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File No: CHE/17/00885/FUL
Plot No: 2/2463

ITEM 3

Proposed demolition of existing building and replacement with two storey building with offices to ground floor and three number one bedroom studios to first floor at 9D Holywell Street, Chesterfield, Derbyshire, S41 7SA for Mr R Cutt – Coal mining risk assessment received 3.4.18, archaeological assessment received 3.4.18, noise impact assessment received 1.6.18, amended plans and elevations received 6.6.18.

Local Plan: Unallocated
Ward: St Leonards

1.0 **CONSULTATIONS**

Ward Members	No comments
Strategy Planning Team	Comments received
Environmental Services	No objections
Design Services	No objections
Yorkshire Water Services	No comments
DCC Highways	No objections
Amenity Socs. Local	No comments
Coal Authority	No objections
Conservation Officer	No objections
Urban Design	Comments received
Derbyshire Wildlife Trust:	Comments received
Archaeology	No objections

Derbyshire Constabulary	No objections
Waste Management	No objections
Neighbours/Site Notice	2 representations received – see report

2.0 **THE SITE**

- 2.1 The site the subject of the application is 9D Holywell Street, located within a Conservation Area in Chesterfield Town Centre. The property in question is situated behind Holywell Street, at the end of a row of properties accessed from Parker's Yard.
- 2.2 9D Holywell Street is a two storey end of terrace building, of a brick construction, with a pitched tile roof and UPVC windows and doors. The property is currently vacant, and was last used as a taxi booking office. The Western front elevation abuts Parker's Yard, an alleyway connecting with Holywell Street. This elevation is largely set over a single storey, due to the gradient of the site, where a series of UPVC windows and doors are located. The Northern side elevation of the property abuts an enclosed yard area, and comprises a gable end with first floor UPVC window and single storey aspect underneath. The Eastern rear elevation of the property also abuts the enclosed yard area, and comprises a series of first floor UPVC windows with single storey aspects underneath. The Southern side elevation of the property comprises a gable end that is attached to the rear of 9 Holywell Street.
- 2.3 The aforementioned enclosed yard is situated to the North and East of the site, and is not in the ownership of the applicant. 9 Holywell Street is situated to the South of the site and Parker's Yard is situated to the West of the site. An attractive stone and brick boundary wall is situated to the North West of the site, between Parker's Yard and the enclosed yard area. The Grade II Listed Winding Wheel concert hall is situated on the opposite side of Parker's Yard, to the West of the site, and the beer garden of Einstein's Bar is situated to the South of the enclosed courtyard area.





3.0 **RELEVANT SITE HISTORY**

3.1 There is no relevant planning history at this site.

4.0 **THE PROPOSAL**

4.1 A full application has been made for the demolition of the existing building and replacement with a two storey building with offices to ground floor and three number one bedroom studios to first floor.

4.2 The plans were originally for the demolition of the existing building and replacement with a two storey building with B8 (storage only) to ground floor and three number one bedroom studios to first floor however concerns were raised with regard to the proposed office use and the design, which resulted in the description of the application being revised and amended plans being produced.

- 4.3 The site layout indicates that the proposed new building would measure a maximum of approximately 6.9M in height to the ridge, 5.5M in height to the eaves, 15.5M in width and 8M in depth. The new property would abut the boundary with Parker's lane to the West of the site, would be attached to 9 Holywell Street to the South of the site and would project further into the enclosed yard area than the existing building.
- 4.4 The new building is proposed to comprise office space and WC at ground floor level, with a series of windows and an angled external door to the Eastern rear elevation. The external door is proposed to lead to a bin storage area, immediately to the Northern side of the property. An internal staircase is proposed to lead up to first floor level, where a commercial entrance would be located leading from Parker's Yard. At first floor level the property is proposed comprise three studio apartments, with a residential access leading from Parker's Yard. Each of the apartments would consist of an open plan studio area with separate bathroom. A series of windows are proposed to the Eastern rear elevation to serve the studios, and a further window and Juliette balcony area is proposed to the Northern rear elevation. The internal spaces appear to be appropriate and fit for purpose. No details with regards to landscaping or boundary treatments are provided at this stage, and no on site parking provision is proposed.
- 4.5 The amended plans indicate that the new property would be of a brick construction, with a pitched tile roof and UPVC windows and doors. All of the windows are proposed to be triple casement units with brick lintels, and a horizontal parapet feature within the centre of the roofline. The original plans were considered inappropriate in terms of design, and as such consultation took place with the applicant in order to provide these amended plans.
- 4.6 The application is assessed on the basis of the application form, Design and Access Statement, Heritage Statement, site location plans, plans and elevations, coal mining risk assessment, archaeological assessment and noise impact assessment.

5.0 **CONSIDERATIONS**

5.1 **Local Plan Issues**

5.2 The site is situated within the built settlement of the Town Centre in a Conservation Area. The immediate area contains a mix of commercial, employment and residential uses, and is well served by services and facilities. Having regard to the nature of the application, policies CS2, CS18 and CS19 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.

5.3 Policy CS2 (Principles for Location of Development) states that when assessing planning applications for new development not allocated in a DPD, proposals must meet the following criteria / requirements:

- a) adhere to policy CS1
- b) are on previously developed land
- c) are not on agricultural land
- d) deliver wider regeneration and sustainability benefits
- e) utilise existing capacity in social infrastructure
- f) maximise walking / cycling and the use of public transport
- g) meet sequential test requirements of other national / local policies

All development will be required to have an acceptable impact on the amenity of users or adjoining occupiers taking into account noise, odour, air quality, traffic, appearance, overlooking, shading or other environmental, social or economic impacts.

5.4 Policy CS18 (Design) states that all development should identify, respond and integrate with the character of the site and its surroundings and development should respect the local character and the distinctiveness of its context. In addition it requires development to have an acceptable impact on the amenity of neighbours.

In addition to the above, the NPPF places emphasis on the importance of good design stating:

'In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area. Planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.'

- 5.5 In addition to the above, in July 2013 the Council adopted 'Successful Places' which is a Supplementary Planning Document which guides Sustainable Housing Layout and Design. The development proposed should be assessed against the design principles set out in this supporting document.
- 5.6 The proposed development site is situated within Chesterfield Town Centre and is on previously developed land. The site is located within a built-up area where new housing and employment development would be considered appropriate in principle. As such, this proposed development site is considered to be sufficiently sustainable for a development of this nature and is a logical housing and employment plot.
- 6.0 **Strategy Planning Team**
- 6.1 Principle of Development: The application originally proposed the demolition of an existing building and the erection of a two-storey building with storage on the ground floor (B8) and three, one-bedroomed residential units on the first floor with access from Packer's Yard. The site is within the town centre boundary in the adopted Local Plan but is not within the retail core. The site was last used as a taxi booking office which is considered to be a Sui Generis use class. Allocations and proposals for new employment development will be encouraged where they accord with the council's overall spatial strategy (CS1). Policy CS13 sets out the broad locations appropriate for employment use. A B8 (storage) use would normally only be considered in a designated established business and industrial land area. The allocation of a B8 site at this town centre location may have an adverse impact on traffic movement, and advice should be sought from the Highways Authority with regards to loading. The B8 element of the application is not

considered to be congruent with the proposed C3 use regards to residential amenity, nor Policy CS13, however, it is difficult to fully assess the suitability of the use without further information on the precise nature of the proposed storage operations. Subsequently the warehouse storage element was changed to an office component which is acceptable within the town centre environment.

- 6.2 In so far as the residential element the site, which is considered to be previously developed, is within easy walking and cycling distance of the full range of facilities available in Chesterfield Town Centre and has excellent public transport connections. It is therefore in accordance with the principles for the location of development (regarding concentration and regeneration) set out in CS1 and CS2. Core Strategy Policy PS1 i) states that development should enhance the range and quality of residential uses within Chesterfield town centre and support the objectives of the Chesterfield Town Centre Masterplan. Residential development in this location would enhance the range of dwellings in the centre and supports the Masterplan objective of securing residential development to refurbish the upper-levels of buildings.
- 6.3 The plot is located within The Chesterfield Town Centre Conservation area and within the town's Historic Core as defined by policy CS19 and the constraints mapping. The existing building fronts onto Packer's Yard which is an alleyway connecting Holywell Street to Tapton Lane. None of the walls front onto the main Holywell Street however, The Winding Wheel (a grade II listed building) sits opposite the site. Whilst the existing building sits within an area of conservation significance the building itself does not appear to have any material impact on the appearance and views of the conservation area given the original structure was also two storeys in height. Policy CS19 requires that all new development must preserve or enhance the local character and distinctiveness of the area in which it would be situated.
- 6.4 Flood Risk & Environment: As the site is located in Flood Zone 1, with low surface water flood risk the development would not require a flood risk assessment. Commitment to the use of SuDs should be secured if possible to further

minimise flood risk. The applicant has not demonstrated how the development will comply with parts a-d of Policy CS6 – ‘Sustainable Design and Construction’. Further information should be obtained from the applicant regarding sustainability.

6.5 Design & Amenity: Holywell Street has a number of licensed premises which impact upon the amenity of residents owing to their noise levels and hours of use. The comments from Environmental Health highlight a deficiency of noise mitigation measures in the existing design. The importance of preventing new development from being adversely affected by noise pollution is highlighted in para. 109 of the NPPF. Should the development be approved it is also important to ensure that the ‘Designing Out Crime’ SPD is used to help promote a safe environment, particularly with regards to the lighting of Packer’s Yard under policy CS18 i. The presence of a B8 unit below the residential uses also presents amenity concerns and would facilitate a change of use of premises from a B8 storage and distribution use under 500m² to C3 residential use under temporary permitted development rights. This could have implications for waste storage and dwelling density which may need to be controlled through condition. It is noted that the residential apartments will be 33m² in size which is 6m² below the Technical Housing Standards space standards for 1 bedroomed 1 person dwellings. Comment from the urban design officer should be sought in assessing whether the design, materials and layout are appropriate to meet the requirements of policy CS18 k which takes into consideration the amenity of users.

6.6 Any net increase in floorspace would be liable under CIL provided the applicant is able to prove that the building can meet the lawful use test as set out in Regulation 40 of The Community Infrastructure Levy (Amendment) Regulations (2014). The test allows for existing floor space that has been in continuous lawful use for at least six months in the three years prior to the grant of planning permission to be used as deductible floor space against the CIL charge for the development. The site is within the medium CIL charging zone which requires a charge of £50 per sqm.

6.7 The principle of residential development is acceptable given that it is in a location that accords with the Core Strategy in terms of the overall strategy of concentration and regeneration, however the intended B8 designation for the ground floor is a concern at this location as per policies CS13 and CS1. There are also user amenity concerns under CS18 which should be addressed. Advice should be sought from the urban design and conservation officers regarding the scale and design of the dwellings.

6.8 In response to these comments from the Strategy Planning Team, it is agreed that the originally proposed storage use would have resulted in an adverse impact on the vitality of the Town Centre and may have resulted in highway safety and amenity issues. This resulted in the storage aspect of the scheme being replaced by a proposed office. This is considered to be an appropriate Town Centre use that would contribute to the vitality of the Town Centre and would be unlikely to result in highway safety or amenity issues. It is agreed that this proposed Town Centre location is an appropriate and sustainable location for residential development and that the proposed development would have no adverse impact on the character of the Conservation Area. Environmental Health has provided comments in relation to residential amenity and noise, Design services has provided comments in relation to drainage, and Derbyshire Constabulary has provided comments in relation to designing out crime. It is not considered that the proposed dimensions of the apartments would be sufficiently small to warrant a refusal being issued, and it is agreed that this development would be CIL liable.

7.0 **Design and Appearance (Including. Neighbour Effect)**

7.1 It is considered that the design and materials of the proposed new property are of satisfactory quality that would have no adverse impact on the character of the site or the surrounding Conservation Area. The new property would improve the aesthetics of the site by replacing a poor quality existing structure, and the use of red brick and a pitched tile roof would complement the architecture of the surrounding locality. Many properties in close proximity are of a red brick construction with pitched roofs, so it is considered that the

design and materials of the proposed new property are entirely appropriate to the locality. A condition should be imposed requiring the submission of details of the material samples and windows and doors. This is to ensure that the materials are appropriate in terms of quality and shade.

7.2 Having regard to the proposed layout, plans and elevations, it is expected that the development may impose the greatest degree of change to 9 Holywell Street. The new building would be constructed in front of an existing window to the North elevation to this property, however the modest height of the development would prevent any adverse impact in terms of overshadowing or an overbearing impact. No windows are proposed to the South elevation of the new property, so there would be no issues in terms of overlooking for 9 Holywell Street either. The proposed development would have no adverse impact on the neighbouring property to the West of the site, as this is the non-residential Winding Wheel, the height of the development would be relatively modest and no windows are proposed to this elevation. The neighbouring properties to the North and East of the site would be situated several metres away from the proposed new building, with the closest properties situated approximately 19M away and having no windows to this elevation. It is not therefore considered that there would be any issues in terms of overlooking, overshadowing or an overbearing impact for these neighbours. It is considered that the proposed design and scale of the building, the layout of the site, and the level of separation from neighbours would ensure that these proposals would result in no significant adverse impact in terms of overlooking, overshadowing or an overbearing impact for any neighbouring properties.

7.3 No outdoor amenity is proposed to serve the residential studios. It was suggested that roof terraces, balconies or access to the enclosed yard area would be beneficial for residents in terms of access to outdoor amenity space, however the applicant was not prepared to make this provision. As a result of the town centre location and access to areas of open space, it is not considered that the lack of outdoor amenity space would constitute a reason for refusal in this instance. A small area of outdoor space is proposed to serve the office area at ground floor level, and this could be

enhanced with the use of landscaping. An appropriately screened bin storage area is proposed to serve the office and studios above. Bin collection would necessitate waste being transported along Parker's Yard to Holywell Street, a busy main road. It was suggested that bin collection from the entrance to the enclosed yard on Tapton Lane would be more appropriate, however the applicant was not prepared to facilitate this. It is not considered that the proposed bin collection from Holywell Street would be sufficiently problematic to warrant a refusal being issued. No parking provision is proposed for the new building, however there is no scope to provide this. As a result of the sustainable town centre location that is well served by public transport, it is not considered that a lack of parking would constitute a reason for refusal in this instance.

- 7.4 Overall it is accepted that development of this nature would impose an impact upon neighbours. In this instance there is however a case to argue that this impact would be minimal, due to the proposed design and the relationship between properties. 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 that the development can be designed to prevent any significant adverse impact upon the privacy and/or outlook of the adjoining and/or adjacent neighbours. As such, the development is considered to be acceptable in terms of these policies. Overall the principle of this scheme is considered to be acceptable, and is in accordance with policies CS2 and CS18 of the Core Strategy and the wider SPD.

8.0 **Environmental Services**

- 8.1 The Environmental Services Officer was consulted on this application and initially raised concerns with regards to noise, in particular from the Winding Wheel concert hall and Einstein's Bar. He stated 'I am concerned that there is no information regarding noise (ie from the surrounding area, and possible mitigation measures which may well be required, in this town centre location), as such I am unable to consider the application fully. I advise that the application should be refused, pending supply of this supporting

information'. As a result of this consultation response a noise impact assessment was submitted on 1.6.18 containing glazing and ventilation configurations to minimise the impact of noise. The Environmental Services Officer was re-consulted on the application and stated 'I agree with the conclusions reached therein'.

8.2 *The response from Environmental Services is accepted. It is considered appropriate to impose a condition requiring development to take place in accordance with the submitted noise impact assessment. This condition is required in the interests of the residential amenity of the occupants of the new dwellings.*

9.0 **Design Services**

9.1 Design Services was consulted on this application and they raised no objections. It was stated that 'the site is not shown to be at risk of flooding, according to the Environment Agency flood maps. Any amendments to the existing drainage system may require Building Control approval. The applicant will also need to contact Yorkshire Water for any additional connections to the public sewerage system'.

9.2 *The response from Design Services is accepted. It is considered appropriate to impose a condition requiring the submission of drainage details prior to construction. This condition is required in the interests of sustainable drainage.*

10.0 **DCC Highways**

01 DCC Highways was consulted on the original application and they raised no objections. It was stated that 'the planning application form indicates no parking details were submitted with this application and comments are given on the basis that none will be provided. In any case the site does not connect with the publicly maintainable highway. There were concerns regarding the storage element however this is now changed to an office. In respect of the residential element of the proposal in view of the location of the premises it is not considered that a recommendation of refusal could be sustained on the issue of no off-street parking. The Highway Authority would be obliged to receive further details in

respect of the storage element of the proposal prior to making formal comments on this application’.

10.2 *The response from DCC Highways is agreed with in relation to the residential aspect of the proposed plans. The storage aspect of the application is no longer part of these plans, and it is not therefore considered that this is a matter of concern.*

11.0 **The Coal Authority**

11.1 The Coal Authority was consulted on this application and initially objected due to the lack of a coal mining risk assessment. A coal mining risk assessment was submitted and the Coal Authority was re-consulted. It was stated that ‘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.

11.2 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 undertaking of a scheme of intrusive site investigations which is adequate to properly assess the ground conditions and the potential risks posed to the development by past coal mining activity;

* The submission of a report of findings arising from the intrusive site investigations, including details of any remedial works necessary for approval; and

* Implementation of those remedial works.

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

11.4 *The response from the Coal Authority is agreed with. It is considered that the suggested conditions are required in the interests of coal mining legacy and safety.*

12.0 **Conservation Officer**

12.1 The Conservation Officer was consulted on this application and raised no objections. It was stated that ‘9D Hollywell Street is located within the Chesterfield Town Centre Conservation Area and is adjacent to the grade II listed Winding Wheel, hence this is something of a sensitive setting. That said, 9D is to the rear of the main street scene and the contribution the building makes to the character, setting or appearance of the conservation area and listed building is limited. 9D appears on historical maps from the 1880s and would have been part of the wider residential and industrial development which made up this part of 19th century Chesterfield between the train station and the town centre. No. 9 Holywell street has retained a traditional style shopfront and main elevation (including attractive timber arched windows) and makes a positive contribution to the wider street scene. Unfortunately 9A has no interesting or attractive architectural features – it consists of simple brick elevations, concrete pan tiles, UPVC windows and poorly constructed lean-tos. A scruffy and neglected service area/car park is to the rear of the property.

12.2 The proposal would involve the demolition of 9A and its replacement with a simple brick building consisting of cement roof tiles (type not specified), UPVC casement windows and steel doors. The proposed building is fairly non-descript, but on balance would be an improvement over existing in my view, so I would have no objections, particularly as this is not a prominent part of the wider conservation area, nor has an impact on a sensitive part of the Winding Wheel’s setting. I notice the applicant has not provided clarity about the existing boundary wall adjacent to the public pathway located south of the northern lean-to elevation. Would this require to be rebuilt as part of the proposals? Or would it be left in-situ?

Clarity should be sought. If it is to be rebuilt then one option may be to rebuilt this section of the wall out of reclaimed brick from the demolition which would give the wall some character (an appropriate approach in a conservation area)'.

12.3 *The response from the Conservation Officer is agreed with. It is considered that the existing boundary wall in question would remain, as this is outside the red line boundary and not in the ownership of the applicant.*

13.0 **Urban Design**

13.1 The Urban Design Officer was consulted on this application and raised concerns with regards to the original plans. He has been involved in the process of prompting amended plans and there are no objections to these revised proposals.

14.0 **Derbyshire Wildlife Trust**

14.1 Derbyshire Wildlife Trust was consulted on this application and raised no objections. It was stated that 'due to the demolition of the existing site building, it is recommended as a minimum that a day time building assessment for bats and birds is undertaken by a suitably qualified ecologist'.

14.2 *In response to these comments from Derbyshire Wildlife Trust, it is not considered that a bat and bird assessment is required in this instance. This is because the existing structure has clearly been re-roofed relatively recently and the property was recently in operation as a taxi booking office. As a result of these factors, it is considered that the likelihood of bird or bat life within the roof is extremely minimal.*

15.0 **Archaeology**

15.1 DCC Archaeology was consulted on this application and originally objected due to the absence of an archaeological desk-based assessment of the site. This was subsequently submitted and DCC Archaeology was re-consulted. It was stated that 'I recommend that this meets the information requirements at NPPF para 128 in terms of understanding archaeological significance. The site was within the likely

areas of Roman and medieval occupation in Chesterfield and the narrow yard formed part of one of the medieval burgage plots. The site has subsequently been built on, during the 18th and 19th centuries. Although the current building appears to date from the 1950s it incorporates part of a stone wall in the lower courses of its western side, which may have formed part of an earlier building or boundary wall. There is potential within the site for below-ground archaeology associated with this long period of occupation, and this is best addressed through a conditioned scheme of archaeological work to comprise a brief record of the stone wall structure within the later building, and recording of below-ground archaeological remains (probably through a strip-and-record excavation though dependent to some extent on the applicant's foundation design for this constrained site), following demolition of the existing building to slab level only. The following conditions should therefore be attached to any planning consent:

- 15.2 "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"
- 15.3 "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."

15.4 *The comments from DCC Archaeology are agreed with. It is considered that the suggested conditions are required in the interests of archaeology.*

16.0 **Derbyshire Constabulary**

16.1 Derbyshire Constabulary was consulted on this application, and the responding officer stated 'in my view the siting of residential property as proposed would be problematic because of the surrounding commercial uses. This area of the application isn't explored to any degree. Pedestrian access as proposed I think would be acceptable. Whilst the communal residential door is set some way onto Parkers Yard, so removed from wider supervision, the yard is relatively linear without significant recesses, consequently users have an extended view in both directions. Parkers Yard is also well lit, although from a number of bulkhead units fitted to the exterior of existing buildings as opposed to a public scheme. It also benefits from formal surveillance from the extended Winding Wheel CCTV system. The problems I anticipate are more connected to the proximity of the Winding Wheel and Einsteins Bar. Noise from the concert hall is likely to be significant, as is noise from Parkers Yard, which I believe may provide stage door access for the Winding Wheel. On the opposite side of the proposed site, the rear and raised external deck of Einsteins Bar would be very close to apartment windows, and with Einsteins permitted hours of operating, this would be a significant amenity problem for residential occupation. Given this likely conflict my view is that the residential element proposed would be unacceptable in principle without evidence of measures to mitigate'.

16.2 *In response to these comments from Derbyshire Constabulary, it is agreed that the proposed pedestrian*

access and level of surveillance is acceptable. The concerns with regards to noise from nearby properties has been addressed through the submission of a noise impact assessment, which Environmental Services considers to be satisfactory.

17.0 **Waste Management**

17.1 Waste Management was consulted on this application and made comments. It was stated that 'owing to the location of the proposed development being accessed from Parker's Yard (Lane) residents would need to present their waste for collection on Holywell Street. Holywell Street is a busy street with traffic lights and parking restrictions and this would therefore not be ideal. An exact location would need to be agreed to help avoid any issues arising with waste left out for collection. Collection of waste in the town centre is a weekly general waste collection only. A number of town centre properties are provided with sack collections as are deemed unsuitable for wheeled bins i.e. no space to store and present. If the property could access Tapton Lane there may be the potential for wheeled bins to be presented at this location however agreement would need to be made with the landowner and with the Council as to where bins could be left or presented safely for emptying at this point'.

17.2 *The comments from Waste Management are accepted. Although the collection of waste from Holywell Street is not ideal, it is not considered that this issue would be sufficient to constitute a reason for refusal. It had been suggested that Tapton Lane would be a more appropriate location for bin collection, however the applicant was unprepared to allow this.*

18.0 **REPRESENTATIONS**

18.1 As a result of neighbour notification, 2 letters/e mails have been received from individuals associated with Einstein's bar.

18.2 The letters/emails received raise concerns with regards to disruption caused during construction, the applicant having no right of ownership of the shared yard for construction,

potential obstruction of the yard causing issues with fire safety, noise pollution for residents of the proposed studios and a potential necessity to reduce trading hours, overlooking onto the beer garden, fire route, car park and delivery access of Einstein's and a loss of privacy, smoke from the beer garden causing issues for residents, concerns with regards to bin storage and parking, concerns about the quality and demand for the proposed apartments, and various concerns associated with the originally proposed storage use.

- 18.3 ***With regards to disruption caused during construction, there are no residential properties that would be directly impacted upon by the construction phase. Any impact on Einstein's would be minimal, as the applicant appears to have no ownership of the enclosed yard area for construction. With regards to the applicant having no right of ownership of the shared yard for construction and the potential obstruction of the yard causing issues with fire safety, any issues with regards to ownership or occupation of the yard and construction rights would be civil matters rather than planning considerations.***
- 18.4 ***With regards to noise pollution for residents of the proposed studios and a potential necessity to reduce trading hours, these matters have been addressed through the submission of a noise impact assessment containing glazing and ventilation configurations to minimise the impact of noise. The Environmental Services Officer was consulted on the application and raised no objections. It is not therefore considered that there would be any significant noise pollution for residents or any potential necessity to reduce trading hours.***
- 18.5 ***With regards to overlooking onto the beer garden, fire route, car park and delivery access of Einstein's and a loss of privacy, these are not considered to be significant issues. Einstein's is a bar, so there would be no issues with regards to residential amenity and the beer garden is well screened by boundary fences. With regards to smoke from the beer garden causing issues for residents, there would be a level of separation***

between the new building and the beer garden. As such, it is not considered that this issue would be a major concern. With regards to bin storage and parking, the former would be accessed from Parker's Yard and would therefore have no impact on any users of the enclosed yard area. No parking provision is shown on the plans, however there is no scope to do so, ample parking provision is available within the town centre and the site is well served by public transport.

18.6 ***With regards to the quality and demand for the proposed apartments, it is considered that the studios are of an acceptable standard and would be situated in a sustainable location that is well served by amenities and transport. In terms of demand, it is not considered that an application would have been submitted if there was no demand for a development of this nature. The comments in relation to the originally proposed storage use are not relevant, as this aspect no longer forms part of this application.***

19.0 **HUMAN RIGHTS ACT 1998**

19.1 Under the Human Rights Act 1998, which came into force on 2nd 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

19.2 It is considered that the recommendation is objective and in accordance with clearly established law.

19.3 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.

19.4 Whilst, in the opinion of the objectors, 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

20.0 **STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT**

20.1 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).

20.2 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. Pre application advice was provided.

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

21.0 **CONCLUSION**

21.1 The amended proposals are considered to be appropriate in terms of principle, scale, form and materials, and would not have a significant unacceptable impact on the amenities of the occupants of the proposed development, neighbouring properties, highway safety, archaeology, coal mining legacy or the surrounding Conservation Area. The proposed residential and office use is considered to be entirely appropriate in this Town Centre location. It is considered that the design and materials of the proposed new property are of an acceptable quality that would complement the

architecture of the surrounding Conservation Area. The proposed development site is in a sustainable Town Centre location that is well served by public transport and amenities. As such, the proposal accords with the requirements of policies CS2, CS10, CS13, CS15, CS18, CS19 and CS20 of the Core Strategy and the wider National Planning Policy Framework.

- 21.2 Furthermore subject to the imposition of appropriate planning conditions the proposals are considered to demonstrate wider compliance with policies CS7, CS8, CS18 and CS19 of the Core Strategy and the wider NPPF in respect of archaeology, coal mining risk, drainage, design, landscaping and materials. This application would be liable for payment of the Community Infrastructure Levy.

22.0 **RECOMMENDATION**

- 22.1 That a CIL Liability notice be issued as per section 6.8 above.

- 22.2 That the application be **GRANTED** subject to the following conditions:

Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. All external dimensions and elevational treatments shall be as shown on the approved plans with the exception of any approved non material amendment.
3. No development shall take place until details of the proposed means of disposal of foul and surface water drainage, including details of any balancing works and off-site works, have been submitted to and approved in writing by the Local Planning Authority.
4. 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.

5. Before construction works commence or ordering of external materials takes place, precise specifications or samples of the 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.
6. No development shall take place until site investigation works have been undertaken in order to establish the exact situation regarding coal mining legacy issues on the site. Details of the site investigation works shall be submitted to and approved in writing by The Local Planning Authority. The details shall include;
 - 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
7. No development shall take place until full details of both hard and soft landscape works, bin storage and boundary treatments have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved.
8. Development shall take place in complete accordance with the submitted noise impact assessment.
9. 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"

No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved.

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 and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Reasons

1. The condition is imposed in accordance with section 51 of the Planning and Compensation Act 2004.
2. 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.
3. To ensure that the development can be properly drained and In the interest of satisfactory and sustainable drainage.
4. To ensure that no foul or surface water discharges take place until proper provision has been made for their disposal.

5. 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.
6. In the interests of coal mining legacy and safety.
7. The condition is imposed in order to enhance the appearance of the development and in the interests of the area as a whole.
8. To protect the amenity of residents.
9. In the interests of archaeology.

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.
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 (eg; street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
04. Construction works are likely to require Traffic Management and advice regarding procedures should be sought from

Dave Bailey, Traffic Management, 01629 538686. All road closure and temporary traffic signal applications will have to be submitted via the County Councils web-site; relevant forms are available via the following link - http://www.derbyshire.gov.uk/transport_roads/roads_traffic/roadworks/default.asp

05. Attention is drawn to the attached notes on the Council's 'Minimum Standards for Drainage'.
06. Connection to the public sewerage system requires prior consent from Yorkshire Water. Connections to the existing drainage may require Building Control approval.
07. If planning permission is granted for the development which is the subject of this notice, liability for a Community Infrastructure Levy (CIL) payment is likely to arise. Persons with an interest in the land are advised to consult the CIL guide on the Chesterfield Council Website (<http://www.chesterfield.gov.uk/planning-and-building-control/planning-services/community-infrastructure-levy.aspx>) for information on the charge and any exemptions or relief, and to submit the relevant forms (available from www.planningportal.gov.uk/cil) to the Council before commencement to avoid additional interest or surcharges. If liable, a CIL Liability Notice will be sent detailing the charges, which will be registered as a local land charge against the relevant land.