



Derby City Local Plan Part 1  
Core Strategy Examination  
Final Hearing Statements

On behalf of JGP Properties Ltd

31<sup>st</sup> March 2016

## Quality Control

<b>Job No</b>	<b>P&amp;DG/13.020</b>	<b>Doc No.</b>	<b>P&amp;DG/13.020 FHS</b>
<b>Title</b>	Final Hearing Statements		
<b>Location</b>	Derby City Local Plan Part 1 Core Strategy: Matters, Issues and Questions		
<b>Document Ref</b>	Final Hearing Statements		
<b>File reference</b>	P&DG/13.020 FHS		
<b>Date</b>	31 March 2016		
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## 1.0 Introduction

- 1.1 This Hearing Statement sets out P&DG's final representations submitted on behalf of JGP Properties Ltd.
- 1.2 Final representations are submitted concerning the following matters for the hearing sessions:
- Legal Compliance;
  - Matter 2: Housing Policy (CP6);
  - Matter 2: Housing Policy (CP7, CP8);
  - Matter 2: Housing Policy (Site Allocation AC26); and
  - Matter 8: Green Infrastructure and Open Space Policy (CP17, CP18).
- 1.3 On the following pages our final representations are provided to each of the above matters, for the Inspector's consideration and discussion during the Hearing sessions.
- 1.4 These representations are submitted in response to the key questions identified in the Matters where JGP Properties Ltd are listed as participants. They should be read in conjunction with our previous representations made to the Derby City Local Plan Part 1: Core Strategy (October 2015).

## **2.0 Statement – Legal Compliance**

- 2.1 We are satisfied that the City Council has committed its legal compliance objectives in its preparation of the Local Plan. Prior to submission of the Local Plan for Examination, the Council has engaged appropriately and on an ongoing basis on strategic matters with neighbouring authorities, on a Duty to Cooperate basis, and other relevant stakeholders.
- 2.2 The Council has also demonstrated that it has prepared the Local Plan in accordance with the Local Development Scheme, and its requirements for consultation, Sustainability Appraisal, national policy, and Habitat Regulations Assessment.

### 3.0 Matter 2: Housing (Policy CP6)

*Main issue 2(i) – Whether the housing strategy has been positively prepared and whether the overall level of housing provision and its distribution are justified and appropriate.*

For the purpose of this representation we focus on the following questions:

*b) What are the full, objectively assessed needs for market and affordable housing in the housing market area and the City? Is the Council's methodology appropriate and justified?*

It is our view that it cannot be considered correct that the City Council is using their evidence base effectively to ensure that their Local Plan meets the full, objectively assessed needs for both market and affordable housing in the Housing Market Area (HMA), as required by Paragraph 47 of the National Planning Policy Framework (NPPF). This is especially pertinent given the increasingly acute and delayed situation in the housing market area arising from the withdrawal of the Amber Valley Local Plan.

*c) How does the objectively assessed need for affordable housing relate to the overall scale of housing provision? Would an increase in the total housing figures in the housing market area help deliver the required number of affordable homes and, if so, has this consideration been given appropriate weight in determining the overall level of housing provision?*

There continues to be a need for affordable homes across Derby, of a mixture of scale and tenure. During the course of preparing and consulting on the application at Mansfield Road (DER/04/15/00449) we identified that affordable housing was distinctly lacking in Oakwood and this had been the case for decades as a result of previous policy and planning decisions. The likelihood of this situation being

repeated in other wards could be a possibility. The approval of major sites with an element of affordable housing (in the case of Mansfield Road, Oakwood the full 20% policy requirement) is a helpful contributor to this shortfall, but the reality is that affordable housing needs in many areas are still a long way off being met during the course of the plan period.

*g) Is there reasonable certainty that the objectively assessed needs for the housing market area as a whole will be met?*

We have confidence that the proposed strategic allocations are a robust range of sites that help meet the City's objectively assessed housing needs. However, we consider that the identified OAN (33,388 for the HMA and 16,388 for Derby City as identified in Amber Valley's Local Plan Examination) should be a minimum, and the City is currently maintaining a lower housing requirement than this of 11,000. This is, in our view, unsustainable. Given the uncertainties in the housing market area and the need to prepare the Amber Valley New Local Plan it is important that due consideration be given to non-strategic allocations, through a further review of Green Wedges for instance, to truly meet objectively assessed needs and help ease the pressures in the market areas as a whole.

*h) Does the withdrawal of the Amber Valley Local Plan Part 1 have any implications for meeting objectively assessed needs for the housing market area?*

As above, the withdrawal of this plan for reasons of housing supply demonstration has had marked implications in that it has created further delay; and it has surprisingly not increased the City Council's housing needs through the plan period, which we would have deemed appropriate. While Amber Valley Borough Council's intentions are to have an adopted New Local Plan Part 1 by 2018, It remains uncertain, given the track record of its predecessor, exactly how long this may take to conceive and adopt in reality; while the other authorities in the housing market area cannot remain still and wait.

- i) *Has the limit of 11,000 additional dwellings in the City in the plan period, which is less than its own objectively assessed needs, been justified? In particular:*
- *Does the evidence base support the retention of existing Green Belt boundaries?*
  - *Does the evidence base support the boundaries of the Green Wedges? Are they are justified constraint on development?*

The limit has not been justified in light of recent evidence. Green Wedges are subject to protection on a number of points; principally their openness and possibly their landscape and ecological role. The role of open agricultural land in supporting ecological habitats is less certain. It is our view that the evidence base in the form of the current Green Wedge Review does not go far enough in assessing the true qualities and values of each applicable site.

Moreover, as established by the recent Court of Appeal judgement (Richborough Estates Partnership LLP v Cheshire East Borough Council) the significance of Green Wedges as a policy jurisdiction cannot be deemed 'up to date' in line with the NPPF (specifically paragraph 49 and its relationship with the presumption in favour of sustainable development in paragraph 14) in the event that a local planning authority cannot demonstrate a five year supply of land for housing.

The City Council is unequivocal in that it cannot presently demonstrate a five year supply of housing, as demonstrated consistently in its decisions on major residential applications, including the case most recently on land at Lime Lane/Mansfield Road ref DER/04/15/00449 (on the site of Allocation AC26). Please see Appendix 1 for details of the decision notice and accompanying Site Masterplan.

*iv. Does the evidence base demonstrate that there are no other developable sustainable sites within the plan area during the plan period?*

The City Council has long established a ceiling of 11,000 on the number of homes that can be brought forward in its boundaries during the course of the plan period. Proposed allocations in the plan are considered sound and are essential to meet the City's future housing needs. However the increasingly vulnerable situation for Derby arises from the Housing Market Area (HMA) as a whole; neighbouring authorities are having to revisit their respective plans in full, or delay due to modifications. This has notable impact upon Derby, and the credibility of applying the ceiling to this extent no longer has relevance in light of a worsening housing land supply situation. Meanwhile long after this ceiling has been established there has been an increased push nationally by the government towards a proactive planning process that facilitates, not inhibits development on sustainable sites. There is also a demonstration in case law that in areas where housing land supply is an issue, local landscape designations, strategic gaps and sites on the edge of current settlement boundaries may be considered out of date in such circumstances.

*j) Is the distribution of new housing within the plan area in accordance with the overall spatial strategy?*

We agree with the proposed distribution but given the issues of housing delivery and meeting objectively assessed needs of both market and affordable housing development is a possibility in these areas where sites are demonstrated to be sustainable when tested against national policy.



*k) Have reasonable alternatives to the distribution of housing development been considered?*

In light of the Council's housing land supply position and current status within the HMA, we do not consider that the Council has conducted an assessment of reasonable alternatives to the distribution of housing development. One such area that would require reassessment is the nature and significance of the City's Green Wedges. We acknowledge that many parts of the City have development pressures, for a number of reasons including heritage, infrastructure and flood risk. In light of recent clarity in the courts on the interpretation of Paragraph 49 of the National Planning Policy Framework (NPPF), it is not sufficiently proven that Green Wedges can succeed effectively as a policy designation.

*l) Is the housing strategy sufficiently flexible to adapt to rapid change or to respond to new circumstances?*

Not at the present time. The housing strategy requires a chapter to state that should there be an issue with the delivery of housing in the HMA the Council will revisit site assessments. This is not without prejudice to the strategic sites already identified in Derby, but is an advised mechanism in light of the volatility of an ever changing situation in the HMA.

*Main Issue 2(ii) – Whether the Local Plan would assist in boosting significantly the supply of housing in terms of both a 5-year housing land supply and sufficient sites to achieve the plan requirement (Policy CP6)*

- a) Does the Local Plan assist in providing a continuous supply of specific deliverable sites sufficient to provide 5 years' worth of housing against the housing requirement with an appropriate buffer? Are the sites identified by the Council viable, are they available now, do they offer a suitable location for development now and are they achievable with a realistic prospect that housing will be delivered within 5 years?*
- b) Is there evidence of persistent under delivery of housing that would justify the buffer being 20% as proposed?*

It is our view that the 5 year supply should be calculated with the 20% buffer.

As the City Council acknowledges in their response to the Inspector (EX002), 'persistent under delivery' has been demonstrated. We would agree that given the Council's annual housing delivery figures since 2008, which are below objectively assessed needs and the old Regional Plan target, that it is persistent.

Where persistent under delivery has been demonstrated it is recommended that the City Council provide a 10% lapse rate to their deliverable 5 year housing land supply figure as was demonstrated to be acceptable as per the judgement held by the appeal decision in Wychavon and agreed by the Secretary of State (APP/H1840/A/13/2199085 and APP/H1840/A/13/2199426 Para 8.55 linked to both appeals).

*f) Is the Local Plan likely to result in an appropriate supply of deliverable sites or broad locations for growth in the plan period beyond 5 years? Are the sites in a suitable location with a reasonable prospect that they are available and could be viably developed at the point envisaged?*

We consider there is not an appropriate supply of deliverable sites though are of the view that the current strategic sites included in the Core Strategy are necessary during the course of the plan period. The matter lies that there needs to be sufficient additional sites coming forward to reflect the increasingly acute situation across the HMA as a whole.

*g) Does the housing trajectory provide an appropriate illustration of the expected rate of housing delivery for the plan period?*

The trajectory appears to provide an appropriate illustration. We would suggest that notwithstanding a requirement to consider additional sustainable sites and that they be reflected in the trajectory at the appropriate time it be amended to take into account of changes to major sites with planning permission. For instance site AC26 now has outline approval for 250 dwellings, and is likely to be deliverable in the trajectory at a rate of 50 dwellings p.a between 2017/18 and 2021/22.

*h) Is there a clear housing implementation strategy for the full range of housing, describing how the Council will maintain delivery of a 5 year supply of housing land to meet the housing target?*

The mechanism in part d of Policy CP6 is acknowledged, however we consider that the evidence base used to periodically review, update and identify new sites if required should be broadened to be consistent with the requirements of national policy. For instance, the need to ensure protection of the Green Belt but further review of locally led policy designations concerning landscape and green

infrastructure. This would be compliant with the requirements of paragraphs 14 and 49 of the NPPF.

*Main Issue 2(iii) – Whether the Strategic Site Allocations are justified and deliverable (Policies AC1, AC6, AC14, AC18, AC19, AC20, AC21, AC22, AC23, AC24, AC25, AC26)*

This representation is submitted in relation to site AC26 Lime Lane/Mansfield Road. As a demonstration of the site's clear suitability, there has been a major development in the progression of this site and its accordance with the Local Plan. On 26<sup>th</sup> November 2015, members of Derby City Council's Planning Committee resolved to grant outline planning permission for up to 250 dwellings, on a site of approximately 10.35ha broadly in line with the allocation. The application reference is DER/15/04/00449, please see Appendix 1 for details.

*c) Where a site is currently within a Green Wedge, has its removal from this designation been justified?*

The development of the Lime Lane site on part of the Green Wedge has been justified in the recent planning application approval and was informed by the City's Green Wedge Review (2012). Further assessment of the remainder of the site is required in light of recent case law, to ensure that the City Council is applying a sound methodology. We maintain the view that the value of their continued role needs to be balanced with other needs of the city and new opportunities that may arise that could influence their form and use. Green Wedges have to be linked to sound arguments based upon issues including ecology, urban design, landscape visual impact, accessibility, function and overall recreational benefit on balance with the need to provide sustainable locations for housing and a desire to limit development in the Green Belt.

*d) Has the overall amount and mix of development proposed at the site been justified by the evidence base?*

The housing amount and mix was considered noting the site AC26 allocation. While the development is of 250 dwellings, 50 more than the allocation, in making its decision the City Council acknowledged that the increase would not result in the proposals being inconsistent with the relevant parts of the National Planning Policy Framework, and it would be for the applicant to demonstrate their suitability on design grounds within a reserved matters submission.

*e) Have all of the infrastructure implications of the development of the site been identified in sufficient detail and supported by the evidence base?*

The planning application was subject to extensive scoping discussions with Derby City Council, both on a pre-application basis and during the course of the proposals being considered. The signed S106 agreement is reflective of the extensive CIL compliant assessment carried out to ensure that the development is accompanied by the appropriate infrastructure and package of obligations reasonably related in scale and kind to the development.

*f) Is it sufficiently clear who is going to deliver the required infrastructure and by when? Which infrastructure is critical to the delivery or rate of development of the site?*

Taking into account of market factors it is estimated that following the granting of a permission for reserved matters and discharge of appropriate planning conditions, the site could be delivered over five years, at a build out rate of approximately 50 dwellings per annum.

*g) Are the transport implications of the development and the measures to address them sufficiently clear and deliverable?*

The proposals are inclusive of a consented access design, which takes into account of a right turn lane junction into the site from Mansfield Road; meanwhile it was agreed at Committee to construct a 3 metre wide footpath connection along the A608 that borders the site to improve connectivity with the existing pedestrian network. The scheme received no objection from the local highway authority and it is considered that the development would place no significant adverse effects upon the local highway network.

*h) Are the education implications of the development and the measures to address them sufficiently clear and deliverable?*

The consultation process with the Local Education Authority has established that the site lies in the catchment area of two schools, Breadsall Hilltop Primary School and Da Vinci Secondary School. A quantitative assessment of school places at both of these sites was carried out by the authority, which deemed that there was surplus capacity in the site catchment. As part of the S106 Agreement the applicant has agreed with the City Council that as part of a Reserved Matters submission a further quantitative assessment will be made on school places. If at that time a surplus does not exist in the catchment area, a request will be made to the applicant to finance the relevant education obligation. This is consistent with the approach taken at numerous large scale major applications across Derby, and was agreed following recommendations put forward by the Council.

- i) Have the flood risk implications of the development been appropriately assessed and taken into account? Has the sequential test been applied appropriately, where relevant?*

The application was supported by a full Flood Risk Assessment and Drainage Strategy that took into account the impact of the development, potential off site flooding impacts and the need to provide reserve for future major flood events. During the course of the pre-application consultation process with the flood authority it emerged that flood risk issues exist away from the site near Breadsall and the consented proposals include an enlarged sustainable drainage attenuation pond in the north-eastern corner of the site as a means of helping address these off site impacts. The design and maintenance strategy for the pond has been agreed with the flood authority.

- j) Is there sufficient viability evidence at this stage to have reasonable certainty that the development proposed will be deliverable within the plan period in the context of affordable housing provision, necessary infrastructure and other Local Plan requirements?*

As a credit to its deliverability, the S106 Agreement has been signed and decision issued on 21<sup>st</sup> March 2016. The site has developer interest and is located in the Oakwood Ward, which has high demand for market housing and a severe shortage of new affordable homes. We consider there to be very good prospects for the site being built out in the short term, initial 5 year period of the Local Plan.

*Main Issue 2(iv) – Whether the Local Plan makes appropriate provision for a range of housing in terms of affordability, mix and type (Policies CP7 and CP8)*

*a) Does the Local Plan provide sufficient guidance on the mix, size, type, tenure and range of housing is required?*

It is our view that the plan does give sufficient guidance on these considerations.

*g) Does the Local Plan appropriately address the need for starter homes?*

It is expressed that the impending Housing and Planning Bill be monitored during the course of the Examination in the context of the delivery of starter homes, so that the policy has sufficient flexibility to accommodate changes brought about by the Bill or other future changes to legislation.



## 6.0 Matter 8: Green Infrastructure and Open Space (Policies CP16, CP17 and CP18)

*Main Issue: Whether the Local Plan provides a sound strategy for the provision, protection, enhancement or designation of green infrastructure and open space (Policies CP16, CP17 and CP18).*

The Council regards Green Wedges to be an important part of Derby's character which we would not disagree; however the significance of Green Wedges has to be formed upon a clear and conclusive methodology. We do not necessarily consider that all of the Green Wedges in Derby are equal in their merit for retention in the plan; each display differing qualities in their landscape, levels of public access, ecological significance and amenity value. Some may have good potential for enhancements in ecological value, but these can be achieved far more successfully as part of a coherent development scheme. For instance, open agricultural land may not provide optimum foraging habitat for protected species in the way a bespoke ecological corridor would, managed in the long term.

*b) Do the criteria in Policy CP18 provide an appropriate basis for the consideration of proposals for development in Green Wedges?*

In areas where the character of a Green Wedge is of notable quality, where the character is predominantly open with no urbanised context, it may be apparent to restrict the forms of uses permitted. However, the location of Derby's Green Wedges are not always in locations that fully serve the purpose intended, as an accessible location that radiates out into countryside from surrounding urban areas.

The concept of a Green Wedge as a feature of ecological significance is a case in point and links to the subsequent policy CP19. It is appropriate to regard a Green Wedge as a feature of ecological significance if that wedge is proven to support habitats or features that are of ecological interest. Arable fields can also provide opportunities for wildlife but owing to modern farming practice those opportunities tend to be limited when compared to other habitat types. However, the boundaries that enclose arable fields can often be of much greater ecological interest and it is often the boundary habitats that provide the most significant interest in a farmland landscape.

It is for these reasons that land designated as Green Wedge may be of no greater ecological interest than a series of green corridors that penetrate an otherwise built up landscape. It could be argued that a residential development with a generous proportion of public open space dedicated as a green corridor, and with a good standard of design exhibited in residential gardens, may be far more effective if protected from unnecessary disturbance caused by human activities and the impact of domestic pets upon ecological habitats. The presence of a Green Wedge is by no means a prerequisite for determining that a site may be unsuitable for development.

The site would benefit from proposals that encourage wildlife movement both into and out of the City of Derby, and the existing links between habitats of high ecological interest. This has been achieved in part by the consented site (Allocation AC26) through the provision of a green corridor along the eastern boundary (e.g. links between Chaddesden Wood and Breadsall Cutting are not being severed). However there remains a significant potential to enhance the status of this Green Wedge further, not by retaining it as it is, but facilitating the ecological and green infrastructure ambitions in full through a highly sustainable development scheme building upon the successes of the consented site.

*b) Should Policy CP18 include a commitment to review Green Wedge boundaries in the part 2 Local Plan in the context of the need to provide non-strategic housing allocations?*

We consider that the policy should contain a further review of Green Wedge boundaries in light of the recent Court of Appeal judgement in Cheshire, to take into account the significance of Green Wedges where the local planning authority cannot demonstrate a five year supply of housing land. We do not regard this to necessitate the plan to be found unsound, but for additional strategic sites to be a requirement in locations where the Green Wedge policy is unfounded.

*d) Is the green infrastructure strategy in Policy CP16 justified and deliverable?*

The inclusion of a policy supporting green infrastructure is welcomed but its links with Green Wedges are disparate in that there is a misconception that retaining the open nature of land may necessarily be advantageous for biodiversity. As described above and acknowledged by Policy CP16 there is a wish to provide net biodiversity gains and to ensure green infrastructure is an integral part of development. This can only realistically be brought forward as part of a development scheme, not by identifying Green Wedges as areas where improvements could be sought to enhance the wider green infrastructure network. The restrictions upon development in these locations as put forward in the plan would make these ambitions unrealistic to achieve.

**Appendix 1 Decision Notice and Masterplan – Land at Mansfield Road, Oakwood  
(ref: DER/04/15/00449)**



Derby City Council

To: Planning & Design Group  
Pure Offices  
Lake View Drive  
Sherwood Park  
Nottingham  
NG15 0DT

## Planning Application Decision

### Town And Country Planning Act 1990

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#### Part 1: Application Details

**Application No:** DER/04/15/00449 (please quote in correspondence)

**Location:** Land south of Mansfield Road, Breadsall Hilltop, Derby (between Porters Lane and Lime Lane)

**Proposal:** Outline application for residential development of up to 250 dwellings, together with means of access, public open space, drainage attenuation and landscaping

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#### Part 2: Decision

Permission is **granted** subject to the conditions in Part 4.

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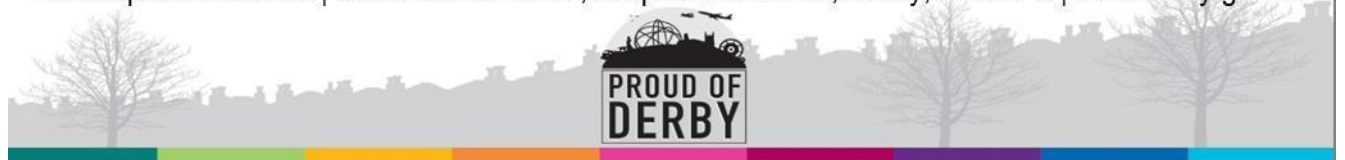
#### Part 3: Reason for Decision and Relevant Policies

The proposal has been considered against the following Adopted City of Derby Local Plan Review policies, the National Planning Policy Framework where appropriate and all other material considerations. The proposal is an acceptable form of residential development in principle for this green field site and Green Wedge, subject to adherence to the attached conditions and the provision of detailed comprehensive design and layout for the overall site, including integrated landscape and open space strategy. In the opinion of the Local Planning Authority there are no over-riding highway implications associated with the overall scheme, subject to the provision of public transport, walking and cycling facilities and a satisfactory detailed on-site layout. The environmental impacts on ecological and landscape features, archaeology, flood risk and surface water drainage would not be significant, subject to appropriate protection and management schemes being implemented. The proposal would deliver significant housing, to address the city's housing need and is considered appropriate in this location.

In dealing with this application the City Council has worked with the applicant / agent in a positive and proactive manner and has secured appropriate and proportionate improvements to the scheme which relate to the access junction on Mansfield Road, provision of footways, bus stop and gateway feature.

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E4	Nature Conservation
L1	Protection of Parks and Public Open Space
L5	Outdoor Recreation
E2	Green Wedges
GD1	Social Inclusion
GD2	Protection of the Environment
GD3	Flood Protection
GD4	Design and the Urban Environment
GD5	Amenity
GD7	Comprehensive Development
GD8	Infrastructure
H11	Affordable Housing
H13	Residential Development - General Criteria
E5	Biodiversity
E7	Protection of Habitats
E9	Trees
E10	Renewable Energy
E16	Development close to important land
E17	Landscaping Schemes
E19	Listed Buildings and Buildings of Local Importance
E21	Archaeology
E23	Design
L2	Public Open Space Standards
L3	Public Open Space Requirements in New Development
L4	New or extended Public Open Space
L5	Outdoor Recreation
T1	Transport Implications of New Development
T4	Access, Parking and Servicing
T6	Provision for Pedestrians
T7	Provision for Cyclists
T8	Provision for Public Transport
T15	Protection of Footpaths, Cycleways and Routes for Horseriders

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#### **Part 4: Conditions**

1. Details of the following matters (hereafter referred to as the reserved matters) shall be submitted to and be approved in writing by the Local Planning Authority before the commencement of any works:
  - (a) The layout, scale and appearance of the buildings;
  - (b) The landscaping of the site.
2. Application for the approval of the reserved matters shall be submitted within three years from the date of this permission and the development shall be begun within two years from the approval of the last of the reserved matters.
3. The development hereby permitted shall be carried out in accordance with the following approved plans:

20454\_080\_020\_01 Rev C - Right Turn Lane Development Access Layout (24.03.2015)

4. During the period of construction works all trees, hedgerows and other vegetation to be retained, including any which are on adjoining land but which overhang the site, shall be protected in accordance with BS:5837:2012 ("Trees in relation to design, demolition and construction") and in accordance with the following requirements:
  1. a scheme of protection shall be submitted to and agreed in writing before any development commences.
  2. The date of construction of such protection and of its completion shall be notified in writing to and agreed in writing by the Local Planning Authority before any other site works commence.
  3. The agreed protection measures shall be retained in position at all times, with no use of or interference with the land contained within the protection zone, until completion of construction works, unless otherwise agreed in writing by the Local Planning Authority.
5. Prior to development commencing on site, precise construction details of the proposed ghost island junction onto Mansfield Road, as shown on drawing no. 20454\_080\_020\_01 Rev C, shall be submitted to and agreed in writing by the Local Planning Authority and the agreed scheme shall be constructed and made available for use, before construction of any dwellings commence.
6. Prior to any development commencing on site, details of a gateway feature on Mansfield Road, as shown for indicative purposes on drawing no. 20454\_080\_020\_01 Rev C, shall be submitted to and approved in writing by the Local Planning Authority and implemented prior to occupation of any dwellings.
7. Prior to the occupation of any dwellings, the proposed pedestrian crossing on Mansfield Road, shown on drawing no. 20454\_080\_020\_01 Rev C, shall be implemented in accordance with details to be submitted and agreed in writing by the Local Planning Authority before development commences.
8. Prior to the occupation of any dwellings, a bus stop, shelter and a real time bus board to be linked to the development by a new footway on Mansfield Road, as shown on drawing no. 20454\_080\_020\_01 Rev C, shall be implemented in accordance with details to be submitted and agreed in writing by the Local Planning Authority before development commences.
9. Prior to occupation of any dwellings on the site, a detailed Residential Travel Plan shall be submitted and agreed in writing by the Local Planning Authority. The Travel Plan shall be based on the submitted Framework Travel Plan and set out proposals (including targets, a timetable and enforcement mechanism) to promote travel by sustainable modes which are acceptable to the Local Planning Authority and shall include arrangements for monitoring of progress of the proposals. The Travel Plan shall be implemented in accordance with the timetable set out in that plan unless otherwise agreed in writing by the Local Planning Authority.
10. Prior to development commencing a wheel washing facility shall be implemented and be operational for the duration of construction on the site, in accordance with

details which shall have been submitted and agreed in writing by the Local Planning Authority.

11. Prior to development commencing, including any works of demolition, until a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the construction period.

The plan shall provide for:

- i. hours of working
  - i. the parking of vehicles of site operatives and visitors
  - i. measures to control the emission of dust and dirt during construction
  - i. noise management procedures
  - i. a scheme for recycling/disposing of waste resulting from demolition and construction works
  - i. routing of construction traffic.
12. Where the submitted Phase I Environmental Risk Assessment has identified potential contamination, a Phase II intrusive site investigation shall be carried out to determine the levels of contaminants on site. A risk assessment will then be required to determine the potential risk to end users and other receptors. Consideration should also be given to the possible effects of any contaminants on groundwater. A detailed report of the investigation shall be submitted and agreed in writing by the Local Planning Authority.
  13. Where a Phase II site investigation required by condition 12 reveals contamination on the site, a detailed remediation method statement to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historic environment shall be prepared and submitted for approval in writing by the Local Planning Authority. The statement shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures.

All of the respective elements of the agreed remediation statement shall then be validated and a validation report shall be submitted to and approved by the Local Planning Authority, prior to the development commencing.

14. No development shall take place until a detailed surface water drainage scheme for the site, based on the submitted Flood Risk Assessment, sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall demonstrate:
  - surface water run-off leaving the site shall not exceed 21 l/s for all events up to a 1 in 100 year flood, including an allowance for climate change;
  - surface water run-off is attenuated on-site up to the critical 1 in a 100 year flood event, including an allowance for climate change, through the submission of drainage calculations;



- that open water features can be safely integrated into the development through the submission of cross-sections, plans and design risk assessments;
- what maintenance procedure will be required to ensure the system will function as designed, for the life span of the development;

that a financial structure will be in place to ensure that the system will be fully maintained for the life span of the development.

15. Prior to development commencing, a Written Scheme of Investigation for archaeological work shall be submitted to and approved in writing by the Local Planning Authority and the pre-commencement element of the approved scheme shall have been completed to the written satisfaction of the Local Planning Authority. The evaluation phase of the scheme shall be carried out before submission of a reserved matters application with details of layout. The scheme shall include an assessment of significance and research questions; and
  1. The programme and methodology of site investigation and recording
  2. The programme for post investigation assessment
  3. Provision to be made for analysis of the site investigation and recording
  4. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
16. Prior to the occupation of any dwellings, the site investigation and post investigation assessment shall be completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under condition 15 and the provision shall be made for analysis, publication and dissemination of results and archive deposition shall be secured.
17. A further ecological appraisal of habitat and to identify the presence of any protected species on and adjacent to the site, to include an assessment of all trees and hedgerows and to identify potential bat roosts, breeding bird and badger activity, shall be carried out and the report submitted in support of the first reserved matters application for a detailed proposal, to be submitted under Condition 1, for approval in writing of the Local Planning Authority.
18. The details to be submitted in support of Condition 1b), shall include a detailed scheme for an area of woodland tree planting as part of the open space provision for the development, to be sited along the eastern boundary of the site and to link with the existing woodland in Chaddesden Wood.

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## **Part 5: Reasons for Conditions**

1. As required by Sections 91-92 of the Town and Country Planning Act 1990 and in accordance with saved policy GD4, GD5, H13 & E17 of the adopted City of Derby Local Plan Review.
2. As required by Sections 91-92 of the Town and Country Planning Act 1990 and in accordance with saved policies GD4, GD5, H13 & E17 of the adopted City of Derby Local Plan Review.
3. For the avoidance of doubt.
4. To protect trees and other vegetation on and adjoining the site during the course of

construction works in order to preserve the character and amenity of the area and in accordance with saved policies GD2 & E9 of the adopted City of Derby Local Plan Review.

5. To ensure the principle access is agreed and provided to serve the development in the interests of traffic safety and in accordance with saved policies T1 & T4 of the adopted City of Derby Local Plan Review.
6. To provide for a reduction in speed limit on the highway in the interests of traffic safety and in accordance with saved policy T1 and T4 of the adopted City of Derby Local Plan Review.
7. To ensure the provision of pedestrian facilities associated with the development in the interests of traffic safety and in accordance with saved policies T1, T4 & T6 of the adopted City of Derby Local Plan Review.
8. To provide for sustainable means of transport to and from the site and in the interests of environmental amenity and in accordance with saved policies T1, T6, T7 and T8 of the adopted City of Derby Local Plan Review.
9. To encourage and provide for varied means of transport to and from the development and to reduce the reliance on private car journeys in accordance with saved Policies T1, T6, T7, T8 and T4 of the adopted City of Derby Local Plan Review.
10. To prevent dust and material being deposited on the highway in the interests of traffic safety and in accordance with saved policy T4 of the adopted City of Derby Local Plan Review.
11. In the interests of residential amenity of nearby properties close to the site and highway safety on the local road network and in accordance with saved policies GD5 & T4 of the adopted City of Derby Local Plan Review.
12. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance with saved policy GD5 of the adopted City of Derby Local Plan Review.
13. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance with saved policy GD5 of the adopted City of Derby Local Plan Review.
14. To ensure the provision of satisfactory drainage arrangements, to minimise flood risk to users of the site and the surrounding area and in accordance with saved policy GD3 of the adopted City of Derby Local Plan Review.
15. In order to safeguard any archaeological interest and historical significance above, on or below ground on the site and in accordance with saved policy E21 of the adopted City of Derby Local Plan Review.
16. In order to safeguard any archaeological interest and historical significance above, on or below ground on the site and in accordance with saved policy E21 of the

adopted City of Derby Local Plan Review.

17. To provide an up-to-date assessment of any ecological interest related to the site and protect the biodiversity value of the site and surrounding area and in accordance with saved policies GD2, E4, E5 & E7 of the adopted City of Derby Local Plan Review.
18. To form an expansion of Chaddesden Wood, to enhance woodland habitat and opportunities for biodiversity and integrate the development into the wider countryside on the site and the surround area and in accordance with saved policies, E4, E5, E7 & E9 of the adopted City of Derby Local Plan Review.

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Signed:



Authorised Officer of the Council

Date: 21/03/2016

**Informative Note to applicant:**

1) 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 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 642264 for details. Please note that under the provisions of S278 Highways Act 1980 (as amended) commuted sums will be payable in respect of all S278 works.

2) Derby City Council operates the Advanced Payments Code as set out in sections 219 to 225 Highways Act 1980 (as amended). You should be aware that it is an offence to build dwellings unless or until the street works costs have been deposited with the Highway Authority.

3) For details of the 6C's design guide and general construction advice please contact Robert Waite Tel 01332 642264.

## Notes

### Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.
- If you want to appeal, then you must do so within **six months of the date of this notice**, using a form which you can get from the Planning Inspectorate, 3/15 Eagle Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN, Tel: 0303 444 5000 or online at <https://www.gov.uk/appeal-planning-decision>. The Inspectorate will publish details of your appeal on the Appeals area of the Planning Portal. This may include a copy of the original application form and relevant supporting documents supplied to the local authority by you or your agent, together with the completed appeal form and information you submit to the Planning Inspectorate. Please ensure that you only provide information, including personal information belonging to you that you are happy will be made available to others in this way. If you supply personal information belonging to a third party please ensure you have their permission to do so. More detailed information about data protection and privacy matters is available on the Planning Portal.. You must use a Planning Appeal form or Householder Planning Appeal form when making your appeal. If requesting forms from the Planning Inspectorate, please state the appeal form you require. The Secretary of State can allow a longer period for giving notice of appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- Please note, only the applicant possesses the right of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to statutory requirements, to the provisions of the development order and to any directions given under the order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

### Purchase Notices

- If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

### Highways

- Before any development is commenced on land abutting a highway maintainable at public expense, the developer should contact the City Council's Director of Planning

and Property Services in order that those matters relating to lawful and unlawful interference with highways and streets covered by the provisions of the Highways Act 1990 may be agreed. Failure to comply with the provisions may result in a fine or work being executed at the developer's expense. A developer is required to give a minimum of 6 weeks prior notification of works to be carried out in the highway to the Director of Planning and Property Services, Neighbourhoods, Derby City Council, The Council House, Corporation Street, Derby DE1 2FS.

- In relation to a highway not maintainable at public expense, the developer may be required to deposit with the Highway Authority a sum of money to cover road making costs under the provisions of the Act. Further information regarding this can be obtained from the Director of Planning and Property Services, Neighbourhoods, Derby City Council, The Council House, Corporation Street, Derby DE1 2FS. [highways.waste@derby.gov.uk](mailto:highways.waste@derby.gov.uk)

### **General**

- Further correspondence regarding this decision should bear the code number quoted in the top right hand corner of this decision notice.
- Application for approval of any matter reserved by this permission must be made not later than the expiration of three years beginning with the date of this permission. Development must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved
- If a request for written confirmation of compliance with a condition or conditions attached to this planning permission is made, this must be accompanied by the relevant form and fee, with effect from 6 April 2008.
- This decision relates to the Council's powers under the Town and Country Planning Acts only. It does not cover any other statutory powers exercised by the City Council and in particular any permission hereby granted is not an approval under the Building Regulations.
- The developer should be aware that any works on land adjacent to a neighbouring property may involve separate responsibilities under the Party Wall Act. Whilst the Party Wall Act sits outside the remit of the planning system and is not within the jurisdiction of the Local Planning Authority, it is something of which developers need to be aware
- To deliver accessibility to all the community, but particularly disabled people, attention is drawn to the following provisions:
  - i. Section 76 of the Town and Country Planning Act 1990
  - ii. the Disability Discrimination Act 1995
  - iii. the Building Regulations, Part M "Access of facilities for disabled people"
  - iv. BS 8300:2001, Design of Buildings and their approaches to meet the needs of disabled people
  - v. Department for Education and Skills (DFES) Building Bulletin 91 "Access for Disabled People to School Buildings"
- Further help and information is available from the Building Consultancy Section, Neighbourhoods, Derby City Council, The Council House, Corporation Street, Derby

DE1 2FS. [buildingcontrol@derby.gov.uk](mailto:buildingcontrol@derby.gov.uk).

- The applicant's attention is drawn to the provisions of Section 23 of the Derbyshire Act 1981 concerning Fire Precautions and early consultation with the Derby Building Consultancy Service.
- Attention is also drawn to the responsibilities in respect of any protected species under the Wildlife and Countryside Act 1981 and the Countryside and Rights of Way Act 2000.

Contact: Sara Claxton  
Telephone: 01332 641643

E-mail: [developmentcontrol@derby.gov.uk](mailto:developmentcontrol@derby.gov.uk)

Website: [derby.gov.uk/environment-and-planning/planning/](http://derby.gov.uk/environment-and-planning/planning/)

Building Consultancy Hotline/Answer Machine : 01332 640796

E-mail: [buildingcontrol@derby.gov.uk](mailto:buildingcontrol@derby.gov.uk)

Minicom: 01332 256064

Website: [www.derby.gov.uk](http://www.derby.gov.uk)





KEY



Site boundary (10.35ha)



Proposed residential



Existing trees and hedges



Proposed trees



Proposed public right of way



Proposed primary vehicular route (6.0m wide)



Proposed secondary vehicular route (5.5m wide)



Proposed minor access road (4.8m wide)



Proposed pond



Overland flow

FOR ILLUSTRATIVE PURPOSES ONLY

Drawn By	S.C.M.	Title	Lime Lane, Derby ILLUSTRATIVE MASTERPLAN	Drawing No	13.020/02d
Approved By	C.J.	Scale	1:2,500 @ A3	<small>P and DG accept no responsibility for any unauthorised amendments to drawings and does not permit unauthorised copying of drawings in order that subsequent reproduction of drawings are internally controlled. Copyright P and DG</small> <small>This drawing should not be scaled for construction purposes</small>	
Revision Detail / Date Rev. d: minor amendments. (S.C.M. 04/11/15)		Date	11/2015		

