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Eagle Quarter Planning Statement

January 2023

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1.0 Introduction

Scope of Report

1.1 This Planning Statement has been prepared by Lichfields on behalf of Wilmslow (No.3) GP (Nominee A) Limited & Wilmslow (No.3) GP (Nominee B) Limited. It accompanies an outline planning application for the redevelopment of the site with a mixed-use scheme comprising 11 buildings of varying heights and associated public realm improvements.

1.2 The description of development is as follows:

“Demolition or part demolition of existing Eagle Market building, public house and theatre. Erection of a phased mixed-use development, including residential and commercial floorspace (Use Class C3 and E); new public square; servicing; car and cycle parking provision; hard and soft landscaping works; provision of new pedestrian routes, and other associated works”.

1.3 This statement assesses the application proposals against the relevant national and local planning policy.

Planning Application Submission

1.4 This Planning Statement should be read alongside the following documents which have been prepared to accompany the planning application submission:

- 1 Planning application forms and ownership certificates;
- 2 Parameter Plans, prepared by Leonard Design Associates (see covering letter for full list);
- 3 Building Design Code, prepared by Leonard Design Associates;
- 4 Design and Access Statement (DAS), prepared by Leonard Design Associates;
- 5 Statement of Community Involvement, prepared by Lichfields;
- 6 Townscape and Visual Appraisal, prepared by Bidwells;
- 7 Heritage Impact Assessment, prepared by Lichfields;
- 8 Desk Based Archaeology Assessment, prepared by Lichfields;
- 9 Transport Assessment, prepared by Waterman Group;
- 10 Draft Travel Plan framework, prepared by Waterman Group;
- 11 Draft Demolition and Construction Management Plan Framework, prepared by Waterman Group/ Currie Brown/ Leonard Design;
- 12 Phase 1 Geo-Environmental Report, prepared by MPN;
- 13 Ecology Survey/Protected Species Surveys, prepared by Waterman Group;
- 14 Arboricultural Survey/ Arboricultural Implications Assessment, prepared by Waterman Group;
- 15 Air Quality Assessment, prepared by Waterman Group;
- 16 Noise Assessment, prepared by Waterman Group;

- 17 Energy Statement, prepared by Waterman Group;
- 18 Sustainability Appraisal, prepared by Waterman Group; and
- 19 Flood Risk Assessment and Drainage Assessment and Sustainable Drainage Strategy, prepared by Waterman Group.

Structure of Report

- 1.5 Section 2.0 describes the application site, surrounding area and provides other background information to why these development proposals are coming forward. Section 3.0 briefly describes the proposed development with reference to the more detailed description in the DAS.
- 1.6 Section 4.0 summarises relevant national and local planning policy and section 5.0 assesses the proposal against the key planning policy issues identified. A short conclusion is provided at section 6.0.

2.0 **Background**

The Application Site

- 2.1 The application site (“the site”) is in the eastern area of Derby city centre and is 1.91 ha in size. The site is situated at the junction between East Street and Morledge. The site fronts onto East Street.
- 2.2 The site is primarily occupied by Eagle Market, a four storey 1990s building with ground and lower ground level car parking. Derby Theatre, a three to five storey 1970s building is located within the southern part of the site. The Castle & Falcon public house, a two storey 1970s building plus basement, is located within the north-eastern part of the site.
- 2.3 The main pedestrian entrance to the existing buildings is via East Street with another pedestrian access from Morledge. Vehicular and servicing access is via an entrance from Morledge, leading to sunken parking and a loading bay on the eastern side of the site. There is further vehicular access from Theatre Walk, which leads from Traffic Street.
- 2.4 The site is in a highly accessible location in the heart of the city centre and next to the Derbion shopping centre. The Bus Station is opposite the site and Derby Midland Station is within walking distance, situated approximately 1km south of the site.

Site Designations

- 2.5 The site is not situated within a Conservation Area and it does not contain any listed or locally listed buildings. The existing buildings on the site are of no architectural merit or historic interest.
- 2.6 The site is wholly situated within the designated ‘Safeguarded Areas Around Aerodromes’, with East Midlands Airport located approximately 13km south-east of the site.
- 2.7 Most of the site is located within Flood Zone 1, where there is a low risk of flooding. A portion of the northern section of the site is located within Flood Zone 2 where there is a medium risk of flooding.
- 2.8 The site is located approximately 110m from a designated Wildlife Corridor and approximately 165m from a designated Nature Conservation Area, both sited in proximity to the closest point of the River Derwent. The site directly borders an Air Quality Management Area (AQMA) to the east.

Surrounding Area

- 2.9 The site is bound by East Street to the north; Morledge to the east; and the shop units fronting on to Albion Street and the Derbion centre to the west.
- 2.10 The Derwent Valley Mills World Heritage Site is situated approximately 500m to the north of the planning application site, which sits outside the World Heritage Site Buffer zone.
- 2.11 Derby City Centre Conservation Area is situated immediately to the north of the site and Green Lane Conservation Area is 200m to the west. The nearest listed buildings are approximately 120-130m from the site. These include Northcliffe House (Grade II listed), 45 St Peters Street (Grade II Listed) and Midland Bank (Grade II Listed). There are locally

listed buildings situated approximately 40-60m north-west of the site, at the Co-Operative Society, East Street and The Court House, Morledge. The site sits just outside an Archaeology Priority Area.

Planning History

- 2.12 There is extensive planning history for the site, relating to its existing operation. A full summary of the planning history for the site is provided in Appendix 1.
- 2.13 The Eagle Market initially opened in 1975 as part of the Eagle Centre but was subsequently rebuilt in 1990. It is a purpose-built facility. The remaining planning history relates to alterations and changes of use.

Regeneration of the Eastern Gateway

- 2.14 In 2020, Derby City Council submitted a bid for funding from the Future High Streets Fund (“FHSF”), setting out plans to reinvigorate the city centre, attract more visitors and create additional employment.
- 2.15 It was confirmed by the Government in 2021 that Derby would receive £15 million from the FHSF to help deliver two major city centre projects – the Market Hall transformation and the Eastern Gateway, which refers to the East Street area of Derby city centre. Of this funding, around £5 million was allocated to the redevelopment of the Eastern Gateway.
- 2.16 The Government states that the aim of the fund is to renew and reshape town centres and high streets in a way that drives growth, improves experience, and ensures future sustainability. The FHSF is to be used to deliver projects that support towns and high streets to reopen and recover from the effects of the pandemic.
- 2.17 In November 2022, ref. 22/01809/FUL was submitted to Derby City Council, proposing the redevelopment of the Eastern Gateway, as described below:
“Part demolition of existing Eagle Market building and full demolition of public house, allowing for the erection of a foodstore and coffee shop (Use Class E) with associated access, parking, servicing area and landscaping”
- 2.18 The proposed development seeks to renew and reshape the East Street area of Derby city centre, creating a welcoming arrival from the bus station, in line with the aims of the FHSF.
- 2.19 The Eastern Gateway application relates to the northern part of the site, encompassing the Castle & Falcon public house and the northern section of the existing Eagle Market building. The proposals will improve public access from the bus station, build a new entrance to Derby on East Street, add additional shops and create a new public boulevard. A planning application for this was submitted to Derby City Council on 21 November 2022 (application ref. 22/01809/FUL is subject to planning permission).
- 2.20 The Eastern Gateway proposes a single storey food store, which has been designed so that it can accommodate further development above. It has been designed to allow development on the Eagle Quarter site (made up of the Eagle Market, Derby Theatre and the Castle and Falcon Pub). The Eastern Gateway proposals will therefore unlock and support future regeneration of this part of the city centre.

Derbion Masterplan

- 2.21 Derbion has developed a masterplan for the future potential of two key sites within its footprint: the Eagle Quarter (made up of the current Eagle Market, Derby Theatre and the Castle and Falcon Pub), and Bradshaw Way Retail Park.
- 2.22 Derbion, as a major retail and leisure destination, continues to evolve with ongoing investment in new brands and customer experiences, together with projects such as the proposed Eastern Gateway. The masterplan looks further ahead to ensure that Derbion can fulfil its potential in the heart of the city.
- 2.23 The Derbion masterplan is a framework for longer-term development potential that complements and supports the existing centre and its significant position within Derby. This is primarily with residential led redevelopment with complementary commercial uses and improved public realm.
- 2.24 The masterplan is a starting point for exploring future opportunities over the next 10 years and beyond that will benefit both Derbion and the ongoing regeneration of Derby City Centre as envisioned by the Council. The masterplan has been subject to consultation as set out in Section 4.0.
- 2.25 The Eastern Gateway proposal (ref. 22/01809/FUL) forms Phase I of the Eagle Quarter site. This outline application proposes the redevelopment of the remainder of the new Eagle Quarter.
- 2.26 An outline application, proposing the redevelopment of the existing Bradshaw Way Retail Park, has been submitted under separate cover (PP-11766976).

3.0 **Consultation and Engagement**

3.1 The applicant has undertaken extensive pre-application engagement with DCC officers and leaders, other key stakeholders and residents. A full report of the community engagement exercise is provided in the Statement of Community Involvement accompanying the planning application. This section summarises this engagement process and how this has influenced the design proposal.

Process of Engagement

3.2 The following objectives for the process of engagement were identified:

- 1 To inform the local community and other relevant stakeholders of the proposed development and the reasons for it;
- 2 To facilitate discussion between the applicant and local residents to enable an understanding of the proposal and to ensure the applicant team understands the local community's views on the future development of the site;
- 3 To allow an opportunity for residents and other stakeholders to consider, understand, influence and comment on the proposals; and
- 4 To keep residents and other stakeholders informed of the progress of the proposal.

Engagement with DCC Officers and Leaders

3.3 The scheme was subject to pre-application meetings and discussions with DCC planning and technical officers. There have been four meetings with the Council's planning and design officers where the design team updated the officers on the scheme's progress and feedback was given.

3.4 Separate meetings also took place with specialist officers in relation to transport, drainage and environmental health matters.

3.5 Meetings were held to brief Councillors and the Chief Executive of the Council on the emerging proposal and the community involvement process including Cabinet members, Chief Executive Paul Simpson, Planning Committee and Conservation and Heritage Advisory Committee.

Other Key Stakeholders

3.6 Information regarding the proposals was also sent to key stakeholders including the Environment Agency, Historic England, Derwent Valley Mills Partnership and local technical and amenity groups alongside existing tenants at the site and University of Derby (owners of the Derby Theatre).

3.7 Other meetings were held including with Derby Civic Society, St Peter's Quarter BID and Cathedral Quarter BID, Derby Cathedral Team and Derbyshire Constabulary – Designing Out Crime officers and Marketing Derby.

Public Consultation

- 3.8 Engagement with the local community focussed on an in-person public exhibition and a website, alongside publicising both via a leaflet and press release.
- 3.9 The in-person public exhibition was held at Derbion shopping centre in a shop unit opposite Zara, on Friday 2 December (11am – 4pm) and Saturday 3 December (11am – 3pm). 240 people visited the exhibition over the two days. A total of 114 completed questionnaires were received (12 from neighbours, 57 via the website and 45 via feedback forms at the exhibition).
- 3.10 As a result of the public consultation exercises, the scale of development has been reduced from 31 storeys to 29 storeys + plant and roof access. Feedback from the local community also influenced key design elements including:
- 1 the active frontages comprising both residential amenity space and lobbies and commercial uses;
 - 2 the layout so that pedestrian access to the site is maximised with links to the north-west of the city and the River Derwent; and
 - 3 the implementation of a design code.
- 3.11 A number of the comments will also be addressed as part of reserved matters applications in due course.

4.0 The Proposed Development

4.1 The description of development is as follows:

“Demolition or part demolition of existing Eagle Market building, public house and theatre. Erection of a phased mixed-use development, including residential and commercial floorspace (Use Class C3 and E); new public square; servicing; car and cycle parking provision; hard and soft landscaping works; provision of new pedestrian routes, and other associated works”.

4.2 Table 4.1 provides information on the existing uses and the quantum of space that will be demolished and retained.

Table 4.1 Existing land uses

Use Class	Land Use	Existing floorspace GEA (sqm)	Floorspace GEA (sqm) to be demolished	Floorspace GEA (sqm) to be retained
Class E/ Sui generis	Market	12,390	12,020	370
Sui generis	Theatre	2,326	2,326	0
Sui generis	Public house	230	230	0
Sui generis	Car parking	6,630	6,525	105
Total		21,576	21,101	475

4.3 This demolition is required to create an opportunity for the development of the following:

- Up to 875 homes;
- Up to 2,358 sqm GEA of commercial space; and
- Up to 10,961 sqm GEA of parking, servicing and ancillary space.

4.4 This proposal includes 11 buildings or blocks of varying heights. The maximum heights, land uses, use classes, floorspaces and numbers of residential units proposed for each block are summarised in Table 4.2 below.

Table 4.2 Quantum of development

Block	Maximum Number of Storeys	Max AOD (metres)	Land Use	Use Class	Floorspace GEA (sqm) by use	Total floorspace GEA (sqm)	Total residential units
Block A1	18 + Plant and roof access	108.5	Commercial	Class E	323	13,860	136
			Residential	Class C3	13,537		
Block A2	29 + Plant and roof access	141.5	Residential	Class C3	22,946	22,946	224
Block A3	14 + Plant and roof access	96.5	Commercial	Class E	229	11,733	477
			Residential	Class C3	11,504		

Block	Maximum Number of Storeys	Max AOD (metres)	Land Use	Use Class	Floorspace GEA (sqm) by use	Total floorspace GEA (sqm)	Total residential units
Block B	4 + Plant and roof access	63.9	Residential	Class C3	585	585	4
Block B1	14 + Plant and roof access	97.5	Commercial	Class E	414	10,819	117
			Residential	Class C3	10,405		
Block B2	12 + Plant and roof access	87.5	Residential	Class C3	6,943	6,943	78
Block C	10 + Plant and roof access	84.5	Commercial	Class E	579	9,352	99
			Residential	Class C3	8,773		
Block D	4 + Plant and roof access	60.5	Residential	Class C3	594	594	8
Block D1	10 + Plant and roof access	78.5	Residential	Class C3	6,621	6,621	58
Block D2	7 + Plant and roof access	69.5	Residential	Class C3	3,738	3,738	34
Class E Units	2	57.5	Commercial	Class E	813	813	0
Basement Level	1		Mixed-Use	Sui Generis	10,961	10,961	0
Total						98,965	875

4.5 The proposal provides up to 875 homes. The indicative dwelling mix is shown in Table 4.3.

Table 4.3 Dwelling mix by unit

Unit Type	Number by Unit	% by Unit
1 Bed	303	35
2 Bed	405	46
3 Bed	167	19

4.6 The housing provided is designed to be either private sale or build to rent accommodation.

5.0 **Planning Policy and Legislative Framework**

Introduction

5.1 This section identifies key relevant planning policy and guidance at a national and local level relevant to this proposal. The proposed development is then assessed against these policies in Section 5.0.

The Statutory Development Plan

5.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004, states that:

5.3 *“If regard is to be had to the development plan for the purpose of any determination to be made under the planning acts the determination must be made in accordance with the plan unless material considerations indicate otherwise”.*

5.4 The statutory development plan for the site comprises:

- 1 Derby City Local Plan Part 1 – Core Strategy (2017);
- 2 Saved Policies of the City of Derby Local Plan Review (2006); and
- 3 Policies Map.

5.5 In December 2021, the Council approved the preparation of a new Local Plan. Background studies and early preparatory work is being carried out. Regulation 18 Consultation is due to take place in 2023.

Derby City Local Plan Part 1 – Core Strategy (2017)

5.6 The Derby City Local Plan Part 1 – Core Strategy was adopted on 25 January 2017. It is the key planning document for the city, which sets out a long-term strategy for Derby’s spatial development to 2028 and provides a framework for promoting and managing development.

5.7 Policy AC1 (City Centre Strategy) outlines the Council’s commitment to delivering a renaissance for the city centre. The central economic, cultural and social role of the city centre will be reinforced by supporting sustainable economic growth and regeneration, improving the quality of the built environment, and the creation of new residential neighbourhoods. The Council will encourage investment which strengthens and integrates the city centre’s retail, employment, leisure, cultural and residential functions and meets overall sustainability objectives. The Core Area will be promoted as the preferred location for new retail development and the Council will support proposals which serve to protect and enhance its overall vitality and viability. 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.

5.8 Policy AC2 (Delivering a City Centre Renaissance) states that the Council will give priority to the delivery of key regeneration opportunities and development in the city centre, which can make significant contributions to its role in terms of employment, retail or visitor growth or which improve accessibility and legibility. Within the Central Business District (CBD), proposals that promote ‘City Centre Living’ will be supported where it would not inhibit existing business activity or undermine the vitality and viability of the Core Area.

- 5.9 In relation to the St Peters Quarter, Policy AC2 states that this area provides a diverse range of shopping and other complementary uses and provides crucial pedestrian links between the historic Cathedral Quarter, intu and the Riverside. The policy recognises that the area is undergoing significant change, and there is need to manage the range of uses and activity within this area to ensure they continue to contribute to the overall vitality and viability of the City Centre.
- 5.10 Relevant policies against which this planning application is to be considered are listed below:
- 1 CP1(a) Presumption in Favour of Sustainable Development;
 - 2 CP2 Responding to Climate Change;
 - 3 CP3 Placemaking Principles;
 - 4 CP4 Character and Context;
 - 5 CP6 Housing Delivery;
 - 6 CP9 Delivering a Sustainable Economy;
 - 7 CP12 Centres;
 - 8 CP16 Green Infrastructure;
 - 9 CP19 Biodiversity;
 - 10 CP20 Historic Environment;
 - 11 CP21 Community Facilities;
 - 12 CP23 Delivering a Sustainable Transport Network;
 - 13 AC1 City Centre Strategy;
 - 14 AC2 Delivering a City Centre Renaissance; and
 - 15 AC5 City Centre Environment.

Saved Policies of the City of Derby Local Plan Review (2006)

- 5.11 The City of Derby Local Plan Review was adopted in January 2006. Subsequently, certain policies have been deleted and therefore only the ‘saved’ policies remain. This document is to be used in conjunction with the Core Strategy.
- 5.12 Relevant policies are listed below:
- 1 GD5 Amenity;
 - 2 H13 Residential Development – General Criteria;
 - 3 E12 Pollution;
 - 4 E13 Contaminated Land;
 - 5 E18 Conservation Areas;
 - 6 E19 Listed Buildings and Buildings of Local Importance;
 - 7 E21 Archaeology; and

8 E30 Safeguarded Areas Around Aerodromes.

Site Specific Designations

5.13 The site is designated as within the:

- 1 Central Business District;
- 2 Core Area;
- 3 Safeguarded Areas Around Aerodromes, relating to East Midlands Airport.

5.14 Also, the majority of the site falls within the St Peters Quarter City Centre Character Area and a very small section of the site falls within the intu Shopping Area City Centre Character Area.

Other Material Considerations

National Planning Policy Framework

5.15 The National Planning Policy Framework (NPPF, July 2021) sets out the Government's planning policies for England and should be read as a whole. References are made to policies within the Framework in our assessment of the proposal later in this statement.

Towards a New Vision for Derby City Centre (2022)

5.16 Towards a New Vision for Derby City Centre (2022) provides an overarching framework for long-term transformation of the city centre, replacing the Derby City Centre Masterplan 2030 (2016). The vision document will be supported by a detailed delivery plan, setting out specific development & investment proposals and their delivery.

5.17 The document identifies that the core challenge is for the city centre to be radically transformed to respond to changing needs as the 21st century unfolds. It should be sustainable, attractive and provide an overall experience that encourages social interaction and inspires more people to spend more time and money in it. It should also inspire greater civic pride and provide a recognisable, positive image and identity for Derby.

5.18 The document notes that the Eagle Market displays potential for significant redevelopment, including through improving links between East Street, the bus station and Derbion. It is further stated that redevelopment of surplus retail space at the Eagle Market provides opportunities to deliver new city centre living options.

5.19 The document was the subject of a 12-week public consultation, commencing in May 2022, with the document due to be finalised in 2023.

Derby City Council Retail and Centres Study (2019)

5.20 The Derby City Council Retail and Centres Study (2019) was prepared by Nexus Planning. This report provides an update on the city-wide retail evidence to assess future retail (and leisure) needs generated within Derby and the wider Derby Urban Area up to 2028. This includes a detailed analysis of the city centre and recommendations for future interventions.

5.21 An assessment of the Eagle Market in the notes that there is potential for ‘re-imagining’ of Eagle’s Market, to improve the relationship of the site with surrounding streets (paragraph 10.125). This should be linked to improvements to the public realm along East Street (paragraph 10.185, no. 5). There is a large level change between East Street and the market making access difficult and deterring people from using the route as a passage into the shopping centre. The market’s present layout also offers poor pedestrian connectivity with surrounding streets.

A Strategic Options Analysis of Derby Markets (2015)

5.22 A Strategic Options Analysis of Derby Markets (2015) was prepared by Colliers International on behalf of Derby City Council. The report provides an assessment of strategic options for Derby’s two indoor markets, Derby Market Hall and the Eagle Market.

5.23 The report provides a SWOT analysis of Derby’s market provision. A number of weaknesses are identified relating to each market and the report outlines the potential for rationalisation and consolidation of overall market provision in Derby city centre.

5.24 It is concluded that both markets require substantial change in the relatively near future, or else risk facing significant financial losses.

Derby Tall Buildings Study (2021)

5.25 The Derby Tall Buildings Study (2021) seeks to provide guidance relating to the intensification of land uses in the centre, including the identification of optimal locations and the scale of potential tall buildings.

5.26 The study provides the following objectives for tall buildings:

- 1 Be of high quality architectural design and appearance;
- 2 Support intensification and a mix of uses;
- 3 Be part of a plan-led, place making approach;
- 4 Have a clear purpose as a landmark or to increase densities;
- 5 Protect and enhance heritage assets and their setting and protected landscape characteristics;
- 6 Preserve and enhance special and valued townscapes;
- 7 Protect and enhance townscape views and the skyline;
- 8 Result in high quality places where people want to live and spend their time;
- 9 Integrate effectively with the surrounding area; and
- 10 Be sustainable and innovative developments.

5.27 In relation to the intu and St Peters Quarter Character Areas, the study states that new development in this quarter should provide a mix of uses, establish continuous and coherent street enclosure, provide new public spaces, integrate and respond sympathetically to the historic fabric, and nurture a stronger sense of place. The loss of retail related activity in this area will need to be countered by attracting a range of other town centre uses. Within the intu and St Peters Quarter Character Areas, the proposed

future general height for new development is 5 storeys, subject to responding appropriately to the context.

- 5.28 Regarding the opportunity for the redevelopment of the Eagle Market, the study states that a tall building in the vista from the bus station could visually emphasise this key arrival point in the city and enhance local legibility. The tall building should be aligned along Morledge. The tall building should come as part of comprehensive development of the entire site that delivers a new high quality pedestrian street with Derby Theatre and the inner ring road, delivering wider regeneration benefits. It should further be visually distinctive and of the highest quality. An indicative height of 12 storeys is recommended.

Derby Skyline Study (2019)

- 5.29 The Derby Skyline Study (2019) was prepared in 2018 to form part of the evidence base for Derby Local Plan Part 2. The study discusses how the city’s skyline and image has evolved over time and identifies 31 viewpoints from which are the “*principal current views, which hold value in terms of heritage significance*”.
- 5.30 The study concludes that the “*Derby Skyline is highly sensitive to change* within a historic core focused on the relationship between the main landmarks, the Cathedral, St. Mary’s Church, The Guildhall and the Silk Mill.”
- 5.31 It is important to recognise the quality of new and changing views created through redevelopment within Derby’s centre and value them for how they can contribute to the appreciation of the historic environment.

Derby Future High Streets Fund Bid: Assessment of Proposals on Class A1 Retail Floorspace (2020)

- 5.1 The Derby Future High Streets Fund Bid: Assessment of Proposals on Class A1 Retail Floorspace (2020) was prepared by Nexus Planning on behalf of Derby City Council. The report was prepared to accompany the Council’s full business case within the St Peters Cross Future High Street Fund (‘FHSF’) bid.
- 5.2 This report provides advice regarding the implications of the site-specific capital investment projects that the Council looked to progress through its FHSF bid. These projects comprise the following:
- i Market Hall Transformation;
 - ii Eastern Gateway;
 - iii Becketwell Regeneration; and
 - iv St Peters Demonstrator Unit.
- 5.3 The report determines that all FHSF proposals, including the Eastern Gateway scheme, will have a very significant impact on the composition of Derby city centre, acting to notably reduce the stock outdated retail floorspace and accommodate new uses which would broaden the centre’s offer. In supporting new activity and lessening the amount of retail stock, the proposals should also help retailers within the core by reducing the vacancy rate and the negative perceptions associated with underutilised premises.

The Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990

- 5.4 The Planning (Listed Buildings and Conservation Areas) Act 1990 provides specific protection for buildings and areas of special architectural or historic interest.
- 5.5 Section 66(1) states that in the consideration of proposals for planning permission which affect a listed building or its setting, the local planning authority shall pay special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest.

6.0 Policy Assessment

- 6.1 Planning applications should be determined in accordance with Section 38(6) of the Town and Country Planning Act 1990 which requires that they are “determined in accordance with the Development Plan unless material considerations indicate otherwise.”
- 6.2 Paragraph 11 of the NPPF also states that local planning authorities should approve proposals that accord with the development plan without delay.
- 6.3 This section provides an assessment of whether the proposals comply with the Development Plan policies outlined in Section 4.0 above, having regard to paragraph 11.
- 6.4 From analysis of the statutory development plan, national policy and the statutory tests, the following represent the key policy issues against which the planning application should be assessed:
- 1 Principle of development
 - i Loss of market space;
 - ii Loss of public house;
 - iii Impact on Derby Theatre;
 - iv Proposed uses;
 - 2 Design and townscape;
 - 3 Heritage and archaeology;
 - 4 Transport and highways; and
 - 5 Environmental issues.

Principle of Development

Loss of Market Space

- 6.5 The proposed development would result in the redevelopment of the existing Eagle Market. Paragraph 86 of the NPPF states that planning policies should retain and enhance existing markets and, where appropriate, re-introduce or create new ones. Policy AC2 of the Core Strategy outlines that across the Core Area, the Council will maintain an appropriate level of retail market provision, having regard to a Markets Review, in order to best assess how to manage long term market provision in the city centre. Using the results of this review, the Core Strategy states (Paragraph 6.2.6), that the Council will ensure that the requirements of national policy are met in the long term.
- 6.6 There are currently two markets in Derby city centre – Derby Market Hall and the Eagle Market. Derby Market Hall occupies an impressive Grade II Listed Victorian market hall and is located approximately 160 metres north-west of the Eagle Market.
- 6.7 Derby City Council’s evidence base contains substantial evidence outlining the need for significant change to both markets. The Colliers report (2015) states that given the heritage significance of the Derby Market Hall and the inherent quality of the architecture and its internal space, with restoration, this could become a true asset of the city centre. The Nexus

report (2019) overall states that the Eagle Market should be identified and allocated as a regeneration opportunity based around town centre uses in the Local Plan Part 2. The Nexus report (2019) states that the redevelopment of the Eagle Market has the potential to extend the high-quality feel and character of the Derby centre. Any redevelopment should offer an enhanced frontage and connection to East Street.

- 6.8 The subsequent Nexus report (2020) assesses Derby's provision of market floorspace in relation to the proposed FHSF bids for projects including Derby Market Hall and Eastern Gateway, which includes the Eagle Market. This report notes that the Council recognises the Eagle Market to be oversized, having been the subject of a consistent decline in trader numbers over recent years, due to the rising prominence of online shopping, food superstores and discount variety operators.
- 6.9 The Nexus (2020) report states that the consolidation of Derby's market offer and provision of modern, relevant markets is an important part of the Council's city centre strategy. The relatively low occupation rates at the two markets and the need to consolidate provision to provide for a stronger market offer is highly evident to the Council.
- 6.10 Since the publication of these reports, alongside the Eastern Gateway redevelopment, Derby Market Hall secured FHSF funding for the renovation of the existing building and enhancement of its offer. Work is currently underway to restore the heritage features of the building. Upon reopening, the Derby Market Hall will provide traditional and themed market events, pop up uses, make and trade spaces, and a large food and drink offer.
- ~~6.11~~ Once completed, Derby Market Hall will provide a destination market space in the city centre. The loss of the Eagle Market must be considered in this context, forming part of a planned strategy to rationalise such space across the city centre. The Nexus (2020) report contrasts market provision in Derby with comparable 'Major Regional' centres. On the basis that the Eagle Market is redeveloped entirely and the Market Hall (2,895 sqm floorspace) constitutes Derby's only market space, this would then result in a provision in line with the comparable centres - Nottingham (2,185 sqm floorspace), Leicester (3,420 sqm floorspace), Chester (3,800 sqm floorspace), and York (900 sqm floorspace).
- 6.12 Considering the ongoing refurbishment of Derby Market Hall, the overall resultant position will be that of less market space, yet an enhanced and more sustainable market provision. The loss of this market space will result in a level of market provision considered to be appropriate, based on the findings of the Colliers (2015) and Nexus (2019) and (2020) reports. The loss of the Eagle Market therefore accords with Policy AC2 of the Core Strategy and the requirements of the NPPF. The proposals will also result in enhancements to the vitality, viability, and vibrancy of the Core Area, therefore complying with Policies AC1 and CP9.

Loss of Public House

- 6.13 The proposed development involves the demolition of the Castle & Falcon public house and Derby Theatre. This demolition is necessary to facilitate the clearance of the site to allow for the proposed development.
- 6.14 Policy CP21 of the Core Strategy recognises public houses as 'community facilities'. This policy states that the Council will seek to support the retention of existing community facilities, unless it can be demonstrated that there is no longer a need to retain the use.

- 6.15 Within Derby's Central Business District, there are a total of 50 public houses and bars so the loss of this public house would not give rise to any harm in policy terms, as there are many alternative facilities with a similar offer. It is noted that the public house building is of no heritage value. It is not located in a Conservation Area, nor is it statutorily or locally listed. The Heritage Impact Assessment accompanying the application confirms that the public house building itself is not of any heritage significance.
- 6.16 Policy AC5 of the Core Strategy relates to the city centre environment and outlines the primacy of the built and natural environment to achieving objectives for the continued growth, vitality, and viability of the city centre. The existing public house is of no architectural merit and is visually incongruous with its setting, both in terms of form and scale. The Colliers report identifies the Castle & Falcon public house as 'in poor condition'. It is considered that the demolition of this public house, for replacement with the proposed redevelopment scheme, would result in significant enhancements to the visual appearance and character of the city centre. This would therefore align with Policy AC5 of the Core Strategy.
- 6.17 Based on the above there is no longer a need to retain the use and the demolition of this public house aligns with the requirements of Policy CP21 and AC5.

Impact on Derby Theatre

- 6.18 Comprehensive redevelopment of the site would require the relocation of Derby Theatre. The University of Derby has signalled their interest in relocating to the existing site of Derby Assembly Rooms, which has been closed since 2014. These plans currently remain unconfirmed.
- 6.19 The outline application has been designed with a masterplan approach. Should no plans for relocation of the theatre come forward, this phase could be delayed or not be progressed and the theatre would remain in its current location. If this situation arose new and enhanced public realm would be provided at the entrance to Derby Theatre.

Proposed Uses

- 6.20 This proposal seeks to provide a mixed-use scheme, to include residential and commercial uses.

Residential Use

- 6.21 Paragraph 123 of the NPPF relates to making effective use of land and outlines that local planning authorities should support proposals to use retail and employment land for homes in areas of high housing demand, provided this would not undermine key economic sectors or sites or the vitality and viability of town centres.
- 6.22 The delivery of up to 875 residential units on this site will make a significant contribution to the Council's target of delivering a minimum of 11,000 homes within the city between 2011 and 2028, as outlined by Policy CP6 of the Core Strategy. In line with the Government's housing requirement, Derby is required to deliver 1,255 dwellings per year. In April 2022, the Council could not demonstrate a five-year housing land supply, instead it was only able to demonstrate a 3.17-year supply of deliverable housing sites. The sites will help Derby

meet its housing needs on brownfield land, rather than greenfield sites, as encouraged by Policy CP6.

- 6.23 Paragraph 86 of the NPPF recognises the important role that residential development can play in ensuring the vitality of centres. Policy CP12 of the Core Strategy states that development within the city centre should meet the specific requirements of Policy AC1. The creation of a new residential neighbourhood on this site is supported by Policy AC1 of the Core Strategy. This policy 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 further outlines the Council's encouragement for investment that strengthens the city centre's residential functions and meets overall sustainability objectives.
- 6.24 Policy AC2 of the Core Strategy seeks to deliver a city centre renaissance, giving priority to key regeneration opportunities. The site is located within the CBD. Policy AC2 outlines that within the CBD, proposals that help to promote city centre living will be supported where it would not inhibit existing business activity or undermine the vitality and viability of the Core Area. Given the persistent high vacancy rates at the Eagle Market, it is considered that the introduction of residential uses to this site would significantly enhance the vitality of the Core Area and provide benefit to existing nearby businesses.
- 6.25 Towards a New Vision for Derby City Centre (2022) recognises the Eagle Market as providing an opportunity for residential-led development.
- 6.26 The proposal for residential use accords with the policies within Core Strategy and the NPPF and significant planning benefits would arise from the provision of up to 875 new homes.

Commercial Use

- 6.27 The provision of commercial units on this site is supported by Policy AC1 of the Core Strategy. This policy states that the Council will encourage investment that strengthens and integrates the city centre's retail, employment and leisure functions. Policy AC1 states that the Core Area is to be promoted 'as the preferred location for new retail developments', defining it as the 'traditional retail 'heart' of the city centre'.
- 6.28 The units are proposed to be flexible Class E space with the exact use dependent on occupier demand at the point of completion. Given the site's location in the city centre and Core Area, the proposal for commercial uses accords with Policy AC1 of the Core Strategy.

Public Square

- 6.29 Policy AC5 of the Core Strategy relates to the city centre environment. It states that all new development should consider the spaces immediately outside and around new buildings and the contribution they can make to the overall quality, vitality and use of the public realm. The delivery of a public square or 'Green Heart' as part of these proposals will make a significant contribution to the provision and quality of the public realm within the city centre. This element of the proposal accords with Policy AC5 of the Core Strategy.

Design and Townscape

- 6.30 Policy CP3 of the Core Strategy states the requirement for high-quality, well-designed developments that will help to raise the overall design standard of the city, particularly in the city centre. Policy CP4 outlines the expectation for all new developments to make a positive contribution to the character, distinctives and identity of our neighbourhoods.

Design

- 6.31 A Design and Access Statement, prepared by Leonard Design Architects, accompanies the planning application.
- 6.32 The DAS outlines the design principles of the scheme, which include connectivity, creation of public realm and sensitivity towards character and heritage. The scale and massing is designed to respond to the existing context of the site, whilst using the opportunity to create a landmark development, comprising high quality architecture.
- 6.33 A Building Design Code, prepared by Leonard Design Architects, also accompanies the application. This has been produced following feedback from key stakeholders, to ensure that the high-quality design principles, as outlined in the DAS, are carried forward to the reserved matters application.
- 6.34 This high-quality proposal will raise the overall design standard for Derby city centre and make a positive contribution to the character of the site's surroundings. This fulfils the policy requirements of Policy CP3 and CP4.

Townscape and Visual Effects

- 6.35 A Townscape and Visual Appraisal ('TVA') has been prepared by Bidwells to accompany this application and assess the potential townscape and visual effects of the proposed development, in relation to the policies listed above.

Townscape Effects

- 6.36 The proposed development does not result in adverse effects on the identified townscape receptors. This is the result of architecture that responds appropriately to the contextual townscape qualities; and to the architecture of the existing shopping centre. The proposal also brings back permeability that would have existed on the site prior to the current building.
- 6.37 The proposed scale, which include some substantial height, uses a stepping approach, which works to integrate the proposal within the contextual height. Therefore, lower elements of the proposal are adjacent to the existing low-lying residential area and green river corridor, while the taller element leads to the existing tall buildings (i.e. the Derbion Shopping Centre).
- 6.38 The TVA notes that this taller element in the south-east corner of the proposal has the potential to have some adverse effect by interfering with sense of history from the prominence of the Cathedral tower on the Derby Skyline. However, a carefully detailed design of the top of the tall element could reduce the prominence of the proposal and therefore mitigate this effect.

6.39 The TVA states that the replacement of the existing nondescript townscape is considered positive as the site is at a prominent nodal location, which would benefit from the improvement of the existing townscape qualities and enhancement of a stronger sense of place. Critically the intention of achieving high-quality architecture, as illustrated in the Design Access Statement (DAS), is necessary to ensure beneficial effects are experienced by all identified receptors.

Visual Effects

6.40 The proposed development introduces a visual change to the study area which is perceived by local and distant receptors. The major cause of change is the tall element located along the A601 road. Its considerable height is appropriate to the gateway location and aspiration for a positive landmark feature, but it results in extensive visibility which reaches locations in the far distance.

6.41 The TVA took into consideration key viewpoints and determines that the proposed tall building appears often prominent in the skyline of Derby as viewed at these locations. Generally, it does not interfere with the appreciation of key heritage landmarks, however, there are a few instances where it causes competition with Derby's Cathedral and therefore an adverse visual effect. This is the case for the view from Kedleston where proximity between the proposed tall building and the existing landmark is considered detrimental to the appreciation of the latter.

6.42 It was also noted that the proposal causes the loss of visual appreciation of a key historic landmark in the approach from Friar Gate towards the city centre. Although less noticeable as intervening vegetation filters views of the heritage asset and the proposal, this adverse visual effect erodes the historical associations of this ancient approach.

6.43 The proposed development is otherwise found appropriate to the visual context of Derby's city centre and skyline. The proposals respond to the site's contextual height with a stepping-down approach which is generally successful at integrating the new development within Derby's city centre. It preserves the appreciation of historical landmarks from most of the assessed views, therefore preserving the historical association of Derby's skyline.

6.44 The proposal further provides the opportunity to develop a modern skyline that enhances Derby's skyline future identity, provided the scheme incorporates high-quality design in accordance with the proposed design code. Should these principles be respected then mitigation of some of the adverse effects will also be achieved through the construction of an elegant and light structure that is subservient to the key heritage assets.

Overall Assessment

6.45 The TVA outlines that the proposed development is considered to result in the following positive effects:

- Bringing back permeability that existed within the urban grain prior to the existing building;
- Introduction of a distinctive local landmark that complements the Derby Skyline, is not overbearing on adjacent buildings and aids legibility within the local landscape; and

- Replacement of a currently nondescript townscape feature with a well-thought-out and aspirational master plan which will improve the visual and townscape experience at an important nodal location on the access to Derby's city centre.

6.46 The TVA overall concludes that the proposal should result in limited adverse effects as the result of a well-integrated and designed architecture. The achievement of high-quality design will mitigate residual effects and therefore ensure an overall positive outcome. It is noted that this intention is set out in the Design and Access Statement and Building Design Code. On this basis, the proposal complies with the requirements of Policy CP3 and CP4 of the Local Plan.

Heritage and Archaeology

Heritage

- 6.47 Policy CP20 of the Core Strategy recognises the historic environment as one of Derby's greatest resources and states that development proposals that would detrimentally impact upon the significance of a heritage asset will be resisted. The NPPF (para 195, 200 and 202), and Core Strategy Paragraph 5.20.12 set out where there is likely to be harm to a heritage asset, the tests in national policy will be followed. In such circumstances, clear justification should be provided, including details of any public benefits.
- 6.48 Core Strategy Policy AC5 sets out the Council's aim of achieving the continued growth, vitality and viability of the city centre, whilst meeting the placemaking, heritage and environmental requirements set out elsewhere in the Local Plan. AC5 (h) sets out the Council's support for 'tall buildings' in appropriate gateway locations, where these are of high-quality design and do not adversely affect the setting of heritage assets and the character of the city centre.
- 6.49 Policy E18 of the Local Plan Review states that permission will not be granted for proposals that would be detrimental to the special character of Conservation Areas, including views into and out of them. Similarly, Policy E19 states that proposals will not be approved where they would have a detrimental impact on the special architectural or historic interest of a statutory listed building, its character or setting.
- 6.50 As stated above the heritage statutory consideration for the proposal is s.66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the 1990 Act") which requires special regard to be given to the preservation of a listed building or its setting.
- 6.51 A Heritage Impact Assessment has been prepared by Lichfields to accompany this application. The report establishes the significance of the heritage assets affected by the proposed development and assesses the potential effects of the proposal on their significance.
- 6.52 An Above Ground Heritage Assessment is appended to the Heritage Impact Assessment. This details that the proposed scheme gives rise to some low level, less than substantial harm to the significance of:
- 1 Derby City Centre Conservation Area;
 - 2 Cathedral Church of All Saints (Grade I);

- 3 Central Library (Grade II);
- 4 Friar Gate Conservation Area (including listed buildings within it); and
- 5 Little Chester Conservation Area.

- 6.53 Whilst this proposal would cause some low-level harm to the above assets, the scheme is located in an area of the city that has the least effect on the historic environment and skyline and has been identified as an area for tall buildings within the Local Plan. It replaces poor-quality buildings that detract from the surrounding historic townscape, which brings with it positive heritage effects. The outline scheme is capable of delivering a high-quality new development with substantial public benefits. The detailed design and choice of materials will seek to mitigate the harmful effects; albeit will not remove them.
- 6.54 In relation to the tall building, it must be noted that the skyline has continually evolved over the centuries. The proposed scheme therefore represents a continued evolution of Derby to create a vibrant 21st century city with a high number of new homes within the city centre, forming a catalyst for regeneration.
- 6.55 When considered in conjunction with the proposed Bradshaw Way Retail Park scheme, the proposals would have some cumulative effect. Whilst this would not introduce a harmful effect on any additional heritage assets beyond those identified, there would be a marginally increased degree of harm to the Cathedral and to the Conservation Area, particularly due to the impact on the city skyline, when seen in long views. This harm would remain in the less than substantial harm category. This can be mitigated by a high-quality final design of the respective schemes at the reserved matters stage to break down the bulk and massing of the new buildings and to create an elegant and acceptable addition to the Derby skyline.
- 6.56 The assessment of the outline applications has shown that individually, the proposed scheme can be delivered within the parameters set to meet heritage planning policy tests and the statutory requirements regarding the historic environment can be carried out. Regarding the cumulative effect with Bradshaw Way Retail Park, the harm to heritage assets increases slightly, albeit remaining within the less than substantial harm category, this can be reduced at reserved matters stage depending on the design quality of the final scheme. The resultant built-out schemes could contribute to the 21st Century evolution of Derby creating new high-quality landmarks on the skyline, in appropriately significant locations – the gateways to the city from the south – that have been identified for tall buildings within the Local Plan. They would contribute to the changing identity of Derby that has seen many evolutions over the centuries in keeping with the social and economic needs of the times.

This assessment has established the significance of a large number of heritage assets within Derby City Centre and has assessed the potential effects of the proposal on their significance. It is overall concluded that the proposal is capable of meeting the relevant heritage policy tests and the legal requirement can be carried out.

Archaeology

- 6.57 Policy CP20 of the Core Strategy requires that an assessment is submitted relating to proposals for new development, located within Archaeological Alert Areas, or other areas of archaeological potential to enable an informed and reasonable planning decision. Policy

E21 of the Local Plan Review requires that proposals must not cause an adverse impact on archaeological sites or monuments.

6.58 A Desk-Based Assessment ('DBA'), prepared by Lichfields, found that there are three non-designated heritage assets within the site and a further 75 non-designated heritage assets within the study area. The DBA concludes that archaeological potential is generally expected to be low.

6.59 There is moderate potential for faunal remains and fossils dating from the middle Palaeolithic Period to exist on site due to its position on the Allenton Terrace (a river terrace formed during the Ipswichian Interglacial). There is moderate potential for palaeoenvironmental remains to exist at the northern and eastern boundaries of the site due to the presence of alluvium and potentially peat recorded in these areas.

6.60 Should any archaeological or geoarchaeological remains be present within the site, these could be impacted by the proposed ground works, piling and any construction of lift pits and basements within the site.

6.61 It is considered that to comply with the criteria outlined in Policies CP20 and E21 of the development plan, further archaeological intervention may be required as part of the proposed development. Due to the potential for geoarchaeological deposits associated with the early prehistoric period, a programme of archaeological mitigation may be required in advance of development. A staged programme of investigation could comprise:

- Geoarchaeological monitoring of relevant geotechnical investigations (boreholes/trial holes), and/or a targeted programme of dedicated geoarchaeological boreholes; and
- Further archaeological mitigation in the form of trial trenching if significant deposits are identified during geoarchaeological investigations (if required).

This would need to be undertaken by qualified professionals in accordance with a Written Scheme of Investigation (WSI) agreed with Derbyshire's County Archaeologist.

6.62 Provided that suitable mitigation work is carried out in advance of the development, as detailed in the DBA, this proposal demonstrates compliance with Policies CP20 and E21.

Transport and Highways

6.63 Policy CP2 of the Core Strategy outlines the Council's commitment to tackling climate change by ensuring that development is located in the most sustainable locations with access to a range of travel options. Policy CP23 states that new development is not permitted where it would cause or exacerbate severe transport problems. The policy further requires that new development provides appropriate levels of parking for cars, motorcycles and bicycles, having regard to local parking standards.

6.64 A Transport Statement, prepared by Waterman Infrastructure and Environment Ltd, accompanies this application.

Sustainable Travel

6.65 Based on connectivity to active travel and public transport networks, as well as the site's central location in the city, the statement considers that the site occupies an accessible and sustainable location.

Access

6.66 Vehicular access is provided to the east of the site, accessed from Traffic Street (A601).

6.67 This access point is also to be used for refuse collection vehicles and delivery vehicles, which will be able to access the service area, to the east side of the site.

Highway Safety

6.68 The Transport Statement provides a review of local highway safety data, which outlines that the majority of collisions that occurred over the five year period (2015-19) were minor collisions that occurred on Morledge, and the A601/A6 Cock Pitt junction, just to the northeast of the site. This is attributed to the high volume of traffic using the road and this junction and is considered comparable to statistics for other city centre ring roads.

Parking

6.69 The development proposes to provide a total of 182 car parking spaces, sited on a basement level. This is comprised of 25 accessible spaces; 29 EV charging spaces; 128 standard parking spaces. Given the city centre location and highly accessible nature of the site, this parking provision is considered appropriate for the scale of the development.

6.70 Cycle parking will be provided in excess of the requirements of the Derby Local Plan.

Demolition and Construction Management

6.71 A Draft Demolition and Construction Management Plan Framework, prepared by Currie Brown, with input from Leonard Design Associates and Waterman Infrastructure and Environment Ltd, accompanies this application.

6.72 This document provides indicative information on the demolition and construction activities, including details on the phasing, traffic management, access, waste, noise and vibration.

Travel Plan

6.73 A Framework Travel Plan, prepared by Waterman Infrastructure and Environment Ltd, also accompanies this application. This document aims to reduce the number of car trips to and from the proposed development by promoting a range of sustainable alternatives, encouraging the use of these modes.

6.74 In advance of occupation of the site, the journey destination and mode of transport of residents cannot be determined and therefore, the Framework Travel Plan seeks to provide future occupiers with principles and objectives, thereby providing a framework on which to base future iterations of the Travel Plan.

6.75 A review of the existing and proposed site accessibility has been undertaken and concludes that a good provision of walking and public transport services currently serve the site. It is thus expected that a high level of use of sustainable modes will result from the occupation of the buildings. Therefore, the focus is to ensure that residents have access to and information about the most sustainable options for travel as an alternative to the private car. Full details are provided in the Framework Travel Plan.

- 6.76 The site is located in a highly sustainable location, which meets the requirements of Policy CP2. There are no highway safety concerns in relation to the development of the site, and an appropriate level of parking is provided with regard to the site's city centre location. The proposals therefore accord with Policy CP23.

Environmental Considerations

Flood Risk and Sustainable Drainage

- 6.77 Policy CP2 of Derby's Core Strategy relates to flood risk and drainage and requires that development accounts for the need to provide access to watercourses. The sequential test should be applied when development is proposed in areas at risk of flooding. It must be ensured that development is flood resilient and resistant, that unacceptable harm would not be caused to people or property through flooding and that development will not lead to an increased risk of flooding elsewhere. The use of Sustainable Drainage Systems (SuDS) is encouraged in all new developments and required in developments of 10 dwellings or more and in major commercial developments, unless it is demonstrated to be inappropriate to do so.
- 6.78 A Flood Risk Assessment and Drainage Strategy has been prepared by Waterman Infrastructure and Environment Ltd to accompany this application. This report provides an assessment of flood risk from all sources and details of how the foul and surface water drainage from the proposed development would be managed in consideration of the surface water drainage hierarchy and appropriate discharge points.
- 6.79 The Environment Agency have confirmed that most of the site is in Flood Zone 1, whilst the northern section of the site lies within Flood Zone 2. Due to ground floors being allocated to commercial use; and the heights of the designed finished floor level then the assessment confirms the exception test to have been passed.
- 6.80 The risk of flooding from surface water, groundwater and artificial surfaces is found to be low. The report outlines there to be risk of sewer flooding within the city centre, however this will be managed through the surface water drainage strategy, which will reduce this risk.
- 6.81 It is recommended that the proposed development should incorporate green roofs, permeable paving and attenuation.
- 6.82 The Flood Risk and Drainage Assessment states that the proposal is appropriate for its location with regard to flood risk considerations. It is recommended that the proposal incorporates SuDS, which accords with the requirements of Policy CP2.

Energy and Sustainability

Energy

- 6.83 Policy CP2 of the Core Strategy requires that the design and layout of development takes account of opportunities to mitigate greenhouse gas emissions and to adapt to the effects of a changing climate.

- 6.84 Policy CP3 outlines the Council's expectations for high-quality, well-designed developments that help to raise the overall design standard of the city, in particular in the city centre and other areas of significant change.
- 6.85 An Energy Statement has been prepared by Waterman Infrastructure and Environment Ltd to accompany this application. This report provides an overview of the energy strategy, with consideration for the site context, anticipated energy requirements and local priorities and initiatives.
- 6.86 The approach follows the Energy Hierarchy. The following passive design and energy efficiency measures are proposed:
- Natural ventilation to allow cooling of spaces during summer months;
 - Treatments to glazing to ensure good penetration of daylight but limit excess solar gain;
 - Very low U-Values to preserve heat within the properties;
 - Low air permeability rates;
 - Careful design of the thermal bridges. Consideration to be given to Accredited Construction Details performance, or better; and
 - Good lighting efficacy, likely requiring extensive use of LEDs.
- 6.87 Low carbon and renewable technologies have been assessed and it is proposed to incorporate:
- ASHPs will be applied to the hot water (residential) and space heating (commercial) demand; and
 - PV will be mounted at roof level to reduce the overall grid electricity demands.
- 6.88 Overall, the proposed energy strategy meets the requirements of policies CP2 and CP3 and, when implemented, will provide an efficient and low carbon development.

Sustainability

- 6.89 In addition to policies CP2 and CP3 of the Core Strategy, a number of additional policies are pertinent to the proposal's sustainability.
- 6.90 Policy CP9 relates to the delivery of a sustainable economy, outlining encouragement for proposals that create new jobs and help to implement the Council's Economic Strategy. Policy CP16 outlines that the Council will seek to maintain, enhance and manage Derby's green infrastructure. The Council will ensure that land is available and managed to assist in adapting to and mitigating against climate change. Policy CP19 seeks to avoid, minimise and mitigate the impacts on biodiversity. Policy CP23 ensures that people living, working and travelling in Derby have viable travel choices and effective, efficient and sustainable transport networks.
- 6.91 A Sustainability Statement has been prepared by Waterman Infrastructure and Environment Ltd to accompany this application. This report provides an overview of how the proposed development contributes to sustainable development, accounting for strategic, design and construction considerations.

6.92 With regard to strategic sustainability, this is a residential-led scheme, which will relieve existing and future demand pressures on housing. The commercial elements of the development will provide jobs and amenity, to the benefit of the local population.

6.93 Regarding sustainable design and construction, as outlined in the previous section, a number of passive design and energy efficiency measures are proposed. In addition, suitable waste and recycling facilities will be provided. Materials with a low lifecycle environmental impact and embodied energy will be used.

6.94 The report overall demonstrates that the scheme aligns with the overarching principles of sustainable development and the policy requirements outlined in the Local Plan.

Contamination

6.95 Policy E13 states that permission for development on contaminated or unstable land will be granted only provided that the proposal does not cause adverse or hazardous effects and that necessary remedial measures are carried out prior to commencement of development.

6.96 A Preliminary Geo-Environmental Risk Assessment, prepared by Delta-Simons on behalf of MPN UK Limited, accompanies this application. This provides a Stage 1 Geo-Environmental assessment of the ground within the development site, based on a desk top study only. No intrusive investigations have been carried out.

6.97 The assessment summarises that the site is at a low to moderate risk of soil/ groundwater contamination and hazardous ground gas due to the historic uses of this site. The most likely expected outcome is that any residual risks (where present) could generally be mitigated by standard design approaches and mitigation, such as use of impermeable membranes below lowest ground bearing slabs.

6.98 It is recommended that an intrusive site investigation is undertaken to assess the potential for contamination and ground gases to impact on the proposed development. The investigation will also refine the site-specific ground model and groundwater regime and enable an assessment of foundation and engineering solutions to be made.

6.99 Subject to further required investigations, as outlined above, the Preliminary Geo-Environmental Risk Assessment details that the proposed development accords with Policy E13.

Noise

6.100 Policy GD5 of the Local Plan Review requires that there is a satisfactory level of amenity provided within the site and that proposals cause no unacceptable harm to the amenity of nearby areas. The Council will include noise and vibration in their assessment.

6.101 Policy E12 states that planning permission will not be granted for development that would generate pollutants that would be unacceptably detrimental to the health and amenity of users of the development, users of adjoining land or the environment, or where the level of existing pollutants would be unacceptably detrimental to the health and amenity of users of the proposed developments. Pollutants include noise.

6.102 A Noise Assessment, prepared by Waterman Infrastructure and Environment Ltd, accompanies this planning application.

- 6.103 There are no vibration sources such as a railway line within 25m of the site boundary, and therefore vibration has been scoped out of the assessment of residential amenity.
- 6.104 The dominant noise source at the site derives from road traffic from Morledge, the A601 and Derby Bus Station. Pedestrian noise from East Street also contributes to the noise climate as does plant and localised service yard operations to the west of the site.
- 6.105 In summary, for the majority of the site noise is a material consideration to residential development, which is expected given the city centre location adjacent to strategic roads. Suitable residential amenity could be provided through provision of suitable glazing, ventilation and strategic massing. Consideration need be given to the bedrooms facing East Street and Morledge to safeguard against noise from the 'weekend economy'. Plant noise limits have been recommended to safeguard existing and residential receptors forming part of the development.
- 6.106 Subject to compliance with the measures outlined in the Noise Assessment, it is overall concluded that the proposals would accord with Policy GD5 of the Local Plan.

Air Quality

- 6.107 Policy CP23 of Derby's Core Strategy states that the Council will actively manage the pattern of development to ensure that new development is not permitted where it would cause or exacerbate severe transport problems including unacceptable impacts on air quality, including any cumulative impacts on Air Quality Managements Areas (AQMA). The site is located immediately to the south of the Derby NO2 AQMA No.1 Ring roads.
- 6.108 An Air Quality Assessment has been prepared by Waterman Infrastructure and Environment Ltd to accompany this planning application. This assessment outlines that the most significant pollutant during construction relates to the creation of nuisance dust and emissions from construction vehicles and construction plant.
- 6.109 With regard to the creation of dust and particulates, a range of measures would be implemented throughout the construction works and it is therefore considered that likely residual effects arising from dust emissions would be not significant.
- 6.110 With regard to emissions, the report states that the development would not result in a change in Annual Average Daily Traffic of more than 100 light duty vehicle flows or 25 heavy duty vehicle flows within or adjacent to an AQMA, nor a change of more than 500 light duty vehicle flows or 100 heavy duty vehicle flows elsewhere. The change in vehicle trips would therefore be below the Environmental Protection UK and Institute of Air Quality Management guidance criteria for developments within an AQMA. A centralised combustion plant is not proposed. Based on the low trip generation and absence of a centralised combustion plant, according to the EPUK/IAQM guidance, the development is not expected to give rise to air quality impacts deriving from emissions.
- 6.111 Based on the above, it has been demonstrated that the proposed development accords with Policy CP23 of the Local Plan.

Ecology

- 6.112 Policy CP16 of the Core Strategy requires that impacts on biodiversity be minimised and mitigated, with net gains provided where possible. Policy CP19 further recognises the important role played by biodiversity in delivering an urban renaissance.
- 6.113 An Ecological Impact Assessment, prepared by Waterman Infrastructure and Environment Ltd, accompanies the application. This provides an evaluation of the importance of ecological features present within the Zone of Influence (ZoI) and assesses the potential effects that the proposed development may have on any such features identified. Environmental measures have been incorporated into the scheme to provide mitigation, compensation and/or enhancements to those ecological features of relevance to the site, as required.
- 6.114 No designated sites for nature conservation are located within or adjacent to the site and no such sites are considered likely to be affected by the development.
- 6.115 The Eagle Market and Derby Theatre are in good structural condition and therefore are both considered to offer negligible potential to support bat roosting. The Castle and Falcon public house is of low suitability to roosting bats.
- 6.116 For the purposes of this assessment the presence of a bat roost of local importance (low conservation status) has been assumed, and measures incorporated into the design to address this. If a bat roost is confirmed, then a mitigation strategy will be required to address the loss of the bat roost(s). This would be subject to approval from Natural England (NE) by the granting of a European Protected Species Licence (EPSL). The EPSL would be required to be in place before any potentially damaging works were undertaken on Site.
- 6.117 The site does not currently support any protected or otherwise notable species and such species are highly unlikely to be present within or adjacent to the site. However, there is a low probability that bird nests may be present and therefore checks for the presence of active nests would be required if initial site clearance proceeds within the bird breeding season (approximately 1st March to 31st August, inclusive).
- 6.118 Proportionate mitigation and enhancement measures would be adopted during the construction phase of the proposed development. Full details are provided in the accompanying report.
- 6.119 Subject to the implementation of the mitigation and enhancement measures outlined by the Ecological Impact Assessment, it is concluded that this proposal complies with the requirements of Policy CP16 and CP19.

Arboricultural Impact

- 6.120 Policy CP16 of the Core Strategy states that the Council will seek to maintain, enhance and manage Derby's green infrastructure. Where new development has an adverse impact on a recognised important element of green infrastructure, that impact should be clearly understood, minimised and any residual adverse impacts mitigated for. As a last resort, the impact should be compensated for, either on-site or off-site. Any opportunities for enhancement and better management of the asset through development should be sought. In assessing the impact of the development, its need and benefit will be weighed against the

harm caused to the green infrastructure. The explanatory text states that green infrastructure includes individual trees.

- 6.121 Policy CP19 of the Core Strategy recognises the importance biodiversity plays in delivering an urban renaissance and creating safe and sustainable communities.
- 6.122 An Arboricultural Impact Assessment has been prepared by Waterman Infrastructure and Environment Ltd to accompany this planning application. This assessment evaluates the direct and indirect effects of the proposal on the tree stock present both on and adjacent to the site.
- 6.123 A tree survey of the site was undertaken in December 2022, which recorded a total of two individual trees and one group of trees. The group of trees contained 13 trees. Of these arboricultural features, two were awarded a moderate B grade and one was awarded a low C grade. None of the trees on site are protected by a Tree Preservation Order, nor is any part of the site located within a Conservation Area.
- 6.124 All arboricultural features recorded during the tree survey will be removed to facilitate the development. Any tree losses will be mitigated for through new tree planting in line with current local and national planning policy which will be specified as part of any reserved matters application.
- 6.125 Provided that new tree planting and landscaping is proposed as part of the reserved matters application, it is concluded that this proposal complies with Policies CP16 and CP19 of the Local Plan.

7.0 **The Public Benefits**

7.1 The benefits arising from the proposals are important material considerations. They must be weighed in the planning balance against any adverse impacts and are particularly relevant to a consideration of heritage matters in section 8.0.

7.2 The public benefits of the proposals include:

- 1 Delivering high-quality architecture and public realm, complementing nearby heritage assets whilst creating an attractive and new and distinctive urban quarter;
- 2 Delivering up to 875 new high-quality homes for the Build to Rent or open market, in a sustainable location, widening the offer available in this area;
- 3 Securing the long-term future of this part of Derby City Centre with the repurposing of under-utilised and outdated buildings with new commercial development at ground floor level;
- 4 Providing sustainable development with the optimisation of brownfield land with development up to 29 storeys in height, meeting housing need within the city centre and reducing the need for development on greenfield sites;
- 5 Generating new jobs, arising from the construction process, the operation of the commercial units and ongoing management of the residential buildings;
- 6 Generating direct and indirect spending from new residents and tax revenues within the city centre;
- 7 Opening up access to the site through the introduction of a public square or ‘Green Heart’ making a significant contribution to the provision and quality of the public realm within the city centre for residents and visitors;
- 8 Delivering tall buildings and creating a gateway development, providing townscape legibility for those arriving in the city centre from the south, providing legible connections from the Railway Station and Castleward;
- 9 Delivering a strong vista from the bus station to visually emphasise the key arrival point in the city and help enhance local legibility;
- 10 Creating enhanced pedestrian routes through the site by removing physical barriers to movement and providing improved connections to surrounding parts of the city centre,
- 11 Establishing potential for connections to the river, with pedestrian connections and views from buildings, reconnecting the city centre with the riparian environment;
- 12 Encouraging pedestrian footfall with active frontages at ground floor introducing natural surveillance within and around the site, creating a safe city centre environment;
- 13 Delivering an increase in landscaping on the site, with the introduction of high-quality greenspace with corresponding ecology, surface water attenuation, biodiversity and air quality benefits;
- 14 Securing development with the highest quality of design, through key design principles established and set out in the Building Design Code at outline stage to ensure scheme quality is retained at reserved matters stage;

- 15 Delivering high-quality city centre living making it a more attractive option for potential employees, recent university graduates, students and seniors. Assisting making Derby a more attractive option and compete with other regional centres such as Nottingham; and
- 16 Introducing a permanent residential population, driving activity beyond traditional shop and leisure opening hours.

8.0 Conclusion

- 8.1 This Planning Statement has been prepared by Lichfields on behalf of Wilmslow (No.3) GP (Nominee A) Limited & Wilmslow (No.3) GP (Nominee B) Limited to accompany an outline planning application for the redevelopment of land and buildings at the site of Eagle Market, Derby Theatre and the Castle and Falcon public house, in Derby City Centre.
- 8.2 As set out in Section 6.0 and 7.0 the proposals accord with policy and substantial public benefits would arise from the proposal which should be given significant weight in favour of the development.
- 8.3 The proposed development is also acceptable in relation to all other design and technical matters, including, townscape, heritage, archaeology, transport, flood risk, energy and sustainability, landscape, contamination, noise and air quality ecology, trees and residential amenity.
- 8.4 In this case, adverse impacts arising from the proposals are limited to low levels of less than substantial harm to the significance (including setting) of the following heritage assets:
- 1 Derby City Centre Conservation Area
 - 2 Cathedral Church Of All Saints (Grade I)
 - 3 Central Library (Grade II)
 - 4 Friar Gate Conservation Area (including listed buildings within it)
 - 5 Little Chester Conservation Area
- 8.5 In relation to proposals affecting heritage assets, the NPPF states local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting (para. 194). An assessment of heritage assets has been undertaken in the accompanying Heritage Impact Assessment.
- 8.6 When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (para. 199). Where a proposal would lead to 'less than substantial harm', the harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (para 202).
- 8.7 The low level harm to heritage assets should therefore be weighed against the significant benefits arising from the proposed development, set out in Section 7.0 which are important material considerations. The public benefits decisively outweigh the adverse impacts and that the balance lies heavily in favour of the proposals. In this case the same level of public benefits could not be delivered on the site if the height of the scheme, which is the element which causes harm, was reduced.
- 8.8 The requirements for section 106 contributions will be discussed over the course of the application. A Viability Assessment is currently being prepared by Aspinall Verdi, which will be provided to the Council following submission of the application. Viability considerations will need to be taken into account in terms of the 106 contributions.

- 8.9 Based on our assessment in Section 6.0 the proposal accords with the statutory development plan. In line with section 38(6) of the Planning and Compulsory Purchase Act 2004, this application should therefore be approved without delay. This proposal also accords with national policy and the Council's emerging vision for the city centre.
- 8.10 In this case, the material considerations in the form of planning benefits are considered to carry substantial weight in the planning balance that outweighs the harm arising from the harm to heritage assets, such that planning permission should be granted.

Appendix 1

Planning History

Application Ref	Address	Proposal	Decision	Decision Date
22/01811/FUL	Eagle Market	Change of use of part of the existing Eagle Market from retail (Use Class E) to indoor go-karting, drinking establishment, family entertainment and amusement centre (Use Class E/Sui Generis)	Pending Consideration	
22/01809/FUL	Eagle Market, Morledge And Castle And Falcon PH East Street Derby	Part demolition of existing Eagle Market building and full demolition of public house, allowing for the erection of a foodstore and coffee shop (Use Class E) with associated access, parking, servicing area and landscaping	Pending Consideration	
07/16/00899	15 Theatre Walk Derby DE1 2NF (Derby Theatre)	Installation Of An Air Handling Plant And Associated Duct Works	Granted Conditionally	15/09/2016
04/10/00442	Units 15 A/B Eagle Market Centre	Conversion of two market units to drop-in advice centre	Grant	25/05/2010
08/09/00918	Derby Theatre 15 Theatre Walk Derby	Display Of 2 Internally Illuminated And 2 Externally Illuminated Signs	Granted Conditionally	01/10/2009
07/05/01100	Former Car Park Entrance Eagle Centre	Alteration To Eagle Centre To Incorporate Shopmobility Unit Including Access And Parking	Grant	28/08/2005
04/03/00643	Land To The South Of The Eagle Centre Derby	Amendments To Siting Of Extension To Eagle Centre Approved Under Outline Planning Permission DER/03/02/00297	Granted Conditionally	20/10/2003
08/01/00997	Derby Playhouse Theatre Walk Derby	Extensions To Theatre (Office Space, Hospitality Suite, Entrance Foyer, Alterations To Access For Disabled People And Toilet Facilities)	Granted Conditionally	28/08/2001

07/00/00895	Derby Playhouse Theatre Walk Derby	Erection Of Optic Pole, Light Spiral And Illuminated Lettering	Granted Conditionally	29/09/2000
07/99/00867	The Eagle Centre Market East Street Derby	Display Of Internally Illuminated Fascia Sign	Granted Conditionally	01/09/1999
09/98/01135	Eagle Centre Albion Street Derby	Refurbishment And Alterations To Eagle Centre Including Construction Of New Entrance Features And Extension To Existing Retail Unit At Copecastle Square To Accommodate A Relocated Sainsbury's Supermarket	Granted Conditionally	20/11/1998
08/95/00973	Stall 41D Eagle Centre Market Theatre Walk Derby	Change Of Use To Bingo Facility	Grant	01/09/1995
07/94/00978	Derby Playhouse Ltd Theatre Walk Derby	Extension To Playhouse (External Staircase) And External Alterations To Provide Means Of Escape.	Granted Conditionally	16/11/1994
07/94/00980	Derby Playhouse Ltd Theatre Walk Derby	Display Of Information On Existing Hoarding	Granted Conditionally	18/08/1994
04/91/00492	The Eagle Centre	Refurbishment Of East Street Entrance And Up-Grading Of Existing Market Facilities	Grant	24/05/1991
08/89/01348	Part of the Eagle Centre	Proposed partial redevelopment for retail purposes.	Grant	08/03/1990

Source: Derby City Council

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