases of the scheme are solely indicative at this stage and as such detailed proposals for Midland Place are reserved for a future application. The overall proposals have demonstrated satisfactorily that the scheme would preserve the character and appearance of the Railway Conservation Area in line with Policy E18.

The Grade II Listed Liversage Almshouses lie to the south of the application site. The main impact on their setting would be from development to the south of Hope Street and Carrington Street, in particular the primary school, which are on the outline master plan. Details of development in this location would be through reserved matters applications. The parameters plan indicates a low rise building form in this area, which should be capable of protecting the special historic character of the listed buildings. The Railway cottages within the conservation area are Grade II listed and their setting would be affected by proposals relating to Midland Place as discussed above. Their special character and setting would not be unreasonably harmed by the masterplan proposals.

Long range views of the Cathedral from the application site have not been identified by the applicant. However, since the street network would be largely maintained and the scale of much of the development is to be 2 and 3 storeys only, I am satisfied that the master plan proposals and Phase 1 would not undermine key views of the Cathedral, to the detriment of its setting and importance. Locally listed buildings along the London Road frontage would not generally be adversely impacted by the scale or form of the proposed development. Views of the spire of Holy Trinity Church, on the Local List, from the site, are considered to be some significance. Existing views from Midland Place and the public open space would not be wholly obscured through Phase 1 of the scheme and may even be enhanced as a result of the design quality of the proposed scheme. This is in line with the requirement of Policy E19.

An archaeological desk top assessment for the whole development site has been submitted in support of the application. This identified the potential for archaeological remains in parts of the site, dating from 19th Century development, previously demolished. I note the recommendation to undertake excavation works to evaluate the likelihood of any in situ remains, prior to determination of the application. However, I am also mindful that large areas of the application site are currently outside the control of the applicant and any potential remains are likely to be only of local significance. As such I am generally satisfied that potential archaeological interest on the site is not likely to prejudice the re-development and regeneration of the Castle Ward site. A suitable condition is therefore recommended to secure any site investigation works prior to any development taking place on the site. This would satisfy the requirements of Policy E21.

Flood Risk and Drainage

The site is in Flood Zone 1 and therefore considered to be at a low risk of flooding, despite its proximity to the River Derwent and its tributary. Due to the significant scale of the proposed development, a surface water drainage strategy and Flood Risk Assessment have been submitted in support of the proposal, to ensure that the scheme does not increase flood risk elsewhere. The proposal is required to satisfy the provisions of Policy GD3, which seeks to ensure that new development does not exacerbate flood risk in the local area. This is in line with the objectives of the NPPF, in relation to protection of development from significant flooding. The proposed drainage strategy includes elements of sustainable urban drainage (SUDs), which is welcome and satisfactorily demonstrates that an appropriate drainage solution could be implemented as part of the development and in the public highway. Subject to a detailed surface water drainage scheme being agreed prior to each phase of the development, including Phase 1, I am satisfied that the proposals are in accordance with national and local plan policies.

Ecology and Trees

The Castle Ward area is not identified as having any specific biodiversity or wildlife value. An ecological survey and assessment was submitted in support of the application, which indicates that there is potential for bat roosts within the buildings and trees on the application site. The survey also highlighted that the proposed foot bridge to Basses Recreation Ground is likely to impact a local wildlife site, which includes the Mill Fleam, a tributary of the River Derwent. The affected watercourse runs alongside Station Approach and the new pedestrian crossing would include construction of a bridge over it, to reach the open space. The ecological work undertaken is considered to be satisfactory to properly assess the potential impacts on protected species and habitats, to address the policies in the NPPF and Policies E5 and E7. Phase 1 of the development did not reveal any significant wildlife value, apart from bat activity, which can be satisfactorily addressed by further surveys prior to construction. Since the master plan proposals are in outline, further survey work and any mitigation measures to protect wildlife interest on and around the site, can be adequately be secured by means of suitable planning conditions.

The application site contains a large number of existing trees, most of which are located within the adopted highway or on public open space. Phase 1 contains about 180 trees and many of these are Lime trees on Liversage Street and Hope Street. Policy E9 seeks to ensure that development would not damage or destroy the long term retention of groups of trees, which contribute to the amenities of the local area. The majority of the existing trees are to be removed to enable the vision of a residential neighbourhood with the “boulevard” at its core, to be achieved. Consideration has been given to incorporating at least some of the street trees as part of the road improvements. However, these trees are planted very close together in a staggered arrangement, on one side of the carriageway. It was therefore found that their root protection areas would be damaged by the proposed works in the highway. Retention of the existing groups of trees would also not allow the tree lined

effect along the length of the boulevard, with the use of one tree species, to be achieved successfully.

The felling of the existing trees as part of Phase 1 of the development, is only considered acceptable on the basis of significant new tree planting within the development and on the understanding of the scheme achieving a high quality public realm and landscaping strategy, leading to significant improvements in green infrastructure in the local area. Phase 1 would include the planting of about 120 new trees, of which 38 semi – mature trees are proposed to be in the “boulevard”. A hierarchy of tree planting is proposed, with all the streets to be tree lined and standard trees planted in the residential courtyards and private gardens.

Within the existing public open space, 14 of the existing trees are to be retained in three groups. They are to be maintained in their existing lawned areas, which are to be bordered by low retaining walls to subdivide the space. The precise details of tree protection measures and landscaping proposals would be subject to suitable planning conditions. However, the applicant has satisfactorily demonstrated that the root protection areas of these retained trees should be safeguarded as a result of the proposed open space improvements.

The master plan proposals indicate the removal of about 290 trees across the rest of the application site. However, these trees have not been properly surveyed and their removal has not been fully justified. I am mindful that the layout proposals are only indicative at this stage and therefore there would be opportunity to fully assess the tree loss on later phases as part of any future reserved matters applications.

Public Art

As part of a significant development scheme, which incorporates considerable public realm improvements and new community facilities, it is appropriate for the proposals to include some form of public art. Policy E27 encourages the incorporation of environmental art where it will contribute to the quality and appearance of new developments or the general townscape.

The applicant has submitted an Arts and Culture Strategy, which indicates their plans for community engagement for the inclusion of public art within the local area. An on-site public art project would be secured through the Section 106 process. The applicant’s strategy demonstrates their commitment to the process of achieving a public realm art installation, within Phase 1 of the development. This is welcome and accords with the policy objectives.

Section 106

Policy GD7 requires that developments such as this should demonstrate a comprehensive and co-ordinated approach to the layout and design, phasing and implementation. The timescales for delivery of the necessary infrastructure should also be closely related to the needs generated by the development and its occupants. The applicant has undertaken a thorough master planning process and programmed five phases for implementation of the overall scheme. The proposed phasing of the development should allow existing businesses to continue to operate, whilst development is implemented on other parts of the site. The master plan proposals also address the infrastructure needs and provision of community facilities, required to achieve a sustainable neighbourhood.

In terms of securing implementation of the development, Policy GD9 indicates that in certain circumstances the City Council would consider uses of Compulsory Purchase powers to bring forward development. Provide certain criteria are met such powers may be used to ensure that a comprehensive scheme is achievable.

The significant scale of the proposed development generates a requirement for various contributions, including affordable housing, education, public open space, highways and community facilities, as set out in the SPD. The applicant has put forward a package of planning obligations, which includes most of the contributions on-site, as well as a small package of commuted sums. Since the master plan proposals are to be phased over a long period, it is important to secure the required obligations over the lifetime of the development. How this is achieved, whilst taking into account future viability of the scheme is a key issue, to be considered.

The applicant has agreed to enter into a Section 106 Agreement for Phase 1 of the development, although for the remainder of the site, under the outline proposals, the required planning obligations are to be secured by means of appropriately worded planning conditions. The outline application would normally be subject to a Section 106 Agreement. However, the application site covers a large area of the Castle Ward townscape, with many different land ownerships and businesses. The applicant does not have control over much of the site area, outside the Phase 1 site. As such securing a Section 106, where there are numerous landowners, who have not yet come on board with the proposals, is likely to be very difficult, involving protracted and possibly unsuccessful negotiations. The City Council have obtained legal advice, to give Members comfort that the necessary infrastructure and community facilities for all the later phases of the development, can be secured by means of planning conditions attached to the outline permission.

At the time of printing, negotiations are still ongoing with the applicant on the Heads of Terms for the Phase 1 Agreement. This is in respect to the financial viability of the scheme and ensuring that the proposed on-site enhancements satisfactorily mitigate for the lower provision of financial contributions. The applicant has argued that the total value of the required obligations for the Phase 1 development are to be met through specific enhancements and facilities delivered as part of the scheme. The planning obligations included in the Phase 1 Heads of Terms, which have been agreed, subject to the agreement of the details, are as follows:

- 25% proportion of affordable housing within the development, to Lifetime Home standards and Code Level 3 for Sustainable Homes
- Public realm/ Incidental open space enhancements on-site, through improvements and maintenance of existing public open space and public realm works within the development.
- Public Art contribution in accordance with the submitted Public Art Strategy
- Children's play area to be provided within public open space
- Highway improvements to form "boulevard" between Park Street and Traffic Street, to be undertaken as part of development

The site for a new primary school to serve the development is to be secured through the Phase 1 Section 106 Agreement. The provision of a half form entry school would

then be secured as part of Phase 2 development, with completion of the facility to be secured under Phase 3.

Secondary school capacity would be assessed prior to occupation in Phase 1 and if there is a requirement for a financial contribution towards extending provision, then this would need to be secured before completion of the development. The terms of this contribution is to be finalised prior the committee meeting.

An update on the agreed Heads of Terms will be given to Members at the meeting.

11. Recommended decision and summary of reasons:

11.1 A. To authorise the Director of Planning and Facilities Management to negotiate the terms of a Section 106 Agreement for Phase 1 of the scheme, to achieve the objectives set out in 11.5 below and to authorise the Director of Legal and Democratic Services to enter into such an agreement.

B. To authorise the Director of Planning and Facilities Management to **grant permission** upon conclusion of the above Section 106 Agreement.

11.2. Summary of reasons:

The proposal has been considered against the following adopted City of Derby Local Plan Review policies and all other material considerations and the masterplan proposal and details of Phase 1 for provision of a mixed use development and provision of infrastructure would be a comprehensive re-development scheme, with opportunities for cohesive design and layout, with reasonable impacts on visual and residential amenities, no significant harm to built heritage on or around the site, no adverse implications for the local highway network, loss of trees would be satisfactorily mitigated by landscaping and public realm enhancements and no significant environmental impacts in terms of flood risk, air quality and land contamination.

11.3. Conditions:

Outline conditions:

1. Details of reserved matters: layout, scale and appearance
2. Approval of reserved matters for second phase of development to be submitted within 3 years and development on this phase to be commenced within 5 years of this permission of 2 years from approval of reserved matters. Applications for subsequent approvals of all other phases to be submitted within 20 years of this permission and commenced within 2 years from last approval of reserved matters.
3. Development permitted to be carried out in accordance with specified approved plans.
4. Each phase of the development not to commence until, provision of proportion of affordable housing is secured by means of completed legal agreement.
5. Each phase of the development not to commence until provision of public realm, incidental open space and major open space is secured by means

- of completed legal agreement. and assessment of secondary school capacity prior to occupation of any dwellings
6. The second phase of the development not to commence until provision of a half form entry primary school on site and a community centre on site, subject to agreed siting, is secured by means of a completed legal agreement.
 7. The third phase of the development not to commence until provision of a single form entry primary school on site and construction of bridge and pedestrian crossing to Basses Recreation Ground, over Station Approach is secured by means of a completed legal agreement.
 8. Each phase of the development not to be occupied until an assessment of secondary school capacity in the local area is undertaken and any contributions required towards further provision to be secured by means of a completed legal agreement.
 9. Detail of a surface water drainage scheme for each phase of development to be submitted and agreed, based on sustainable urban drainage principles and assessment of hydrological and hydrogeological context, before work commences.
 10. Details of underground service runs for each phase of development to include details of depth and width of runs to be submitted and agreed before work commences.
 11. Prior to each phase of the development a preliminary risk assessment and site investigation for ground contamination on the site be submitted and agreed before work commences
 12. Based on results of site investigation and risk assessment a remediation strategy giving details of measures required and how they will be undertaken and verification plan to demonstrate that works undertaken area complete, shall be submitted and agreed.
 13. In the event that contamination not previously identified is found to be present on site, not further development to be carried out until remediation strategy is undertaken and details to be submitted and agreed.
 14. No infiltration of surface water drainage into ground to be permitted without prior agreement, to demonstrate no unacceptable risk to controlled waters on any phase of the development.
 15. Facilities for storage of oils, fuels or chemical to be sited on impervious bunds.
 16. A detailed method statement for removing or control of Japanese Knotweed on the site to be submitted and agreed for each phase of the development, before work commences.
 17. Any community uses within the site that are to be displaced by any phases of the development to be adequately relocated prior to development on that phase commencing.

18. No A1 floorspace shall be included in any phase of the development, except for Phase 1, unless subject to a retail impact assessment.
19. Full tree survey and constraints plan in accordance with BS5837:2012 to be submitted and agreed for each phase of development.
20. Written Scheme of Investigation for on-site archaeological investigation on each phase of the development, to be submitted and agreed, before works commence on that phase.
21. Post –excavation reporting, dissemination and archive deposition of archeological work under condition 15 to be agreed before any development commences on each phase.
22. A comprehensive noise survey to be undertaken, to assess proposed residential units and any mitigation measures to be submitted and agreed before development commences on each phase.
23. A comprehensive acoustics survey to be undertaken to assess proposed commercial/ industrial development and any mitigation works which are required to be submitted and agreed before development commences on each phase.
24. Further bat activity surveys shall be carried out for each phase of the development, including a survey for Mill Fleam area to the north of the site, relating the phase of development which includes the pedestrian crossing and new bridge onto Basses Recreation Ground. These surveys shall include mitigation for any impacts on roosting bats, to be implemented as part of the relevant phase.
25. Method statements for the construction of bridge over Mill Fleam and further ecological survey work related to this part of the development, to be submitted and agreed, under the relevant phase of the development before any work commences.
26. A scheme for generating part of energy requirements by on-site renewable energy sources to be submitted and agreed, for each phase of the development.
27. Details of internal road layouts, quality audit for highway improvements, servicing and on-street parking provision to be submitted and agreed for each phase of the development before work commences.
28. Details of signalised pedestrian/cycle crossing across Station Approach and a timescale for implementation of these works, to be submitted and agreed.
29. Details of a scheme to change the priority of Siddals Road junction with Station Approach and a timescale for implementation of these works to be submitted and agreed.
30. Details of an operational Travel Plan for each phase of the development, to be developed from Framework Travel Plan, to be submitted and agreed prior to occupation of dwellings.

Details of Phase 1 conditions:

1. Three year time limit for commencement of development.
2. Development permitted to be carried out in accordance with specified approved plans.
3. Details of external materials to be submitted and agreed, including building materials and surfacing materials before work commences.
4. Details of boundary treatment to be submitted and agreed before work commences.
5. Details of landscaping of semi-private courtyards, residential streets and private gardens to be submitted and agreed before work commences.
6. Notwithstanding the details of the tree strategy, which has been submitted, tree planting proposed for the “boulevard” and other streets to be subject to species details to be submitted and agreed before work commences.
7. Landscaping to be implemented and maintained following completion of the development.
8. Restriction of range of goods that could be sold from A1 floorspace on “boulevard”.
9. Restriction on amount of A1 floorspace in Phase 1 to no more than 1000 square metres.
10. Any A3 uses to be brought forward in Phase 1 to be subject to details being agreed of proposed opening hours, sound insulation measures in the unit and of ventilation and extraction system and flue to be implemented.
11. The development to meet a minimum standard Code Level 3 Sustainable Homes for housing and BREEAM Excellent standard for all other uses, in accordance with details submitted.
12. Detail of a surface water drainage scheme for the site to be submitted and agreed, based on sustainable urban drainage principles and assessment of hydrological and hydrogeological context, before work commences.
13. Details of underground service runs for the site to include details of depth and width of runs to be submitted and agreed before work commences.
14. A site investigation for ground contamination on the site be undertaken post-demolition and results submitted and agreed before further work is carried out on site.
15. Based on results of site investigation and risk assessment a remediation strategy giving details of measures required and how they will be undertaken and verification plan to demonstrate that works undertaken area complete, shall be submitted and agreed.
16. In the event that contamination not previously identified is found to be present on site, not further development to be carried out until

remediation strategy is undertaken and details to be submitted and agreed.

17. No infiltration of surface water drainage into ground to be permitted without prior agreement, to demonstrate no unacceptable risk to controlled waters on any phase of the development.
18. Facilities for storage of oils, fuels or chemical to be sited on impervious bunds.
19. Written Scheme of Investigation for on-site archaeological investigation on each phase of the development, to be submitted and agreed, before works commence on that phase.
20. Post –excavation reporting, dissemination and archive deposition of archeological work under condition 19 to be agreed before any development commences on each phase.
21. Details of tree protection measures and method statements for all works affecting root protection areas, in accordance with BS5837:2012 for the retained trees to be submitted and agreed and in place before work commences.
22. Permission does not imply approval of first floor flat over garage plot number B2-22 on referenced drawing.
23. Notwithstanding the details of layout and external treatment for the proposed works to public open space, full details of re-landscaping scheme, including location of walls, pathways, retention of trees and planting and all surfacing and building materials to be used in the open space area, to be submitted and agreed before work commences.
24. Details of layout and provision of childrens play area in the public open space are to be submitted and agreed.
25. Details of building design to be submitted under Conditions 3 & 4 subject to agreement of details of window and door recesses, of louvres and bonding of brickwork.
26. Highway design and construction to be subject to agreement of details of measures to implement 20mph traffic speed, surface drainage measures, soft landscaping, footway widths alongside public open space, location of pedestrian/cycle crossing on “boulevard” opposite Midland Place, intersection between Liversage Street, the “boulevard” and link to Carrington Street to be provided before occupation of dwellings.
27. Details of surface materials and highway geometry to improvements to public realm, to be submitted and agreed and to include Quality Audit in line with Local Transport Note 1/11.
28. Details of an operational Travel Plan to be developed from Framework Travel Plan, to be submitted and agreed prior to occupation of dwellings.
29. Before occupation of dwellings, junction of Hope Street and Traffic Street to be amended to operated as left out onto Traffic Street only.

30. The garages within development to be available for use at all times for parking of vehicles.
31. Details of a construction management plan, for dust, noise and waste to be submitted and agreed before work commences.

11.4. Reasons:

Outline reasons

1. The application was submitted in outline only and in accordance with policy of the adopted City of Derby Local Plan Review.
2. As required by Sections 91-92 of the Town and Country Planning Act 1990.
3. For avoidance of doubt.
4. To ensure provision of appropriate level of affordable housing to meet housing needs – Policy H11
5. To ensure public open space is provided to serve needs of local community - Policies L2 & L3
6. To ensure provision of education and community facilities to serve needs of local community – Policies L11 & LE1
7. To ensure provision of necessary education facilities and infrastructure to serve needs of local community – Policies LE1 & T1, T6, T7 & T10
8. To ensure provision of necessary education facilities in the interests of local community – Policy LE1
9. To prevent increased risk of flooding and protect water quality and the local environment – Policy GD3.
10. For the protection of retained trees on the site – Policies GD2 & E9
11. To protect the development from significant harm under PPS 23 – Policies GD2 & E12
12. To protect the development from significant harm under PPS 23 – Policies GD2 & E12
13. To protect the development from significant harm under PPS 23 – Policies GD2 & E12
14. To prevent contamination of the ground – Policies GD2 & E12
15. To prevent pollution of river Derwent and ground water sources – Policies GD2 & E12
16. To protect the natural environment and biodiversity – Policies GD2, E5 & E7
17. To ensure continued provision of community facilities, in the interests of public amenity – Policies GD1 & L12

18. To protect the vitality and viability of existing retail hierarchy - Policies S1 & S2
19. To ensure the retention of important trees in the interest of visual amenity of local area – Policies GD2 & E9
20. For protection of any archaeological interest on or under the site – Policy E21
21. For protection of any archaeological interest on or under the site – Policy E21
22. To ensure residents amenities are protected from excessive noise levels – Policies GD5 & E12
23. To ensure residents amenities are protected from excessive noise levels – Policies GD5 & E12
24. For the protection of protected species and in interests of natural environment – Policies GD2, E5 and E7
25. For the protection of protected species and in interests of natural environment – Policies GD2, E5 and E7
26. To minimise energy consumption and promote energy efficiency - Policies GD2 & E10
27. For the avoidance of doubt and in the interests of highway safety – Policy T4, T6, T7 and T10
28. To ensure provision of highway crossing in interests of highway safety - Policy T1
29. To ensure provision of junction improvements in interests of highway safety – Policy T1
30. To ensure range of transport choices for occupiers of the development – Policy T1.

Details of Phase 1 reasons:

1. Time limit reason.
2. For avoidance of doubt.
3. For a satisfactory development of site in interests of visual amenity and to preserve character of Conservation Area. – Policies GD4, E23 and E18
4. For a satisfactory development of site in interests of visual amenity and to preserve character of Conservation Area. – Policies GD4, E23 and E18
5. In interests of visual amenity and ensure high quality urban design – Policies GD4 & 17
6. In interests of visual amenity and ensure satisfactory mitigation for tree removal on site – Policies GD4, E17 and E9

7. In the interest of visual amenity and ensure high quality urban design – Policies GD4 & E17
8. To protect vitality and viability of designated shopping centres – Policy S9
9. To protect vitality and viability of designated shopping centres – Policies S1 & S2.
10. To protect the amenities of residential properties in the local area – Policy GD5.
11. To ensure reductions in energy consumption are achieved through the development and minimise effects on environment – Policies GD2 & E10.
12. To prevent increased risk of flooding and protect water quality and the local environment – Policy GD3.
13. For the protection of retained trees on the site – Policies GD2 & E9
14. To protect the development from significant harm under PPS 23 – Policies GD2 & E12
15. To protect the development from significant harm under PPS 23 – Policies GD2 & E12
16. To protect the development from significant harm under PPS 23 – Policies GD2 & E12
17. To prevent contamination of the ground – Policies GD2 & E12
18. To prevent pollution of river Derwent and ground water sources – Policies GD2 & E12
19. For protection of any archaeological interest on or under the site – Policy E21
20. For protection of any archaeological interest on or under the site – Policy E21
21. To protect retained trees from impacts of the development in interests of visual amenity – Policy E9
22. Unreasonable massing, limit daylight resulting in oppressive impacts on occupants of adjacent dwellings – Policy GD5
23. Submitted details insufficient to ensure proper control of external works to public realm and in interests of public amenity – Policies GD4, E17 & E19, L1
24. Submitted details insufficient to ensure proper control of external works to public realm and in interests of public amenity – Policies GD4, E17 & E19, L1.
25. To ensure satisfactory development of the site, in interests of visual amenity and to protect character of conservation area – Policies GD4, E23 & E18.

26. To ensure a satisfactory public realm in the interests of visual amenity of local area – Policies GD4, E23 , T1 & T4
27. To ensure a satisfactory public realm in the interests of visual amenity of local area – Policies GD4, E23 , T1 & T4.
28. To ensure range of transport choices for occupiers of the development – Policy T1.
29. In the interests of highway safety – Policies T1 & T4.
30. To ensure satisfactory parking provision in the interests of amenity – Policies GD5 & T4
31. To protect amenities of nearby residential properties – Policies GD5 & E12.

Informative Notes:

Stopping up of the Highway - In order to remove the highway rights from Canal Street a 'stopping up' order under S247 of the Planning Act 1990 (as amended) will be required to be obtained from the Secretary of State.

S278 Agreement -The above conditions require works to be undertaken in the public highway, which is land subject to the provisions of the Highways Act 1980 (as amended) and is land over which you have no control. In order for these works to proceed, you are required to enter into an agreement under S278 of the Act. Please contact Robert Waite Tel 01332 641876 for details.

Design Guidance - For details of the 6C's design guide and general construction advice please contact Robert Waite Tel 01332 641876.

Traffic Regulation Orders - A number of aspects of the proposal rely on the introduction of new traffic regulation orders (TROs) i.e. the introduction of 'no entry' into Hope Street and residents parking etc. It should be noted that the TRO process is not certain as it is subject to a formal consultation process, including public consultation, and the Council must give proper consideration to any valid objections that are raised. If you proceed with the development prior to ensuring that the various TROs you rely on have been formally confirmed you will be doing so at your own risk. You are required to fund all costs associated with the various new and amended TROs you require. The process and costs will be administered through the S278 agreement.

11.5. S106 requirements where appropriate:

Phase 1 - Provision on-site of:

- Public realm improvements and contribution towards maintenance
- Public art in accordance with submitted Art Strategy
- 25% affordable housing to lifetime home standards
- Provision of childrens play area
- Construction of "boulevard" within existing highway between Park Street and Traffic Street

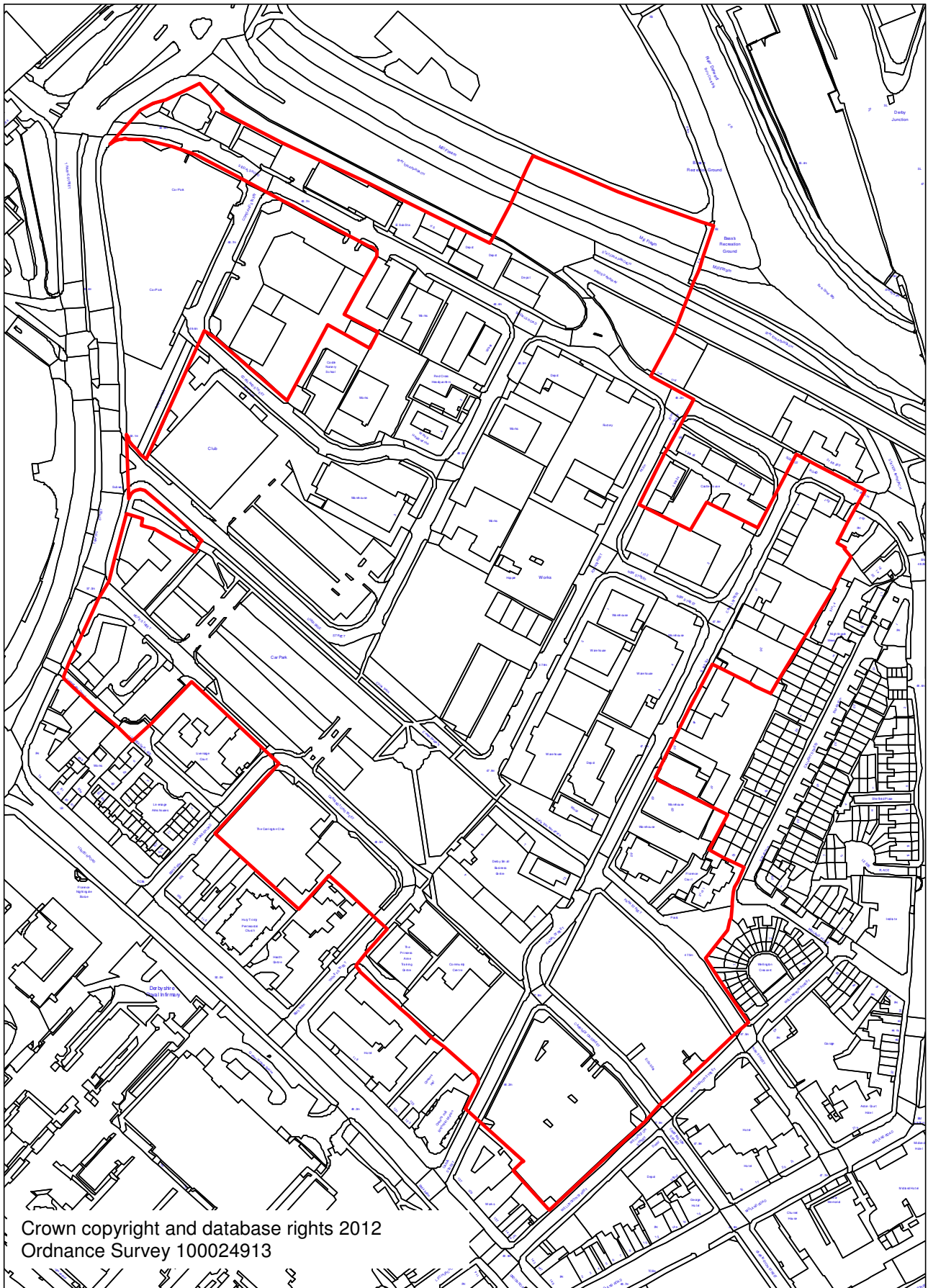
Committee Report Item No: 1
Application No: DER/05/12/00563

Type: Hybrid – outline and full (for phase one)

- Agree location of one form entry primary school within Phase 2.
- Assessment of secondary school capacity prior to occupation under Phase1.

11.6. Application timescale:

The 13 week target period for determination of the application expired on 8 August 2012 and is brought to committee as a significant urban re-development scheme in the city .



THE DERBY CITY COUNCIL (CASTLEWARD) COMPULSORY PURCHASE ORDER 2020

APPENDIX 7

EMPLOYMENT LAND REVIEW EXTRACT

STATEMENT OF EVIDENCE OF MR. JONATHAN PHEASANT

ON BEHALF OF DERBY CITY COUNCIL

PUBLIC INQUIRY 26 – 29 January 2021

Appendix 8 Plan Ref	Area	Size, ha	Quality	Comments
	R2			
42	Shaftesbury Crescent/Vulcan Road R5	3.40	Below average	Under redevelopment
43	Castleward	13.29	Below average	Low intensity of use, could be better used for city centre regeneration, incorporating mixed-uses
44	Markeaton	11.04	Below average	Marginal employment area, scope for ancillary, small-scale office uses
45	Curzon Street/Forman Street/Kensington Street	0.39	Below average	Small single storey brick pre-war workshops
52	London Road (SE of Derwent Park)	37.13	Below average	Specialised rail use
5	Ashbourne Road/Merchant Street	0.35	Poor	Semi-derelict factory
51	Derby Train Station East	1.41	Poor	Specialised rail use
54	Bath Street	0.67	Poor	Former mill, very difficult to access
66	Ceasar Street	0.11	Poor	Redeveloped for housing
67	Mansfield Road/Roman Road	1.46	Poor	Redeveloped for housing

Source: BE Group

5.20 The equivalent South Derbyshire analysis was carried out in SDDC's Employment Land Review and completed in January 2007. That report used three categories: good, average and poor. This report uses five: good, above average, average, below average and poor. Table 64 shows how the two grading systems relate to each other. The base date of the SDDC Employment Land Review was 2005, whilst that of this study is 2006. A number of developments were completed within South Derbyshire during this one year period, notably at Dove Valley Park and at the former Cadley Hill Colliery, Swadlincote. These new developments have not been included in the Employment Areas Assessment.

THE DERBY CITY COUNCIL (CASTLEWARD) COMPULSORY PURCHASE ORDER 2020

APPENDIX 8

CASTLEWARD CPO RELEVANT PLANNING PERMISSIONS

STATEMENT OF EVIDENCE OF MR. JONATHAN PHEASANT

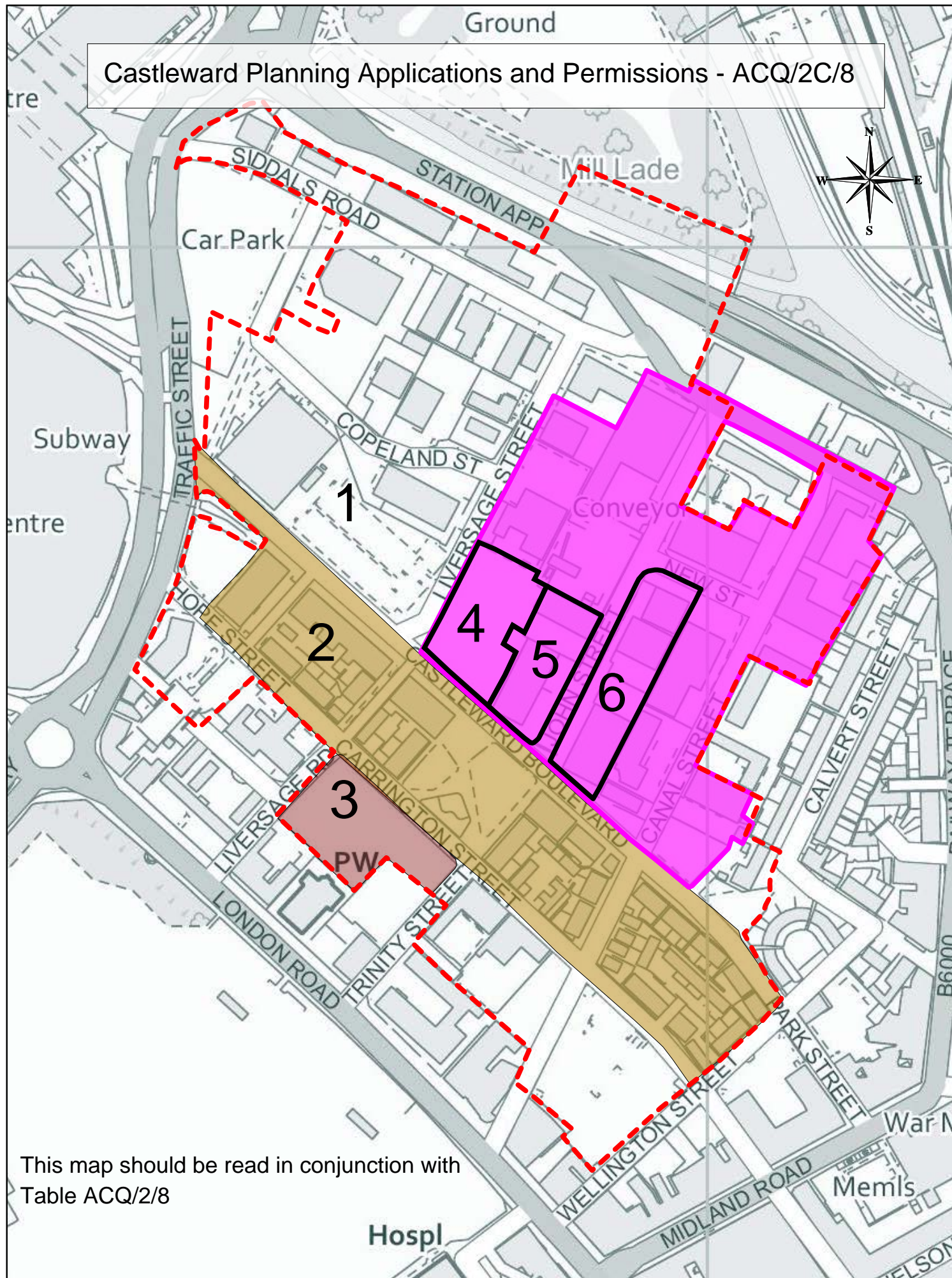
ON BEHALF OF DERBY CITY COUNCIL

PUBLIC INQUIRY 26 – 29 January 2021

TABLE ACQ/2C/8**THE DERBY CITY COUNCIL (CASTLEWARD) COMPULSORY PURCHASE ORDER 2020****Relevant Planning Applications and Permissions (To be read in conjunction with Map ACQ/2C/8)**

Map Ref	Application Number	Location	Type	Dwellings	Within CPO?	Status
1	05/12/00563 Outline Element	Castleward	Outline	Up to 840	Part	Approved
2	05/12/00563 Full Element	Liversage St/Carrington St (Phase 1)	Full	164	No	Approved and site now delivered (164)
3	12/17/01577 (Amended by 20/00664)	Carrington Street (Phase 2A)	Full	54	No	Approved and site now delivered (54)
4	19/01766	Liversage Street Car Park (Phase 2B)	Full	164	Yes	Undetermined Application
5	20/00684	John Street (west) (Phase 2B)	Full	94	Yes	Undetermined Application
6	20/00518	John Street (east) (Phase 3A)	Reserved Matters	82	Yes	Approved but not yet implemented

Castleward Planning Applications and Permissions - ACQ/2C/8



This map should be read in conjunction with Table ACQ/2/8

THE DERBY CITY COUNCIL (CASTLEWARD) COMPULSORY PURCHASE ORDER 2020

APPENDIX 9

MINERALS POLICY STATEMENT 1 2006- SAFEGUARDING EXTRACT

STATEMENT OF EVIDENCE OF MR. JONATHAN PHEASANT

ON BEHALF OF DERBY CITY COUNCIL

PUBLIC INQUIRY 26 – 29 January 2021

11 Exploration:

- consider carefully applications for mineral exploration in order to avoid or minimise any resultant adverse impacts on the environment.

12 Survey:

- use the best available information on mineral resources within their areas and consider the social, environmental and economic benefits and constraints of working them;
- undertake regular assessments of the reserves for which planning permission has been granted for all mineral workings in their areas, taking into account the need for, distribution, production and uses of, each type of mineral, while maintaining mineral operators' reasonable needs for commercial confidentiality;
- assess the range, volumes and availability of waste material which may exist within reasonable proximity and which could provide suitable alternatives to primary minerals.

13 Safeguarding:

- define Mineral Safeguarding Areas (MSAs) in LDDs, in order that proven resources are not needlessly sterilised by non-mineral development, although there is no presumption that resources defined in MSAs will be worked;
- encourage the prior extraction of minerals, where practicable, if it is necessary for non-mineral development to take place in MSAs;
- in unitary planning areas, define MSAs in LDDs to alert prospective applicants for non-minerals development to the existence of valuable mineral resources;
- in two-tier planning areas, include policies and proposals to safeguard mineral resources within MSAs in county LDDs and show MSAs in district LDDs. Counties should define Mineral Consultation Areas (MCAs) based on their MSAs. MCAs should also be reflected in district LDDs. Where a planning application is made for non-mineral development within a MCA, the district should consult the county on the application;
- district councils responsible for spatial planning of land defined in MSAs should not normally include policies and proposals in their LDDs for non-minerals development in those areas, or sensitive development around safeguarded mineral areas, where such policies would affect the potential for future extraction of minerals;
- safeguard existing, planned and potential rail heads, wharfage and associated storage, handling and processing facilities for the bulk transport by rail, sea or inland waterways of minerals, particularly coal and aggregates, including recycled, secondary and marine-dredged materials;

- identify future sites to accommodate the above facilities and reflect any such allocations in the LDDs of district councils in two-tier planning areas. District councils in these areas should not normally permit other development proposals near such safeguarded sites where they might constrain future use for these purposes;
- safeguard existing, planned and potential sites including rail and water-served, for concrete batching, the manufacture of coated materials, other concrete products and the handling, processing and distribution of substitute, recycled and secondary aggregate material. Where appropriate, identify future sites for these uses and reflect any such allocations in the LDDs of district councils in two-tier planning areas.

14 Protection of heritage and countryside:

- where minerals development is proposed within, adjacent to, or where it is likely to significantly affect a *European site* (potential and classified *Special Protection Areas*, candidate and classified *Special Areas of Conservation* and listed *Ramsar Convention Sites*), take account of the advice contained in PPS9³ and the accompanying joint ODPM/Defra Circular⁴;
- do not permit major mineral developments in *National Parks*, *the Broads*, *Areas of Outstanding Natural Beauty* and *World Heritage Sites* except in exceptional circumstances. Because of the serious impact that major mineral developments may have on these areas of natural beauty, and taking account of the recreational opportunities that they provide, applications for these developments should be subject to the most rigorous examination. Major mineral development proposals should be demonstrated to be in the public interest before being allowed to proceed. Consideration of such applications should therefore include an assessment of:
 - i the need for the development, including in terms of national considerations of mineral supply and the impact of permitting it, or refusing it, upon the local economy;
 - ii the cost of, and scope for making available an alternative supply from outside the designated area, or meeting the need for it in some other way;
 - iii any detrimental effect on the environment, the landscape and recreational opportunities and the extent to which that could be moderated.

Planning authorities should ensure that for any planning permission granted for major mineral development in these designated areas, the development and all restoration should be carried out to high environmental standards, through the application of appropriate conditions, where necessary, and be in character with the local landscape and its natural features.

Proposals in these areas which are not considered to be major mineral developments should be carefully assessed, with great weight being given in decisions to the conservation of the natural beauty of the landscape and countryside, the conservation of wildlife and the cultural heritage and the need to avoid adverse impacts on recreational opportunities.

³ Planning Policy Statement 9: Biodiversity and Geological Conservation (2005) available at www.communities.gov.uk/index.asp?id=1143803

⁴ Joint ODPM/Defra Circular, ODPM 06/2005, Defra 01/2005: Government Circular; Biodiversity and Geological Conservation – Statutory Obligations and their impact within the planning system

THE DERBY CITY COUNCIL (CASTLEWARD) COMPULSORY PURCHASE ORDER 2020

APPENDIX 10

TARMAC OBJECTION TO DCLP1

STATEMENT OF EVIDENCE OF MR. JONATHAN PHEASANT

ON BEHALF OF DERBY CITY COUNCIL

PUBLIC INQUIRY 26 – 29 January 2021

Heaton | Planning

Planning Consultants

My Ref: JC/DOM/TAR-031-M

Your Ref: Local Plan Part 1 Core Strategy:

Pre-Submission

Date: 20/10/2015

Derby City Local Plan, Part 1 Core Strategy Consultation
Spatial Planning
Derby City
FREEPOST
MID24259
Derby
DE1 2BR

Dear Sir/Madam,

**DERBY CITY COUNCIL – LOCAL PLAN PART 1 CORE STRATEGY: PRE-SUBMISSION
CONSULTATION – REPRESENTATIONS ON BEHALF OF TARMAC TRADING LTD**

We are making representations to the above consultation document on behalf of our client Tarmac Trading Ltd.

Tarmac operate an existing aggregate recycling facility based at Chaddesden, just south of the A52, to the east of the city centre (please see Appendix B). Tarmac have been granted planning permission for extension of time to operate the recycling facility to June 2019 (Ref: DER/05/14/00717/PRI).

Planning permission for mineral extraction at the Chaddesden site is now exhausted with permission being granted for the extension of time to operate the recycling facility to June 2019. The planning permission outlines the long term permitted after-uses and the approved restoration plan for the recycling facility includes future employment uses.

9 The Square, Keyworth, Nottingham, NG12 5JT
Tel 0115 937 5552 Fax 0115 937 2876 email jenna@heatonplanning.co.uk

Heaton Planning is the trading name for Heaton Planning Ltd.
Registered office – 12 Bridgford Road, West Bridgford, Nottingham, NG2 6AB. Registered No. 4786259

The approved restoration scheme for the Chaddesden Quarry site includes a range of intended land uses, this is illustrated on the approved Restoration Plan which is attached. The restoration plan includes industrial development and commercial/leisure uses, which should be preserved for future employment and not 'zoned' as a Green Wedge site (please see Appendix C). Therefore, designating the Chaddesden site as Green Wedge is unsound and restricts future employment development on this area.

The Adopted Derby City Local Plan supports the need for economic growth and safeguarding development (Policy GD6), this protects the development potential of suitably located land so that additional pressures are not placed on land in sensitive locations, for example green wedges.

The Local Plan Part 1 Core Strategy includes designated Green Wedges. It would appear that the Tarmac site at Chaddesden falls within identified Green Wedge. It should be noted that the employment areas defined on the restoration plan should be identified for such continued use and not allocated as Green Wedge. Their interest is to protect the employment use on the site, as Tarmac want to carry on operating the recycling facility beyond 2019. Notwithstanding the recycling operation beyond 2019, the site at Chaddesden has long term permitted after uses including employment uses. Therefore, encompassing the Chaddesden aggregate recycling facility within Green Wedge would be inappropriate because the recycling operations are incompatible with the objective Green Wedge policy (Policy CP18 – Local Plan Part 1 Core Strategy: Pre-Submission).

While washing over permitted employment land uses with the Green Wedge policy, it is contrary to the tests of soundness as set out in the National Planning Policy Framework, which require local plans to be positively prepared, justified, effective and are consistent with national policy. Therefore, the inclusion of Green Wedge at this location within the Local Plan Part 1 Core Strategy should be considered as unsound.

As stated above, the employment areas defined on the restoration plan should be identified for such continued use and not allocated as Green Wedge. We would request that due consideration is given to the recycling facilities falling within the Green Wedge and ensure that any future proposed designation would not compromise nor jeopardise the continued operation and supply of building products from this existing operation. Particularly given the operation is well placed to meet potential local building demand and is situated within close proximity and with good access links to local building markets and the city centre.

The following have been considered in relation to national policy:

Has the Local Plan been positively prepared?

Green Wedge Policy CP18 is contrary and does not take sufficient account of unmet needs for aggregate recycling and the future employment use on the Chaddesden site. The restrictions of the Green Wedge would be a serious repercussion for the company in terms of future employment use. Planning permission was granted in July 2014 for an extension of time for the continuation of aggregate recycling operations on the Chaddesden site until 2019. The site has land identified for industrial development and commercial/leisure related development in the approved restoration scheme, which should be preserved for future employment and not 'zoned' as a Green Wedge site.

The NPPF supports economic growth and economic development which is contrary to what is outlined in the Green Wedge policy and Tarmac's future interests in the site at Chaddesden. Therefore, the Local Plan has not been positively prepared in relation to national policy.

Justified:

The Green Wedge policy CP18 does not support Tarmac's long term interest in aggregate recycling and their interest in protecting the employment use at the Chaddesden site. The Green Wedge *'ensures that development does not endanger the open and undeveloped character of the Wedge'*. Therefore, allocating the Chaddesden site as Green Wedge does not support the robust and credible evidence base set out in the Local Plan.

Effective:

This means that the Plan will deliver what it sets out to do. The Local Plan states that any mineral working will be restricted within the Green Wedge and Tarmac's long term interest in employment use post 2019 on the site. The site is also an existing land use where there is an active aggregate recycling facility present. As the site falls within the Green Wedge, this is not effective for the future of the aggregate recycling facility.

Consistent with national policy:

Paragraph 143 of the National Planning Policy Framework (NPPF) states *'existing, planned and potential rail heads, rail links to quarries, Wharfage and associated storage, handling and processing facilities for the bulk transport by rail, sea or inland waterways of minerals, including recycled, secondary and marine-dredged materials'* are to be safeguarded.

Chaddesden aggregate recycling facility is an existing land use site with existing rail heads and rail links carrying materials to and from the site. It also states in the Local Plan Part 1 Core Strategy Green Wedge Policy CP18, does not include mineral

workings within the Green Wedge. Therefore, in identifying the site as Green Wedge in the Local Plan does not accord with the National Planning Policy Framework.

It would appear that this Local Plan Part 1 Core Strategy: Pre-Submission will have impact upon Tarmac interests and therefore we would wish to amend the Green Wedge boundary at the Chaddesden site. It is therefore important that Derby City Council prepare their Local Plan to ensure that designations/land allocations do not sterilise workable mineral resources or existing minerals and waste operations or their associated facilities.

I trust that the above is helpful. Should you have any queries with regards to the above, please do not hesitate to contact us.

Yours Sincerely,

Jenna Conway
Heaton Planning Ltd

Appendices

Appendix A – Representation Form
Appendix B – Location Plan
Appendix C – Approved Restoration Plan

Appendix A – Representation Form



Derby City Council

Derby City Local Plan - Part 1 Core Strategy: Pre-Submission Response Form

Introduction

This public consultation is an opportunity for you to comment on the Derby City Local Plan - Part 1 Core Strategy: Pre-Submission (formerly known as the Derby City Core Strategy).

Responses made at this stage will be treated as a formal representation and considered by an independent Planning Inspector. The Inspector will consider all of the comments received and will prepare a report of the changes required (if any) to make the Local Plan legal and sound.

Normally there will not be another opportunity to make further comments before the examination by the independent Planning Inspector begins. However, further comments may be requested by the Planning Inspector based on the matters and issues that he or she identifies through the examination process as needing further clarification.

Taking part in this consultation

All responses must be received by us by **5pm on Friday 23 October 2015**. Comments received after this time will **not** be recorded and will **not** be considered. We have set this deadline to ensure that all who wish to take part in this consultation have the same timescale within which to respond.

All of the documents relating to this consultation can be found on our website at www.derby.gov.uk/part-1-consult. Paper copies of the consultation documents, Response Form and Guidance Note are available in all Derby libraries and from the Council House reception.

Please contact the Spatial Planning Team at Derby City Council on 01332 640807 with any questions about this consultation or to request paper copies of the documentation. You can also email us at, derby.idf@derby.gov.uk, or write to us using the Freepost address shown on the last page of this form.

Please fill in a separate paper Response Form for each part of the Plan you wish to comment on. If you use the online version of this form you can submit comments on more than one part of the Plan using just one form, this is available at www.derby.gov.uk/local-plan-response-form.

This form has two parts. Part A asks for your contact details and Part B asks questions for you to consider and gives you the opportunity to make comments.

For this consultation we are asking you to consider **only two questions** relating to whether the plan is legal or sound:

Is the Local Plan legal? If your response is about the way in which we have prepared the Local Plan, then this is likely to relate to whether or not the Local Plan is **legal**.

Is the Local Plan sound? If your response is about the content of the Local Plan and the strategy it proposes, then this is likely to relate to whether or not the Local Plan is **sound**.

We strongly recommend that you read the '**Guidance Notes on Legal Compliance and the Test of Soundness**', available on our website at www.derby.gov.uk/part-1-consult, as you consider your response and complete this form.

If your comments are seeking to change the Local Plan, you should make clear what you would like to be changed, why and where possible state exactly how the Plan should be changed. Your comments should cover concisely all of the information, evidence and supporting information necessary to support and justify your suggested change/s.

How we will use the information you give.

We will use all responses to this consultation to make, where necessary, amendments to the Derby City Local Plan - Part 1 Core Strategy: Pre-Submission. We may contact you, if necessary, to clarify the responses that you have given to ensure that we have understood and considered your comments appropriately. We will produce an overall report on the results of this consultation which will not link your name with the comments that you have given or any other personal information that you give. We may attribute comments given by organisations, developers and their agents when reporting, unless you tell us you do not want this to happen.

We must forward all responses we receive through this consultation to an independent Planning Inspector who will consider them as part of the examination. A copy of your comments will be part of the examination library which will be available for the public to use during the examination. Your name and contact details, but not your personal demographic responses, will be available for the public to view alongside the comments you have given. A copy of your response will also be published on-line; this will contain only your name alongside the comments you have given.

Your name, contact details and comments will only be used by the independent Planning Inspector to check that we have considered, taken account of and responded to all comments given. As a part of this process the independent Planning Inspector may contact you, unless you tell us you do not want this to happen. The independent Planning Inspector will also use this information to contact you about the oral examination if you express an interest at question 12 in taking part in this stage of the process.



All information provided will be treated in accordance with the Data Protection Act 1998. It will be used as described in the 'How we will use the information you give' section above. The information you provide may be shared with other departments in the Council for the purpose of preventing fraud or the misuse of public funds, or for any legal or statutory requirements such as safeguarding children and adults. It may also be shared with other public bodies (such as the Audit Commission) for a similar purpose.

Part A: Your Contact Detail – please complete this section if you're happy for us to hold your personal details.

Are you responding to this consultation as... Please select all that apply.

- ☐ a resident of Derby?
- ☐ a representative of a public sector organisation?
- ☐ a representative of a private sector organisation?
- ☐ a representative of a community / voluntary organisation?
- ☒ an agent responding on behalf of your client? If you are an agent, please give your client's contact details below first followed by your contact details.
- ☐ a spokesperson submitting the collective view of a group? Please supply a separate list of your group members along with their contact details.
- ☐ other?

If you are responding as a representative of an organisation, please tell us which organisation this is.

--

If you are responding as a representative of an organisation, please tell us your role within this organisation.

--

Please tell us your...

If you are responding on behalf of someone else, please give their contact details here.

Name	Tim Deal, Estates Manage – Central East
Address	Tarmac Ltd, Granite House, Granite Way, Syston, Leicestershire
Postcode	LE7 1WA
e-mail address*	tim.deal@lafargetarmac.com
Telephone number*	01162648508

Agents - if you are completing this form on behalf of your client, please include your...

Name	Jenna Conway
Company name	Heaton Planning Ltd
Address	9A The Square, Keyworth, Nottinghamshire
Postcode	NG12 5JT
e-mail address	jenna@heatonplanning.co.uk
Telephone number*	01159375552

* We only need this information if you are happy for us to contact you in this way.

Part B: Making Your Representation

Please select the document you are commenting on and tell us which section, paragraph, policy or map reference your comment relates to. Then please answer the questions which ask for your views on the legal compliance and soundness of the part of the Plan you have highlighted.

For open-ended questions, please continue on a separate sheet if necessary. Please reference which question/s your additional information relates to.

1. Which part of the Local Plan do you wish to comment on? Please select one option.

☐ The Derby City Local Plan - Part 1 Core Strategy: Pre-Submission

☐ The Proposed Changes to Proposals Map

2. Please tell us which section, paragraph number, policy reference or proposed change to the Proposals Map your comment relates to.

Section	Paragraph number	Policy reference	Proposals Map reference
Core Principles: Green Infrastructure	Green Wedges	CP18	

Is the Plan Legally Compliant? Please refer to page 2 of the Guidance Note.

3. Do you consider the Plan to be Legally Compliant? Please select one option

☐ Yes ☐ No

4. Why do you consider the Local Plan to be, or not to be, legally compliant? Please give further details and be as precise as possible.

Please see document attached.

5. Please explain what change you think should be made to the Plan to make it legally compliant and explain why this change will make it legally compliant. Any revised wording of the policy or text that you wish to suggest would be helpful. Please be as precise as possible.

Removal of Green Wedge designation on Chaddesden Sidings site operated by Tarmac on land identified for industrial/ Commercial/leisure related development (please see Appendix C). This would enable the approved employment afteruse for the site to be delivered.

Please continue on a separate sheet if necessary

Is the Plan Sound? Please refer to page 3 of the Guidance Note.

6. Do you consider the Plan to be sound? Please select one option.

☐ Yes ☐ No

7. If you consider the Plan to be unsound, is this because it... Please select all that apply.

☐ has not been positively prepared?

☐ is not justified?

☐ is not effective?

☐ is not consistent with national policy?

8. Please explain why you think the Plan is either sound or unsound or what change you think should be made to the Plan to make it sound. Please say why this change will make the plan sound. Any revised wording of the policy or text that you wish to suggest would be helpful. Please be as precise as possible.

Please see document attached.

Please continue on a separate sheet if necessary

9. If your comments are seeking a change/s to the Plan, do you consider it necessary to participate at the oral part of the examination? Please select one option.

☐ **No** I do not wish to participate at the oral examination. Please go to question 11

☐ **Yes** I do wish to participate at the oral examination. Please go to question 10

If you select **No**, your written comments will still be considered by the independent Planning Inspector. **Please note** the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination. There is no right to be heard at a hearing session and it is the Inspector who decides who should be heard.

Please tell us if you wish to attend the hearing sessions as an observer.

10. If your answer to question 12 is 'yes', please explain why you consider that it is necessary to participate at the oral part of the examination.

The Chaddesden site is an important strategic site for Tarmac. Tarmac wish to protect the employment use on the site and we consider it important to make representations directly to the Inspector in respect of removing Green Wedge designation on this proposed site.

Please continue on a separate sheet if necessary

Receiving information about the progress of the Local Plan

11. I would like to be notified of the following events: Please select all that apply.

☐ When the Derby City Local Plan - Part 1 Core Strategy: Pre-Submission has been submitted to the Secretary of State for examination.

- ☐ When the independent Planning Inspector appointed to carry out the examination has published their report.
- ☐ When the Derby City Local Plan - Part 1: Core Strategy has been formally adopted by the Council.

About you - this section will be separated from the rest of this Response Form before we publish and send a copy of your response to the independent Planning Inspector

To help us understand the views of different groups of people who live in or have an interest in Derby, please complete all of the questions you are comfortable answering.

12. Please tell us your postcode.

13. What was your age on your last birthday? Please give your age in years.

14. Are you... Please select one box only.



Male



Female

15. Do you consider yourself to be a disabled person? Please select one box only



Yes



No

16. To which group do you consider you belong? Please select one box only.



Asian or Asian British - Indian



Dual Heritage - White and Black African



Asian or Asian British - Pakistani



Dual Heritage - White and Asian



Asian or Asian British - Bangladeshi



Any other Dual Heritage background



Asian or Asian British - Chinese



White - English / Welsh / Scottish / Northern Irish / British



Any other Asian background



White - Irish



Black or Black British - African



White - Gypsy or Irish Traveller



Black or Black British - Caribbean



Any other White background



Any other Black background



Other ethnic group - Arab



Dual Heritage - White and Black Caribbean



Any other ethnic group

If you have selected one of the 'Any other background' options, please give further details.

Submitting your comments

We must receive all responses by **5pm on Friday 23 October 2015**.

Comments received after this time will **not** be recorded and will **not** be considered by the Council. We have set this deadline to ensure that all who wish to take part in this consultation have the same timescale within which to respond.

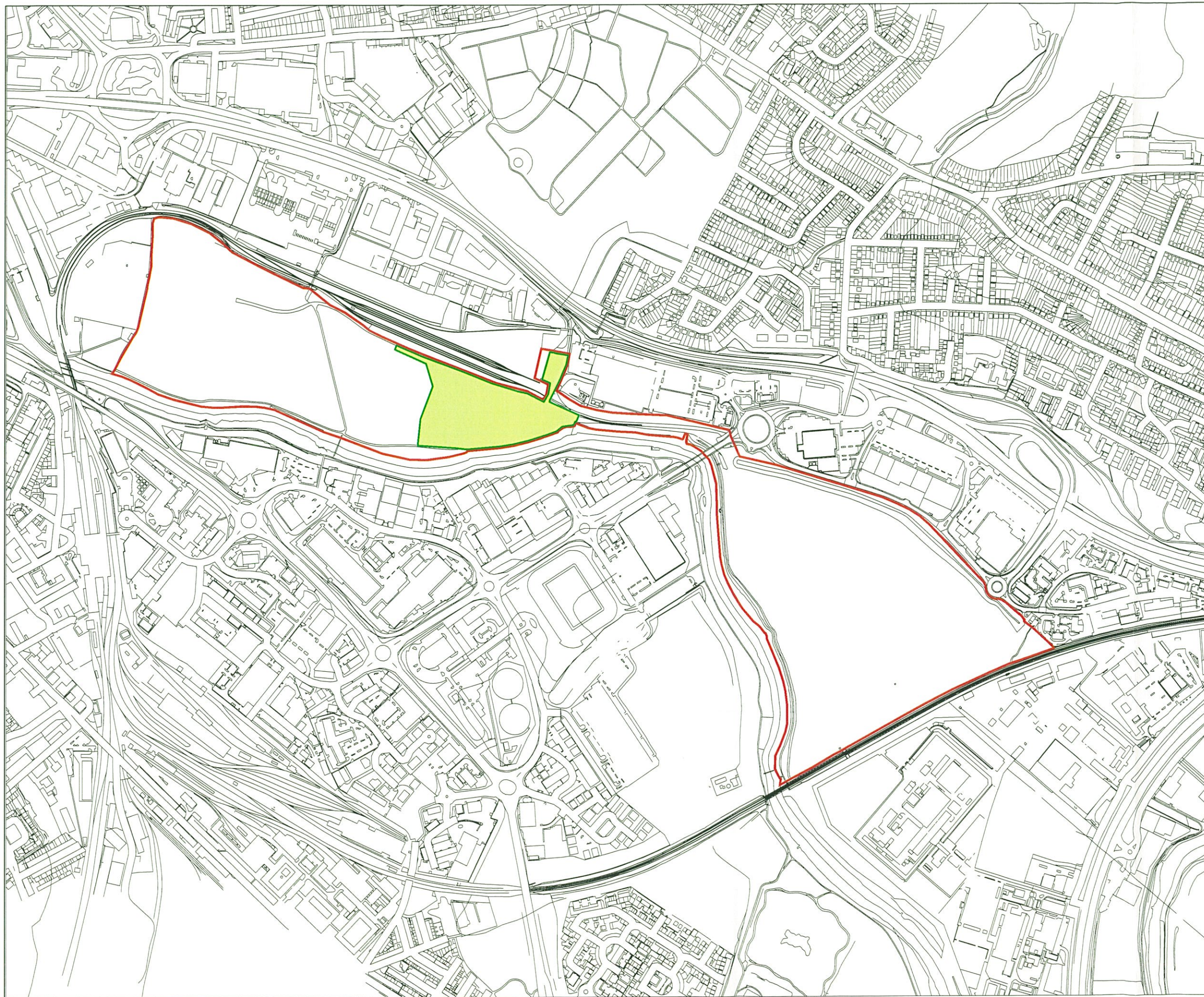
You can submit your comments using our online form at www.derby.gov.uk/local-plan-response-form.

Forms completed electronically in Word can be emailed to derby.idf@derby.gov.uk and forms printed or completed on paper can be returned using the Freepost address below:

Derby City Local Plan - Part 1 Core Strategy: Pre-Submission Consultation
Spatial Planning

Derby City Council
FREEPOST
MID24259
Derby
DE1 2BR

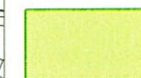
Appendix B – Location Plan



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Planning Consent Boundary



Recycling Area



Location

Chaddesden

Title

Location Plan

Drg.No.

Plan 1

Scale

1:8000@A3

Date

04/14



Albion House 89 Station Road
Eckington Sheffield S21 4FW

Tel: 01246 431 749 Fax: 01246 431 863
Email: headoffice@dlwalker.net

Appendix C – Approved Restoration Plan

