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File No: CHE/16/00835/FUL  
Plot No: 2/3411

## ITEM 2

**CHANGE OF USE OF EXISTING DRINKING ESTABLISHMENT TO RESIDENTIAL WITH TWO STOREY EXTENSION AND TWO NEW BUILD UNITS FORMING 23 SELF CONTAINED APARTMENTS WITH ASSOCIATED LANDSCAPING, BIN STORE AND CYCLE STANDS - RESUBMISSION OF CHE/15/00769/FUL – COAL MINING RISK ASSESSMENT AND ECOLOGICAL APPRAISAL REC'D 23/03/2017 AT THE ELM TREE INN, HIGH STREET, STAVELEY, CHESTERFIELD, DERBYSHIRE, S43 3UU FOR MRS V ZHENG**

Local Plan: Town Centre / Conservation Area  
Ward: Middlecroft and Poolsbrook

### 1.0 CONSULTATIONS

Staveley Town Council	No comments received
Forward Planning	Comments received 02/02/2017 – see report
Environmental Services	No comments received
Design Services	Comments received 20/01/2017 – see report
Economic Development	No comments received
Housing Services	Comments received 16/01/2017 – seek an off-site affordable housing contribution
Yorkshire Water Services	Comments received 02/02/2017 – see report
Derbyshire Constabulary	Comments received 20/01/2017 – no objections but refer to Building Reg Part Q re: Door & Window Security

Lead Local Flood Authority	Comments received 13/01/2017 – refer to their standing advice
DCC Highways	Comments received 18/01/2017 and 30/01/2017 – see report
Local Amenity Societies	No comments received
Coal Authority	Comments received 17/01/2017 and 16/04/2017 – see report
Derbyshire Wildlife Trust	Comments received 07/02/2017 and 05/04/2017 – see report
Conservation Officer	Comments received 08/02/2017 – see report
Derby & Derbyshire County Archaeologist	Comments received 27/01/2017 - see report
Ward Members	No comments received
Site Notice / Neighbours	One letter of support received

## 2.0 **THE SITE**

2.1 The site the subject of the application comprises of the former Elm Tree Inn public house and its associated curtilage, which includes a car park to the side and rear of the main building.

2.2 The property itself has several modern extensions positioned on the rear (west) elevation; and also includes a smoking shelter / canopy to the southern elevation; and single and two storey extensions to the northern elevation. The principle elevation of the public house (east) fronts onto High Street in Staveley.

(see photographs below)



2.3 Currently the application site is served by an existing highway access onto High Street.

### 3.0 **RELEVANT SITE HISTORY**

3.1 CHE/15/00769/FUL - Conversion of public house to flats including the erection of a two storey extension and erection of a detached building to form 13 self-contained flats. Application withdrawn 25/01/2016.

3.2 CHE/11/00398/RET - Retrospective application for retention of smoking shelter. Shelter to be modified. Approved 11/08/2011.

3.3 CHE/06/00734/FUL - To erect 2 no. awnings to the side facade of the building. Approved 19/10/2006.

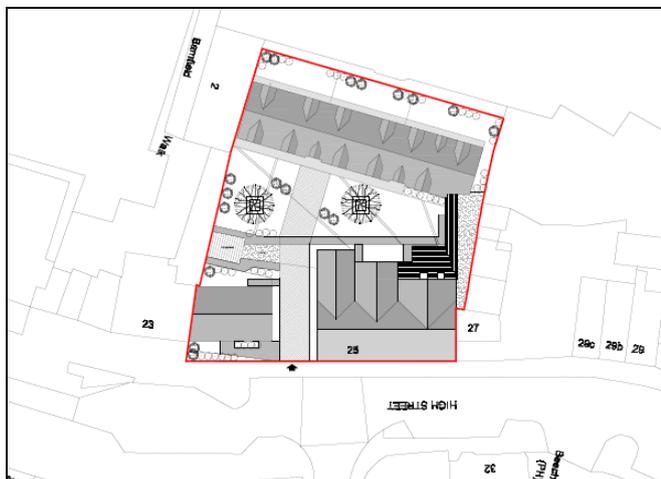
3.4 CHE/0791/0478 - Erection of signs. Approved 16/09/1991.

## 4.0 THE PROPOSAL

- 4.1 The application submitted seeks full planning permission for the proposed conversion of the existing public house into 8 no. self-contained flats (1 x 1 no. bed; 4 x 2 no. bed; and 3 x 3 bed); and the erection of 2 no. new blocks of development comprising 16 no. self-contained flats (10 x 1 bed; 5 x 2 bed; and 1 x 3 bed).
- 4.2 The conversion of the pub is facilitated by an infill two storey extension to the rear and by demolition of a small single storey pitched roof extension located at the far rear of the property (see photographs below).



- 4.3 New development takes the form of two new blocks of development with one two and half storey block positioned along the entire rear portion of the existing car park and the other two storey block positioned in alignment with the pub building positioned to the site frontage to the LH side of the existing access (see site layout plan below).



4.4 The application submission is supported by the following drawings and documents:

160402 P001 Existing Plans and Elevations

160402 P002 Site and Location Plans

160402 P003 Proposed Ground Floor Plans and Elevations

160402 P004 Proposed First, Second and Third Floor Plans and Elevations

160402 P005 Site Layout Plan and Block Plan

Planning, Design and Access Statement (prepared by Design Space Architecture)

Coal Mining Risk Assessment (prepared by LK Consult Ltd dated 25<sup>th</sup> January 2016)

Protected Species Appraisal (prepared by Arc Ecology dated January 2016)

## 5.0 **CONSIDERATIONS**

### 5.1 **Planning Policy Background**

5.1.1 The site is situated within the built settlement of Staveley Town Centre in an area that is both residential and commercial in nature. Having regard to the nature of the application policies CS1, CS2, CS7, CS8, CS11, CS15, CS17, CS18, CS19 and CS20 of the Core Strategy and the wider National Planning Policy Framework (NPPF) apply. In addition the Councils Supplementary Planning Document on Housing Layout and Design 'Successful Places' is also a material consideration.

### 5.2 **Principle of Development**

5.2.1 The site is located in Staveley Town Centre shown on the adopted Local Plan proposals map. The proposal accords with the Spatial Strategy (CS1), which focuses new housing development to centres and regeneration areas.

5.2.2 The key issues in respect of the principle of development however are the loss of public house, which is social infrastructure, and the impact on Staveley Town Centre. Policy CS17 requires that the loss of social infrastructure can only be accepted if there is an equivalent facility available in the locality or it can be demonstrated

that the current use is economically unviable. In this case, there are other public houses within the immediate area, albeit of a different character to the Elm Tree Inn, and therefore the proposal would accord with this policy.

- 5.2.3 In terms of the impact on the town centre, policy CS15 sets out that centres are the focus for new retail and town centre uses, and requires that development makes a positive contribution to the centres viability and vitality. New housing will be permitted above ground floor or in locations outside primary retail frontages. The adopted plan does not designate primary frontages for Staveley Town Centre. Similarly, the Draft Local Plan (currently out for consultation) does not distinguish between primary and secondary shopping areas in Staveley Town Centre, with the whole centre being considered as primary. The site is centrally and prominently located within the town centre, and the loss of a town centre use in this location would potentially have an adverse impact on the centres viability and vitality. The submitted information does not provide any information as to how the pub was marketed, how long it has been vacant, or any attempts to secure a new town centre use. For these reasons, there is doubt over the ability of the proposal to fully accord with criteria a and c. It would however meet criteria e, but as noted, there is no evidence to suggest the premises has been marketed for alternative town centre uses.
- 5.2.4 Notwithstanding the details set out above Policy CS17 states that loss of a local community facility (such as a public house) can be considered if there is an equivalent facility available in the locality; or it can be demonstrated through viability that the use is unviable. The wording of the policy does not require the applicant to address both of these issues, only one or the other, and in this case there is clearly other equivalent facilities in the immediate locality (Beeches Brook, Tillies Tavern, Harley's etc).
- 5.2.5 It is accepted that the development does result in a loss of a town centre use in the ground floor of the existing building, which is contrary to the provisions of policy CS15 however given the fact the development would introduce a new use in a currently vacant property where there is already a mix in retail and residential to the High Street it is not considered that this issue alone would warrant the refusal of planning permission. Particularly as the development will contribute to the Council's housing supply.

### 5.3 **Design and Appearance Considerations (inc. Neighbouring Impact)**

- 5.3.1 The application site is adjoined to the north by No 27 High Street; to the east (on the opposite side of the highway) lay No's 26 – 32 High Street; to the south are No 2 Barnfield Walk and No 23 High Street; and the western boundary is made up of the rear elevation of Morrisons supermarket. The surrounding area is made up of a mixture of commercial and residential properties but the main Town Centre is concentrated to the south of the site.
- 5.3.2 The principle of the redevelopment of this site for 23 no. apartments is accepted, subject to the development being of an appropriate design and it demonstrating an appropriate relationship with the adjoining and adjacent neighbouring properties.
- 5.3.3 The proposed site layout illustrates that the development will be laid out with two distinct aligned blocks. The rear block being two and half storey in height set against the rear elevation of Morrisons and the front block being aligned with the building line of the public house fronting High Street. Having regard to relevant separation distances presented by the development proposals and the neighbouring properties it is considered that proposals are acceptable. Internally the development proposals do present lesser separation distances than sought in the Council's adopted SPD (rear elevation of the converted public house - to the new rear block) however it is considered that this compromise presents the best opportunity to securing redevelopment of the entire site. Given that this is an entirely new development any prospective purchaser would be aware of the relationship between the development elements.
- 5.3.4 The relationship of the site to the adjoining neighbours to the north and south are shown in the photographs taken below. To the south the boundary sharing neighbour to the rear of the site turns its back on the development block proposed and at the front of the site the smaller new block of development will sit in line with the boundary sharing neighbour thus creating an acceptable relationship.

(see below)



View South

5.3.5 To the north of the site there is no development in the western half of the boundary sharing neighbours land that will be adversely impacted upon by the rear development block (having regard to severely adverse overshadowing / overbearing). Furthermore the footprint of the common neighbours property sits in line with the footprint of the public house (see below) and therefore all new habitable room windows created in the development proposal will not be able to ascertain direct views into the rear elevations windows of this northern boundary sharing neighbours property.



View North

5.3.6 Overall it is considered that the development proposals are of an appropriate and acceptable design, scale and appearance having regard to the parameters of the site; its respective neighbouring constraints and the overriding allocation of the site as a conservation area. There are elements of the scheme that have not yet been fully detailed (such as hard / soft landscaping, details of the bin store / cycle store etc) which will need to be the subject

of appropriate planning conditions and the materials and finish of the new development should reflect those of the locale.

5.3.7 In the context of the provisions of Policies CS2 and CS18 of the Core Strategy and the material planning considerations in relation to neighbour impact, it is concluded the proposals will not adversely impact upon the privacy and/or outlook of the adjoining and/or adjacent neighbours and are acceptable in terms of these policies. Notwithstanding this however, due to the proximity of some of the adjoining and adjacent neighbouring properties and internal plot relationships it could be possible that permitted development extensions / alterations may pose a threat to privacy and amenity and therefore it is considered necessary to impose a condition removing these rights to maintain control over the future relationship any such extensions or alterations would have upon the neighbours.

#### 5.4 **Highways Issues**

5.4.1 The application proposals have been reviewed by the Local Highways Authority who has provided the following response:

*'The site has been the subject of a previous planning application, to which the Highway Authority raised no objections, which it is understood was withdrawn.*

*The existing site is considered to have an adequate level of off-street parking and servicing for the scale and nature of use.*

*The previous proposal was for fewer units and made some provision for off-street parking whereas it is noted no off-street parking is proposed in relation to the current application thereby increasing demand for on-street parking/parking in other locations considerably given the number of units.*

*Provision of cycle parking is welcomed but you may wish to clarify the number of spaces to be provided given that there are figures of 15 and 22 in the design and access statement, neither of which provides one for each unit. From the information available to the Highway Authority it is also unclear whether the cycle parking area is covered and no specific details regarding security. You may wish to obtain further information regarding this.*

*Despite the location of the site the Highway Authority has severe reservations regarding the proposal now put forward for the following reasons.*

*The lack of off-street parking is highly likely to lead to an increase in parking on the adjacent highway in the vicinity of a junction which could make entering/exiting the junction difficult and there are currently no parking restrictions on the site frontage. In view of this, if planning permission was to be granted the Highway Authority would look to secure funding in the sum of £4,000.00 to investigate and if necessary provide parking restrictions after monitoring the situation for two years post full occupation.*

*It is noted that just beyond the site in a westerly direction access is restricted Monday to Saturday 10.00 am to 4.00 pm which will be likely to lead to an increase in vehicles manoeuvring within the highway under restricted conditions in the event of vehicles being parked on the site frontage.*

*The apartments located to the rear of the site are in excess of the recommended maximum man carry distance of 25 metres and there is no provision within the site for parking/manoeuvring of even smaller service/delivery vehicles leading to further on-street parking demand.*

*Whilst it is noted that the design and access statement indicates there are many public car parks in the vicinity there is no indication as to whether any approach has been made to your Authority regarding securing any level of provision or proximity to the development. It is also considered that it cannot be guaranteed that any off-site parking provision would be utilised by prospective residents due to such factors as accessibility and the generally perceived greater potential for damage to vehicles.*

*Although a bin store is indicated, it is some distance into the site and the applicant should clarify with the refuse/recycling collection authority as to whether such an arrangement is acceptable. It should also be noted that bins should not be stood in the highway on collection days.*

*Should you be minded to grant planning permission on the proposal as it stands it is recommended that the sum of £4,000.00 is secured for the possible investigation into and any subsequent*

*provision of a Traffic Regulation Order and that the following conditions are included in any consent.*

*1. Before any other operations are commenced (excluding demolition/site clearance), space shall be provided within the site curtilage for the storage of plant and materials/site accommodation/loading and unloading of goods vehicles/parking and manoeuvring of operatives and visitors vehicles, laid out and constructed in accordance with detailed designs to be submitted in advance to the Local Planning Authority for written approval and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.*

*2. The development hereby permitted shall not be commenced until details of secure cycle parking facilities for the occupants of, and visitors to, the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.'*

#### 5.4.2

Notwithstanding the comments of the LHA above the application site is located in Staveley Town Centre on the main High Street, subsequently the site is regarded as being situated in one of the most sustainable locations in the Borough where future residents would have access to a wider variety of facilities and services without any dependence upon a private vehicle. On this basis the LHAs reservations to the scheme and its lack of on-site parking could not be sustained as a reason to refuse planning permission. It is noted that the LHA are concerned that the lack of parking would lead to added pressure for on-street parking where the site adjoins the junction to Porter Street and this could lead to highway difficulties the LHA would seek to avoid. It is noted that parking restrictions for High Street do not commence until after the access point into this site, meaning that there could be demand to vehicles to park on High Street in advance of the public house building. The LHA has suggested that they would seek to secure a bond payment to investigate whether a TRO would be need to ensure the safe operation of the junction post development and this can be secured appropriately as part of the necessary S106 agreement for the wider development.

- 5.4.3 The provision of cycle parking is noted within the proposed layout of the scheme and the Council would look to secure further details of this facilities design and its overall capacity by appropriate planning condition. The cycle parking facility will need to be covered and of sufficient capacity to serve the whole development given the absence of any on-site parking provision.
- 5.4.4 The comments of the LHA are noted in respect of man carry distances; however any prospective purchaser would be well aware of this distance before occupying the unit. The distance, albeit in excess of 25m, is only 27m from the public highway to the rear block of apartments therefore this is not regarded as being excessive.
- 5.4.5 The location of the bin storage facility is noted and its operation at this stage remains unresolved. Notwithstanding this it is appropriate to require the arrangements of bin storage and collection to be submitted under a planning conditional requirement as this will give the developer the opportunity to consider relevant capacity requirements and make arrangements with the waste authority for collection accordingly.
- 5.4.6 Overall whilst the reservations of the LHA are noted, it is considered that these issues have been addressed in turn above and where outstanding matters remain these can be dealt with by appropriate planning conditions and by clauses in a S106 agreement having regard to the provisions of policies CS2, CS18 and CS20 of the Core Strategy and wider NPPF.

## 5.5 **Heritage and Ecology**

- 5.5.1 The application site lies within the Staveley Town Centre Conservation Area and subsequently the application proposals have been reviewed by the Council's Conservation Officer and the Derby & Derbyshire DC Archaeologist having regard to the potential impact of the development upon adjoining and adjacent heritage assets.
- 5.5.2 The **Conservation Officer** was involved in pre-application discussions with the developer following the withdrawal of the 2015 application and has provided the following comments on the planning application:

*I notice that the application is a resubmission of CHE/15/00769/FUL, an application I previously commented on. I confirmed then that the proposals were within the Staveley Conservation Area (CA) and that in accordance with para 128 of the NPPF the applicant should provide a heritage statement which would acknowledge the sensitivity of the area and demonstrate that the proposals would protect or enhance the CA's significance, character and appearance.*

*Unfortunately these comments are not reflected in the content of the applicant's resubmitted Planning Design and Access Statement (which appears to have been cut and pasted from the one previously submitted, albeit edited to reflect the current submission and the involvement of new architects). That said, the current submission is, in my view, an improvement on the previous scheme. The design and orientation seems more considered with an attempt to reflect surrounding built form (e.g. the 3- storey dormered grade II Ebenezer Row on Porter Street). Also, notwithstanding the loss of the pub use (normally seen as a community asset), the redevelopment of the Elm Tree, rather than demolition, is to be welcomed, given that this is a former Victorian pub with a prominent position within the CA.*

*Excluding the pub, the current site is unsightly and does not enhance the character and appearance of the wider CA (it is a drab car park with an oppressive large blank supermarket elevation). In this context, the proposed development would improve the appearance of the street scene and wider CA.*

*On this basis I have no objection to what is being proposed, although I would make the following recommendations:*

- That as part of the pub conversion, traditional sash windows are reintroduced to the Elm Tree elevations that currently have plastic imitation sash (on the basis that this would improve the appearance and character of the former Victorian pub and wider CA).*
- That there is more clarity about proposed landscaping and boundary treatments (carefully considered boundary treatments and attractive landscaping would enhance the character of the scheme and wider CA).*
- That there is more clarity about proposed materials (e.g. window surrounds and rendering) to ensure that the development is well designed.*

### 5.5.3

In addition the **Derby & Derbyshire DC Archaeologist** also provided the following comments:

*'The proposal site lies within the Staveley Conservation Area and within the likely medieval core of Staveley. The layout in this area – as shown for example on the tithe map of 1841 – consisted of buildings along the High Street frontage with croft land behind. Experience of the archaeology of medieval towns suggests that these backplot areas were used for a mixture of domestic, agricultural and industrial activity, with (for example) cess pits, tanning pits, rubbish pits, burgage plot boundaries, evidence for ironworking etc. Historic mapping suggests that the plot outside the footprint of the existing public house has not been substantially developed in the last 200 years. The open areas of the site therefore have potential for surviving archaeology of medieval date.*

*I recommend that this clear archaeological interest is addressed through a scheme of archaeological excavation and recording, secured by planning conditions in line with NPPF para 141. This will require archaeological excavation (strip-and-record) of the proposed new build footprint, along with monitoring of other elements of development groundworks (access, services, drainage, hard landscaping) as appropriate.*

*The following conditions should therefore be attached to any planning consent:*

- a) No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the local planning authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the local planning authority. The scheme shall include an assessment of significance and research questions; and*
- 1. The programme and methodology of site investigation and recording*
  - 2. The programme for post investigation assessment*
  - 3. Provision to be made for analysis of the site investigation and recording*
  - 4. Provision to be made for publication and dissemination of the analysis and records of the site investigation*

*5. Provision to be made for archive deposition of the analysis and records of the site investigation*

*6. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation"*

*b) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition (a)."*

*c) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under condition (a) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.'*

5.5.4 Having regard to the consultee comments received above it is considered that the wider benefits of the whole development outweigh any minor impacts the development may have upon surrounding heritage assets. Both consultees support the development and are satisfied any outstanding issues can be addressed by the imposition of appropriate planning conditions which is a reasonable approach in context of policy CS19 of the Core Strategy and the wider NPPF.

5.5.5 In the context of matters of Ecology the **Derbyshire Wildlife Trust** (DWT) have been consulted on the application proposals and by request further Bat Survey work was undertaken to survey the site and existing building for ecological potential. These surveys were sent to DWT to review and the following comments were made:

*'We have considered the Preliminary Ecological Appraisal prepared by Arc Ecology, January 2016 submitted as part of the planning application. We have considered the day time assessment undertaken in January 2016 in support of the application and advise that a sufficiently thorough assessment has been undertaken to be reasonably confident that the proposal is unlikely to impact upon roosting bats and nesting birds that no further survey work or mitigation is required. Furthermore, the site was considered to have negligible to low ecological value.*

*In summary, it is likely that the assessment that has been undertaken for bats meets Government guidance within Circular*

*06/2005 and, as such, sufficient information regarding these protected species has been supplied to enable the Council to make an informed decision in accordance with the guidelines and to discharge its legal obligation to have regard to the requirements of the Habitats Directive. In summary, no evidence of bats was found and we therefore advise the Council that there should be no ecological constraints associated with the proposal.*

*It would be welcomed for the proposals to have a net gain to biodiversity with the inclusion of bat and bird boxes, native planting, green walls/roofs, these enhancements could result in a net gain for the application.'*

- 5.5.6 Having regard to the comments made by DWT above it is considered that the application has properly assessed any potential impact upon the bat population. Under policy CS9 the Council will look to secure a biodiversity gain / enhancement on any major development proposals and therefore it will be necessary to impose a suitable planning condition on this development requiring the developer to provide bird and bat boxes within the site. In addition opportunities for the introduction of soft landscaping will also be required under a separate condition.

## 5.6 **Flood Risk / Drainage**

- 5.6.1 In respect of matters of drainage and potential flood risk (having regard to policy CS7), it is noted that the application site lies within flood risk zone 1 and therefore is unlikely to be at risk from fluvial flooding. In respect of drainage, the application details that the development is to be connected to existing mains drain for foul and surface water will be directed to soakaway.

- 5.6.2 Both the Councils **Design Services (DS)** team and **Yorkshire Water Services (YWS)** have been consulted on the application proposals. The DS team have requested that percolation testing is carried out to demonstrate that the land conditions are appropriate for the proposed handling of surface water drainage by sustainable and that this meets the Council's minimum drainage standards. YWS have responded with suggested conditions which relay the comments of the DS team and seek approval of the sites proposed drainage strategy in line with government guidance of climate change etc.

- 5.6.3 Appropriate planning conditions can be imposed on any decision issued to ensure more detailed drainage details are submitted for further consideration and approval.
- 5.6.4 Given the scale and nature of the development proposals the **Lead Local Flood Authority** have referred the applicant to their standing advice.

## 5.7 Land Condition / Contamination

5.7.1 The site the subject of the application comprises of hard surfaced / previously developed land and therefore land condition and contamination need to be considered having regard to policy CS8 of the Core Strategy.

5.7.2 In respect of land condition the **Coal Authority (CA)** were consulted on the application submission and initially objected to the application submission, due to the absence of an accompanying Coal Mining Risk Assessment (CMRA). The applicant subsequently submitted a CMRA for consideration and the following comments on the CMRA were received from the CA:

*'The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment Report; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site.*

*The Coal Authority recommends that the LPA impose a Planning Condition should planning permission be granted for the proposed development requiring these site investigation works prior to commencement of development.*

*In the event that the site investigations confirm the need for remedial works to treat the areas of shallow mine workings to ensure the safety and stability of the proposed development, this should also be conditioned to ensure that any remedial works identified by the site investigation are undertaken prior to commencement of the development.*

*A condition should therefore require prior to the commencement of development:*

- \* *The submission of a scheme of intrusive site investigations for approval;*
- \* *The undertaking of that scheme of intrusive site investigations;*
- \* *The submission of a report of findings arising from the intrusive site investigations;*
- \* *The submission of a scheme of remedial works for approval; and*
- \* *Implementation of those remedial works.*

*The Coal Authority therefore withdraws its objection to the proposed development subject to the imposition of a condition or conditions to secure the above.'*

5.7.3 The Council's Environmental Health Officer (EHO) was consulted on the application but did not make any specific comments in response. Notwithstanding this if the development is approved there are nearby residential properties which could be disturbed by development works and therefore as a minimum construction hours should be controlled in the interests of amenity.

5.7.4 Having regard to the comments detailed above from the CA appropriate conditions can be imposed to this effect, if permission is granted, to ensure compliance with policy CS8 of the Core Strategy and the wider NPPF in respect of noise and land condition.

## 5.8 **Community Infrastructure Levy (CIL) and S106 Contributions**

5.8.1 The site the subject of the application lies within the low CIL zone and therefore the CIL Liability has been calculated (using calculations of gross internal floor space [GIF]) as follows:

	New GIF (sqm)	Calculation	Total
Total Residential Floorspace	860	860 x £20 (index linked)	£17,200
<b>Total</b>			<b>£17,200</b>

5.8.2 Having regard to the nature of the application proposals, if the principle of development is accepted, in addition to CIL several S106 contribution requirements would be triggered given the scale and nature of the proposals. Policy CS4 of the Core Strategy seeks to secure necessary green, social and physical infrastructure

commensurate with the development to ensure that there is no adverse impact upon infrastructure capacity in the Borough.

- 5.8.3 A requirement to secure S106 Contributions / Legal Agreements in respect of negotiations for up to a 30% Affordable Housing contribution (Policy CS11); negotiations up to 1% of the overall development cost for a Percent For Art scheme (Policy CS18); and appointment of an external management company to manage and maintain the on site green open space and SuDS infrastructure (Policies CS7 and CS9) would need to form part of a S106 agreement; and It will be necessary to look to secure by planning condition the requirement for local labour and the provision of on-site high speed broadband connections (Policy CS13).

## 6.0 **REPRESENTATIONS**

- 6.1 The application has been publicised by site notice posted on 13/01/2017; by advertisement placed in the local press on 19/01/2017; and by neighbour notification letters sent on 12/01/2017.

- 6.2 As a result of the applications publicity there has been one letter of representation received as follows:

### **A Local Resident**

I agree with the D&AS and support the conversion of this period but vacant building in a prominent town centre location;

I like the proposed new buildings appearance, inc. the fake windows inspired by the old widows tax;

At present the site presents an unattractive appearance with the derelict pub and nondescript Morrisons supermarket providing a negative impact on the edge of the conservation area;

I feel the proposed development will greatly improve the Conservation Areas character and appearance; inc. the setting of the restored Three Gables building next door; and

I support the landscaping proposals and feel the re-use of this vacant land and buildings will remove the crime / ASB issues (inc. drug dealing) that were a problem in this area when still in use as a pub.

- 6.3 ***Officer Response:*** Comments noted.

## 7.0 **HUMAN RIGHTS ACT 1998**

- 7.1 Under the Human Rights Act 1998, which came into force on 2<sup>nd</sup> October 2000, an authority must be in a position to show:
- Its action is in accordance with clearly established law
  - The objective is sufficiently important to justify the action taken
  - The decisions taken are objective and not irrational or arbitrary
  - The methods used are no more than are necessary to accomplish the legitimate objective
  - The interference impairs as little as possible the right or freedom
- 7.2 It is considered that the recommendation is objective and in accordance with clearly established law.
- 7.3 The recommended conditions are considered to be no more than necessary to control details of the development in the interests of amenity and public safety and which interfere as little as possible with the rights of the applicant.
- 7.4 Whilst, in the opinion of the objector, the development affects their amenities, it is not considered that this is harmful in planning terms, such that any additional control to satisfy those concerns would go beyond that necessary to accomplish satisfactory planning control

## 8.0 **STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT**

- 8.1 The following is a statement on how the Local Planning Authority (LPA) has adhered to the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 in respect of decision making in line with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF).
- 8.2 Given that the proposed development does not conflict with the NPPF or with 'up-to-date' Development Plan policies, it is considered to be 'sustainable development' and there is a presumption on the LPA to seek to approve the application. The LPA has used conditions to deal with outstanding issues with the development and has been sufficiently proactive and positive in proportion to the nature and scale of the development applied for.

8.3 The applicant / agent and any objector will be provided with copy of this report informing them of the application considerations and recommendation / conclusion.

## 9.0 **CONCLUSION**

9.1 The proposals are considered to be appropriate having regard to the character of the surrounding area and would not have an unacceptable detrimental impact on the amenities of neighbouring residents or highway safety. As such, the proposal accords with the requirements of policies CS2, CS10, CS18 and CS20 of the Core Strategy and the wider National Planning Policy Framework.

9.2 Furthermore subject to the imposition of appropriate planning conditions the proposals are considered to demonstrate wider compliance with policies CS7, CS8, CS9 and CS10 of the Core Strategy and the wider NPPF in respect of drainage, flood risk, land condition and contamination.

## 10.0 **RECOMMENDATION**

10.1 It is therefore recommended that the application be approved subject to:

- S106 Agreement being negotiated covering Affordable Housing Contribution; £4,000 Highways Contribution for TRO investigation; and Percent For Art Contribution;
- Community Infrastructure Levy Notice being served as per section 5.8 above; and

10.2 The following conditions / notes being imposed on any decision issued:

### **Conditions**

01. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

*Reason - The condition is imposed in accordance with section 51 of the Planning and Compensation Act 2004.*

02. All external dimensions and elevational treatments shall be as shown on the approved plans (listed below) with the exception of any approved non material amendment.

160402 P001 Existing Plans and Elevations

160402 P002 Site and Location Plans

160402 P003 Proposed Ground Floor Plans and Elevations

160402 P004 Proposed First, Second and Third Floor Plans and Elevations

160402 P005 Site Layout Plan and Block Plan

Planning, Design and Access Statement (prepared by Design Space Architecture)

Coal Mining Risk Assessment (prepared by LK Consult Ltd dated 25<sup>th</sup> January 2016)

Protected Species Appraisal (prepared by Arc Ecology dated January 2016)

*Reason - In order to clarify the extent of the planning permission in the light of guidance set out in "Greater Flexibility for planning permissions" by CLG November 2009.*

### Drainage

03. No development shall take place until details of the proposed means of disposal of surface water drainage, including details of any balancing works and off -site works, have been submitted to and approved by the local planning authority . The details shall include evidence of existing positive drainage to a public sewer from the site and the means of achieving a minimum 30% reduction of flow into the public sewer based on the existing peak discharge rate during a 1 in 1 year storm event.

Furthermore, unless otherwise approved in writing by the local planning authority , there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works .

*Reason - To ensure that no surface water discharges take place until proper provision has been made for its disposal.*

04. The site shall be developed with separate systems of drainage for foul and surface water on and off site.

*Reason - To ensure that the development can be properly drained and In the interest of satisfactory and sustainable drainage.*

05. There shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

*Reason - To ensure that no foul or surface water discharges take place until proper provision has been made for their disposal.*

### Site Investigations

06. Development shall not commence until intrusive site investigations have been carried out by the developer to establish the exact situation regarding coal mining legacy issues and contamination on the site and approval for commencement of development given in writing by the Local Planning Authority. The investigation and conclusions shall include any remedial works and mitigation measures required/proposed for the remediation / stability of the site. Only those details which receive the written approval of the Local Planning Authority shall be carried out on site.

*Reason - To fully establish the presence and / or otherwise of any contamination and / or coal mining legacy and to ensure that site is remediated, if necessary, to an appropriate standard prior to any other works taking place on site.*

### Archaeology / Heritage

07. a) No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the local planning authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the local planning authority. The scheme shall include an assessment of significance and research questions; and

1. The programme and methodology of site investigation and recording
  2. The programme for post investigation assessment
  3. Provision to be made for analysis of the site investigation and recording
  4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
  5. Provision to be made for archive deposition of the analysis and records of the site investigation
  6. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation"
- b) No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition (a)."
- c) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under condition (a) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

*Reason - To ensure that any archaeological interest is appropriately assessed and documented prior to any other works commencing which may affect the interest in accordance with policy CS19 of the Core Strategy and the wider NPPF.*

08. Prior to their installation further details of the proposed replacement windows to the public house building shall be submitted to the Local Planning Authority for consideration. These windows shall be traditional sash windows and not uPVC imitation sash which detract from the character and appearance of the Conservation Area. Only those windows which receive written approval shall be installed on site in accordance with the agreed schedule and details.

*Reason – To ensure that the materials and finishes to the retained building are complimentary to the character and appearance of the Staveley Conservation Area in accordance with policy CS19 of the Core Strategy and the wider NPPF.*

## Ecology

09. Prior to the commencement of development a detailed enhancement strategy that provides details of enhancement measures for roosting bats and nesting birds shall be submitted to and approved in writing by the Local Planning Authority. Such approved measures must be implemented in full and maintained thereafter.

Please note that it is expected that provision is made within the new dwellings (as integral boxes) rather than in retained trees to ensure that the roost and nest boxes cannot be tampered with and are secure in the long-term.

*Reason – To ensure that any ecological interest on site is appropriately addressed and can be mitigated against, prior to any development taking place, in accordance with policy CS9 and the wider NPPF.*

## Others

10. Construction work shall only be carried out on site between 8:00am and 6:00pm Monday to Friday, 9:00am to 5:00pm on a Saturday and no work on a Sunday or Public Holiday. The term "work" will also apply to the operation of plant, machinery and equipment.

*Reason - In the interests of residential amenities.*

11. Prior to development commencing an Employment and Training Scheme shall be submitted to the Local Planning Authority for consideration and written approval. The Scheme shall include a strategy to promote local supply chain, employment and training opportunities throughout the construction of the development.

*Reason - In order to support the regeneration and prosperity of the Borough, in accordance with the provisions of Policy CS13 of the Core Strategy.*

12. The development hereby approved shall include the provision of appropriate infrastructure to enable the dwellings to have high speed broadband, in accordance with details to

be submitted to, and approved in writing, by the Local Planning Authority.

*Reason – In the interests of sustainable development and to ensure that the development is capable of meeting the needs of future residents and / or businesses in accordance with policy CS4 of the Core Strategy and para. 42 of the NPPF.*

13. Before construction works commence or ordering of external materials takes place, precise specifications or samples of the walling and roofing materials to be used shall be submitted to the Local Planning Authority for consideration. Only those materials approved in writing by the Local Planning Authority shall be used as part of the development.

*Reason - The condition is imposed in order to ensure that the proposed materials of construction are appropriate for use on the particular development and in the particular locality.*

14. Notwithstanding the provision of the Town and Country Planning (General Permitted) Development Order 1995 (as amended) there shall be no extensions, outbuildings or garages constructed (other than garden sheds or greenhouses of a volume less than 10 cubic metre) or additional windows erected or installed at or in the dwelling hereby approved without the prior written agreement of the Local Planning Authority.

*Reason - In the interests of the amenities of occupants of adjoining dwellings.*

15. Within 2 months of commencement of development, unless otherwise agreed in writing by the Local Planning Authority, full details of hard and soft landscape works for the approved development shall be submitted to the Local Planning Authority for consideration.  
Hard landscaping includes proposed finished land levels or contours; means of enclosure; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.) retained historic landscape features and proposals for restoration, where relevant. These works shall

be carried out as approved prior to the occupation of the dwelling.

*Reason - The condition is imposed in order to enhance the appearance of the development and in the interests of the area as a whole.*

### Highways

16. Before any other operations are commenced (excluding demolition/site clearance), space shall be provided within the site curtilage for the storage of plant and materials/site accommodation/loading and unloading of goods vehicles/parking and manoeuvring of operatives and visitors vehicles, laid out and constructed in accordance with detailed designs to be submitted in advance to the Local Planning Authority for written approval and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.

*Reason – In the interests of highway safety.*

17. The development hereby permitted shall not be commenced until details of secure cycle parking facilities for the occupants of, and visitors to, the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.

*Reason – In the interests of highway safety.*

18. No part of the development shall be occupied until details of arrangements for storage of bins and collection of waste have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and the facilities retained for the designated purposes at all times thereafter.

*Reason – In the interests of highway safety.*

## Notes

01. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.
02. This approval contains condition/s which make requirements prior to development commencing. Failure to comply with such conditions will render the development unauthorised in its entirety, liable to enforcement action and will require the submission of a further application for planning permission in full.

## Highways

03. Pursuant to Sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
04. The application proposals are affected by a Prescribed Building Line under the Roads Improvements Act 1925. Whilst it is an offence to undertake building works in advance of this line, it may be possible for the applicant to apply to rescind the line. The applicant is advised to write to the Strategic Director of the Economy, Transport and Communities Department at County Hall, Matlock, Derbyshire DE4 3AG at least 6 weeks before commencing works requesting that the line be removed and confirming that they will meet the Authority's administrative/legal costs if the removal is approved. For further advice, please contact Mr G Hill (telephone 01629 538647).

## Drainage

05. Attention is drawn to the attached notes on the Council's 'Minimum Standards for Drainage'.