



Derby City Council

To: rg+p Ltd.  
130 New Walk  
Leicester  
LE1 7JA

## Planning Application Decision

### Town And Country Planning Act 1990

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#### Part 1: Application Details

**Application No:** DER/11/17/01446 (please quote in correspondence)

**Location:** Site of 36 Agard Street, Derby

**Proposal:** Erection of an 8 storey building of 77 flats and associated car parking

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#### Part 2: Decision

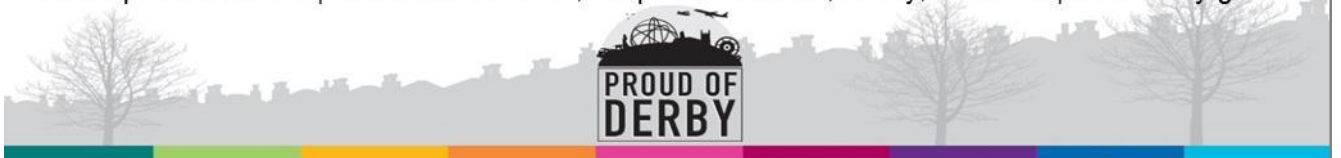
Permission is **refused** for the reasons given in Part 4

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#### Part 3: Relevant Policies

The provisions of the National Planning Policy Framework where appropriate and the following adopted City of Derby Local Plan Review policies are relevant to the application.

- CP1a Core Strategy Policy - CP1(a)  
Presumption in Favour of Sustainable Development
- CP2 Core Strategy Policy - CP2  
Responding to Climate Change
- CP3 Core Strategy Policy - CP3  
Placemaking Principles
- CP4 Core Strategy Policy - CP4  
Character and Context
- CP6 Core Strategy Policy - CP6  
Housing Delivery
- CP7 Core Strategy Policy - CP7  
Affordable and Specialist Housing
- CP20 Core Strategy Policy - CP20  
Historic Environment
- CP22 Core Strategy Policy - CP22  
Higher and Further Education
- CP23 Core Strategy Policy - CP23  
Delivering a Sustainable Transport Network
- MH1 Core Strategy Policy - MH1  
Making it Happen



- GD5 CDLPR Saved Policy - GD5  
Amenity
  - H13 CDLPR Saved Policy - H13  
Residential Development - General Criteria
  - E12 CDLPR Saved Policy - E12  
Pollution
  - E18 CDLPR Saved Policy - E18  
Conservation Areas
  - E19 CDLPR Saved Policy - E19  
Listed Buildings and Buildings of Local Importance
  - E24 CDLPR Saved Policy - E24  
Community Safety
  - T10 CDLPR Saved Policy - T10  
Access for Disabled People
  - E30 CDLPR Saved Policy - E30  
Safeguarded Area around Aerodromes
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#### **Part 4: Reasons for Refusal**

In dealing with this application the City Council has attempted to work with the applicant / agent in a positive and proactive manner but, in this case, the proposal includes unacceptable planning problems that could not be satisfactorily resolved. As such, a refusal of permission has been issued for the reasons which are clearly and precisely included below:

The development hereby refused relates to the following:

- Site Location Plan
  - Access Layout (drawing no: 16-504 500)
  - Ground Floor Plan (drawing no: 40730/010F)
  - 1st/2nd floor plans (drawing no: 40130/011C)
  - 3rd/4th floor plans (drawing no: 40130/012C)
  - 5th/6th floor plans (drawing no: 40130/013C)
  - 7th Floor Plan (drawing no: 40130/014C)
  - Front/rear elevations (drawing no: 40130/015D)
  - Side elevations (drawing no: 40130/016D)
  - Roof Plan (drawing no: 40130/017A)
  - Indicative sections (drawing no:40130/018B)
  - Illustrative 3D Images
  - Flood Risk Assessment
  - Geo-environmental Report
  - Heritage assessment, and further Heritage Comments (by Lathams)
  - Design & Access Statement
  - Archaeological assessment
  - Transport Statement
  - Travel Plan
  - Acoustic Report
  - Air Quality Assessment, and supplementary reports
1. The local planning authority is of the opinion that the proposed development would, by virtue of its materials, design, layout, height, scale and overwhelming massing impact,

not preserve or enhance the character or appearance of the Friar Gate Conservation Area and cause harm to its significance. It would also cause harm to the significance of a number of listed buildings in the area including the highly graded 47-51 Friar Gate (grade II\*) and 56-57, 58 and 59- 60 Friar Gate (grade II), and those listed buildings slightly further away including 2, 4-6 (consec.), 8-10, 18-20 Bridge Street (grade II) and the Church of St John the Evangelist (grade II\*). The proposed development is, therefore, contrary to section 66(1) and 72(1) of the Planning (Listed Building & Conservation Areas) Act 1990, adopted Policy CP20 of the Derby City Local Plan – Part 1: Core Strategy and to saved Policies E18 and E19 of the adopted City of Derby Local Plan Review. The harm caused to the designated heritage assets in regards to the heritage policies in the National Planning Policy Framework is considered to be “less than substantial harm” and, whilst there are some potential public benefits that may arise from the proposed development, these are not considered to outweigh the harm that would be caused in this case.

2. The local planning authority is of the opinion that the proposed development would, by virtue of its materials, design, layout, height, scale, and overwhelming massing impact, create an unacceptable form of residential development in this part of the street-scene. The proposed development is, therefore, contrary to adopted Policies CP3 and CP4 of the Derby City Local Plan – Part 1: Core Strategy and to saved Policy GD5 of the adopted City of Derby Local Plan Review.
3. The local planning authority is of the opinion that it has not been satisfactorily demonstrated that the proposed development would have an acceptable impact on local air quality. It is considered that locally-specific factors have not been accurately considered by the air quality modelling and that the impact of the development, creating a “street canyon” effect, has not been properly considered within the submitted documentation. The proposed development is, therefore, contrary to adopted Policy CP3 of the Derby City Local Plan – Part 1: Core Strategy and saved Policies E12 and GD5 of the adopted City of Derby Local Plan Review.

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Signed:



David Gartside  
Authorised Officer of the Council

Date: 27/07/2018

## Notes

### Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse your application 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.
- If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within: 28 days of the date of the service of the enforcement notice, or within six months (12 weeks in the case of a householder appeal) of the date of this notice, whichever period expires earlier.
- 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.

Contact: Stephen Bate  
Telephone: 01332 640795

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

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