

ITEM 1**Conversion of existing pub/ club (former church) to form 9 residential units and external landscaping at the sports bar, adjacent 37 Holywell Street for City Realty Ltd.**

Local Plan: Town centre secondary shopping area CLP8

Ward: St Leonards

Plot No: 2/1250

Committee Date: 14th March 2022

CONSULTATIONS

| | |
|--------------------------|---|
| CBC Environmental Health | Concerns raised regarding noise impacts and air quality issues |
| CBC Economic Development | Supportive of the application. There will be employment, training and supply chain opportunities during the construction phase which should be conditions to bring opportunities to local people, to be conditioned. |
| CBC Conservation Officer | The building is of Local Interest (no. 145) within the Conservation Area and adjacent to Listed buildings. No objection but would like to see details of windows and an assessment of the existing, with rooflights evenly spaced. See comments within report. |
| CBC Forward Planning | The site is located within Chesterfield Town Centre's Secondary Shopping Area, the Town Centre Conservation Area and Historic Core (Chesterfield's Area of Archaeological Interest). The proposal accords with Local Plan policies. See comments within report. |
| DCC Archaeology | There needs to be submitted a historic building appraisal and heritage impact assessment of the structure. See comments within report. |

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|-------------------|--|
| Highway Authority | No highway safety objections in principle to the conversion proposals given the previous use, town centre location and availability of public parking. Consideration should be given to securing appropriate cycle parking facilities for residents in line with your Authority's Local Plan requirements. |
| Representations | Comments received from 13 parties – see section 6.0 below. The concerns are addressed throughout the report. |

2.0 **THE SITE**

- 2.1 The application site is a vacant former Primitive Methodist Chapel which has previously been used as a nightclub/venue. The existing structure is a fine red brick building prominently sited on Holywell Street opposite the car park. To the rear of the site is a further car park, the land then slopes away towards Durrant Road.
- 2.2 The site is within the Conservation area and the building itself is a noted local heritage asset No 145 and is described as:
Large former Methodist Chapel in a prominent location on Holywell Street. It was also used as a YMCA until becoming a nightclub. The frontage is rich in typical gothic detailing of the period, primarily stone dressed lancet arch windows and doors. The main central bay is framed by buttress style pilasters and entrance doorway with quatrefoil window, colonnettes and pitched hood with kneelers & finials. The large upper story mullioned window has four lights with gothic stone tracery above. Immediately in front of the building are two brick pillars with stone banding and finials. A key feature of the building is the octagonal tower with steeple roof with stone arcade cornicing and octagonal windows. The side elevation has smaller pitched bays and the rear of the building is much plainer with window openings bricked up. Oversized and inappropriate signage is currently attached to the frontage.
The reason for local listing is that the building is a prominent and distinctive Methodist Chapel which acts as a reminder of the town's ecclesiastical history and makes a positive contribution to the wider street scene and Conservation Area.
- 2.3 The building due to its vacant state is in need of repair and renovation along with a long term use to secure its future.

- 2.4 To the north west of the building is a row of listed buildings, the 19th century red brick 39 to 41 Holywell Street and the Holywell Cross Post office dating from the 17th century or earlier as a timber framed building and the garden wall associated with this.

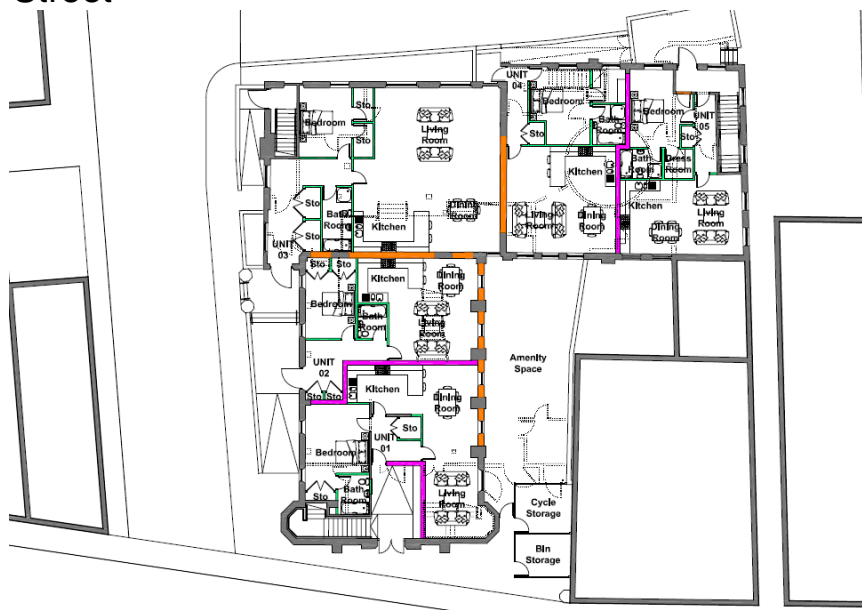
3.0 **SITE HISTORY**

- 3.1 CHE/0902/0551 Change of use of premises to licensed bar - Conditional Permission 27.11.2002
- 3.2 Numerous older applications relating to former YMCA use.

4.0 **THE PROPOSAL**

- 4.1 Planning permission is sought to convert the existing vacant building, which is in a neglected state internally, into 9 flats and to erect an external bin and cycle store and demolish a small extension to create an outdoor amenity area.

- 4.2 To the ground floor:
Unit 1 – 1 bed accessed from Holywell Street
Unit 2 – 1 bed accessed from Devonshire Street
Unit 3 – 1 bed accessed from Devonshire Street
Unit 4 – 1 bed accessed from the rear of the building on Devonshire Street
Unit 5 – 1 bed accessed from the rear of the building on Devonshire Street
External amenity space and bins and cycle storage fronting Holywell Street



4.3

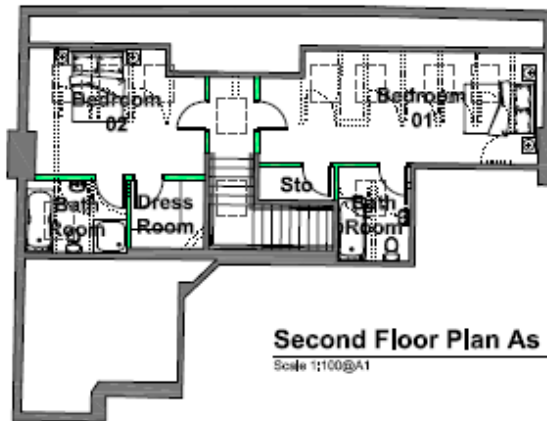
To the first and second floor:

Unit 6 – 2 bed accessed from Holywell Street

Unit 7 – 1 bed accessed from Devonshire Street

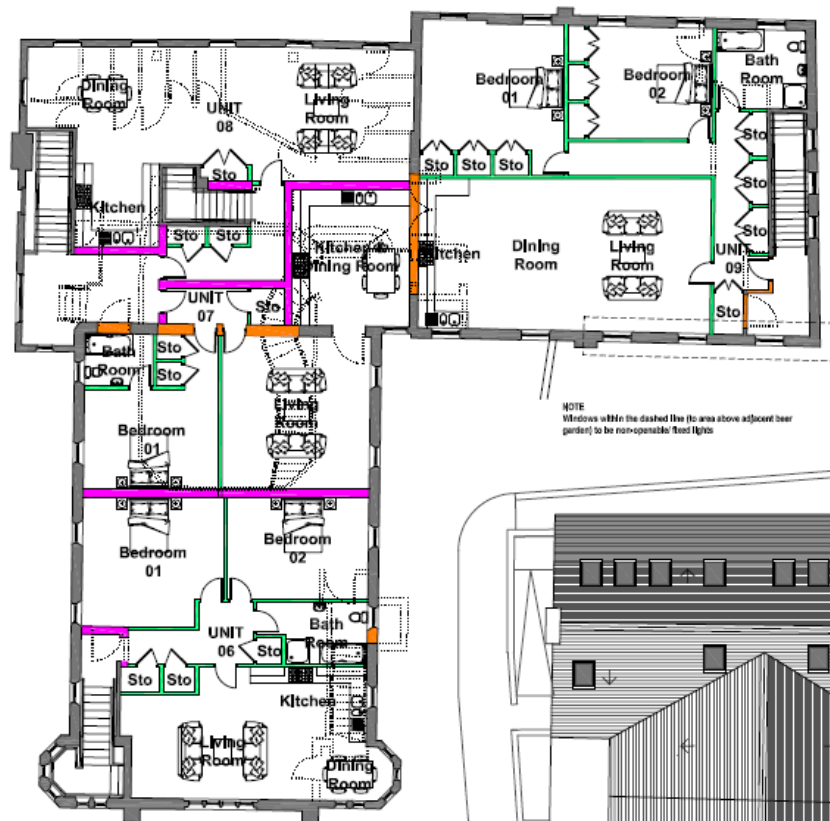
Unit 8 – two level 2 bed accessed from Devonshire Street

Unit 9 – 2 bed accessed from the rear of the building on Devonshire Street



Second Floor Plan As Proposed

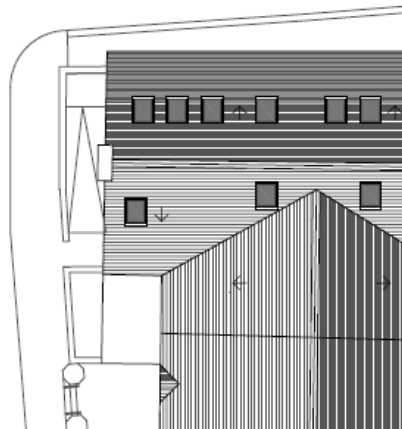
Scale 1:100@A1



NOTE
Windows within the dashed line (to area above adjacent rear garden) to be non-openside 'fixed light'

First Floor Plan As Proposed

Scale 1:100@A1



Elevations as proposed from Holywell Street:



Elevation from Devonshire Street:



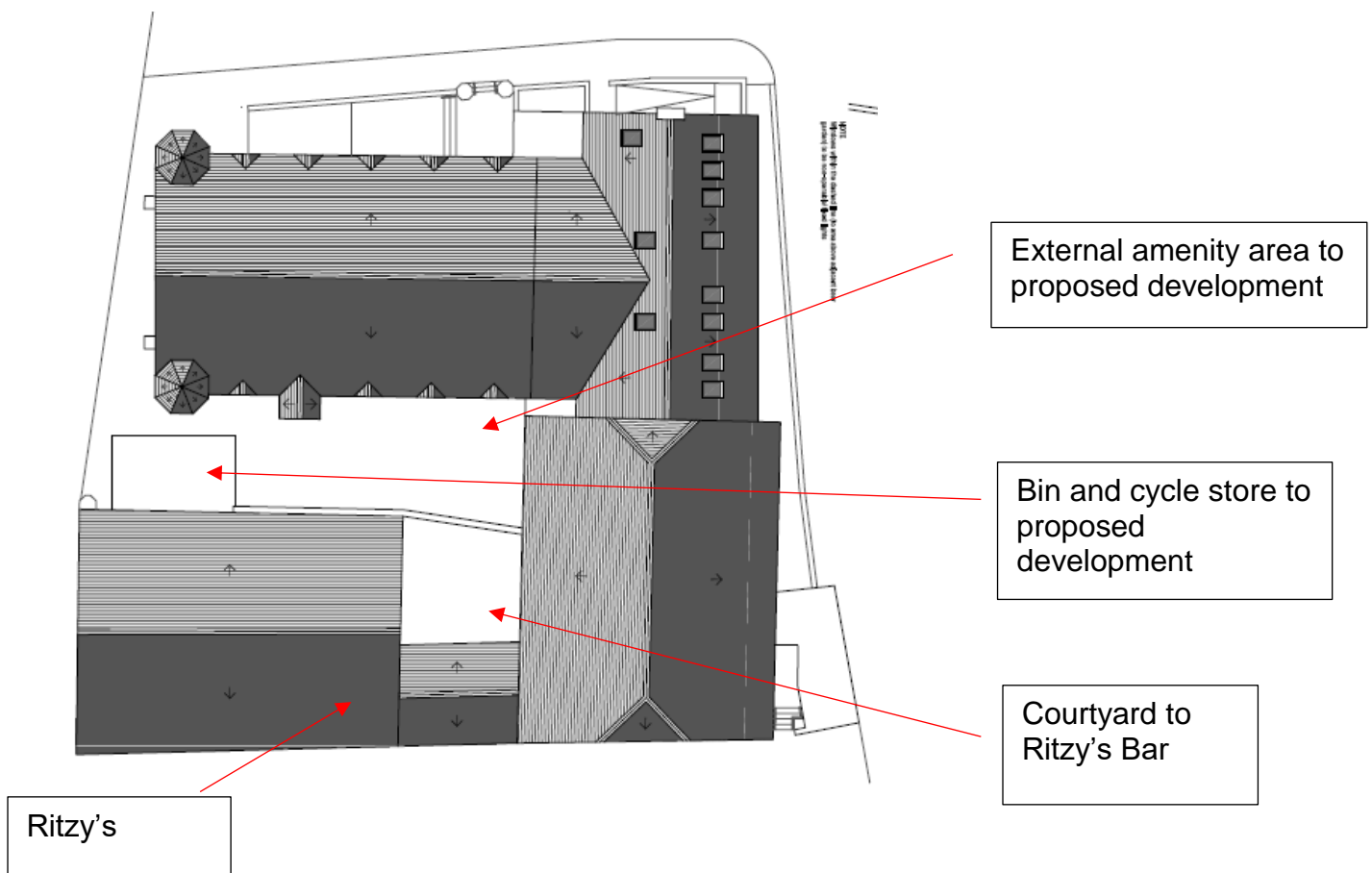
Elevation from rear on Devonshire Street



Elevation from Cowley Close:



4.4 Layout of the site and neighbouring courtyard and business premises:



4.5 The submitted noise report makes a number of pertinent points:
With reference to the proposed layout plans, it can be seen that a ground floor extension adjacent to the original south eastern façade is to be removed and the majority of window apertures, which were bricked up

when the building operated as a bar, will be reinstated. The internal layout has been designed such that there are no bedrooms fronting onto the south eastern elevations facing the entertainment venues or the south western elevation fronting onto Holywell Street (these are living spaces, bathrooms and stairwells). Furthermore, the window apertures at ground floor level directly onto Ritzy's courtyard will remain bricked up.

- 4.6 Baseline noise surveys were undertaken between 10:35 and 13:35 on Thursday 26th August 2021 (short term measurements at a number of locations) and between 15:35 on Friday 3rd September and 10:40 on Sunday 5th September 2021 (long term measurement at a single location).*
- 4.7 During the daytime period, traffic related noise was noted to be the main noise source, with Holywell Street and the wider town centre traffic network dominant on the south western façade (MP1).*
- 4.8 Holywell Street traffic was also dominant on the north western façade (MP2), albeit at a lower noise level due to the reduced angle of view to the road. On the north eastern and south eastern façades (MP3 & MP4) the main noise source was the more distant A61, with occasional contributions from car park activity and pedestrians.*
- 4.9 During the evening and night time periods (based on audio recordings and a 'walkover survey' undertaken at circa 23:00 hours on Friday 3rd September 2021), entertainment noise (music and customer noise) is audible across the south eastern elevations of the building and to a lesser extent the north eastern façade. Road traffic remained the main noise source on the south western façade.*
- 4.10 No significant noise sources were audible on the north western façade. The entertainment noise level at MP5 showed a similar trend on both the Friday and Saturday evening/night. This was typified by (i) a steady rise from the residual level from circa 20:00 hours to 21:30 hours (23:00 hours on the Saturday night), (ii) a first period of relatively constant level to circa 02:30 hours (associated with the opening times of Ritzy's), (iii) a second period of (lower) relatively constant level to circa 05:00 to 05:30 hours (associated with the closing of Ritzy's but the more distant venues still operating) and (iv) a return to residual levels at circa 05:00 to 05:30 hours (associated with the closing of the other venues). The worst case fifteen minute LAeq level was recorded at 23:45 hours on Saturday 4th September 2021.*

- 4.11 *The internal layout has been designed such that there are no bedrooms on the south eastern façades. As such, the glazing and ventilation specification is governed by the requirement to achieve NR25 for the worst case 15 minute period.*
- 4.12 *On this basis, habitable rooms on the south eastern façades should be fitted with a secondary glazing system with the following specification (typical section shown in Figure 5.1):*
i. Primary (external) unit consisting of 4-20-4 double glazing (note: this unit does not need to be fixed and can have an opening light with a good quality seal).
ii. Cavity between frames of 150 mm. Top and side reveals to be lined with acoustically absorbent tile.
iii. Secondary (internal) unit consisting of horizontal or vertical sliding frame fitted with 6 mm glazing.
- 4.13 *Roof constructions are commonly weak acoustically. It is recommended that ceilings to the upper floor habitable rooms on the south eastern façades are lined with two layers of dense 15 mm plasterboard with staggered joints (e.g. British Gypsum SoundBloc or Fireline board or equivalent).*
- 4.14 *Habitable rooms on the north eastern façade consist of a combination of living spaces and bedrooms. Based on the ‘walkover survey’ undertaken during the long term noise monitoring, robustly, it is recommended that the glazing and ventilation specification for the south eastern façades is extended to include the north eastern façade (see Section 5.2).*
- 4.15 *The internal layout has been designed such that there are no bedrooms on the south western façade. As such, the glazing and ventilation specification is governed by the daytime average noise level (road traffic). Habitable rooms on the south western façade should be fitted with glazing rated at $\geq 32 \text{ dB Rw} + \text{Ctr}$, such as a generic 10 mm float glass (16-20 mm air gap) 6 mm float glass double glazing configuration. Acoustic trickle vents should be provided that have a vent open $\text{Dn,e,w} + \text{Ctr}$ of $\geq 40 \text{ dB}$ per 2500 mm² EA (e.g. Greenwood 2500EAW.AC1, or equivalent).*
- 4.16 *The glazing and ventilation specification on the north western façade is governed by the daytime average noise level and night time discrete event maxima. Habitable rooms on the north western façade should be*

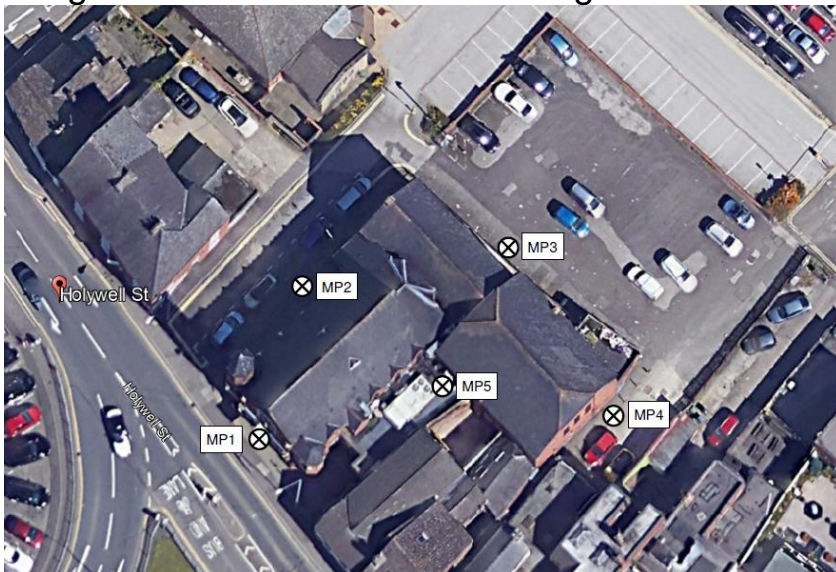
fitted with glazing rated at $\geq 28 \text{ dB Rw} + \text{Ctr}$, such as a generic 6 mm float glass (16-20 mm air gap) 4 mm float glass double glazing configuration. Acoustic trickle vents should be provided that have a vent open $\text{Dn,e,w} + \text{Ctr}$ of $\geq 40 \text{ dB}$ per $2500 \text{ mm}^2 \text{ EA}$ (e.g. Greenwood 2500EAW.AC1, or equivalent).

4.17 *A single apartment is located at 2nd floor level (the 2nd floor level is a small footprint and is located in the northern area of the development) and is a 'room-in-roof' construction. Glazing at 2nd floor level is to be provided as 'Velux' type roof lights. The roof lights should be provided with Velux 'Glazing 60' (or equivalent), which has a quoted sound reduction index of 37 dB Rw .*

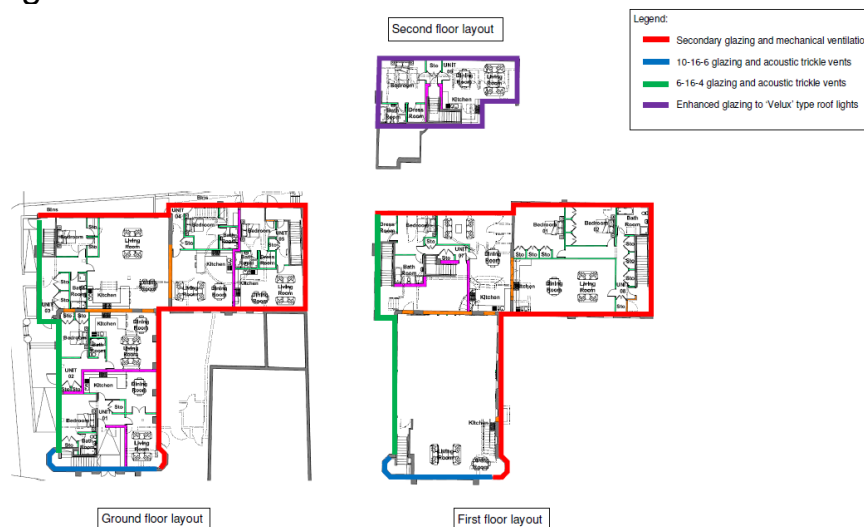
4.18 *The opening of windows would be significantly detrimental to the integrity of the noise attenuation measures. Therefore, in order to provide both background and rapid ventilation (above background) to all habitable rooms on the south eastern and north eastern façades, the use of some form of assisted (mechanical) ventilation is required.*

4.19 The report concludes that:
The main noise sources at the application site were noted to be road traffic and entertainment noise. A scheme of sound attenuation works has been developed to protect the residential development from the existing noise climate. On this basis, with the sound attenuation scheme in place, environmental noise is not considered to represent a constraint to residential development of the site.

4.20 Image to show the noise monitoring locations:



4.21 Image to show recommendations for window details:



5.0 **CONSIDERATIONS**

5.1 **Planning Policy**

5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that, 'applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise'. The relevant Development Plan for the area comprises of the Chesterfield Borough Local Plan 2018 – 2035.

5.2 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that; In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

5.3 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that; In the exercise, with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

5.2 **Chesterfield Borough Local Plan 2018 – 2035**

CLP1 Spatial Strategy (Strategic Policy)

CLP2 Principles for Location of Development (Strategic Policy)

CLP3 Flexibility in Delivery of Housing (Strategic Policy)

CLP4 Range of Housing

CLP8 Vitality and Viability of Centres (Strategic Policy)
CLP10 Social Infrastructure
CLP13 Managing the Water Cycle
CLP14 A Healthy Environment
CLP16 Biodiversity, Geodiversity and the Ecological Network
CLP20 Design
CLP21 Historic Environment
CLP22 Influencing the Demand for Travel
SS1 Chesterfield Town Centre (Strategic Policy)

5.3 Other Relevant Policy and Documents

- National Planning Policy Framework (NPPF)

5.4 Key Issues

- Principle of development
- Heritage and design matters
- Neighbouring uses and amenity impacts
- Air quality
- Highways
- Biodiversity

5.5 Principle of Development

5.5.1 The principle of development is assessed through application of policies CLP1 (Spatial Strategy) CLP2 (Principles for Location of Development), CLP8 (Vitality and Viability of Centres) and SS1 (Chesterfield Town Centre) as presented within the adopted Local Plan.

5.5.2 The proposal accords with Policy CLP1 which seeks to concentrate new development to within walking distance of a range of Key Services and regeneration areas. The dwellings would be well served by a range of facilities and services given their proximity to town centre transport links and the high concentration of facilities within the town centre itself. The proposal would also accord with criteria a-b and d-h of CLP2 owing to the proposal's compliance with the spatial strategy, utilisation of previously developed land and accessibility to active transit routes / public transport. It is expected that utilisation of a vacant building on the Local List will provide regeneration benefits (CLP2 c).

5.5.3 Policy SS1 (Chesterfield Town Centre) seeks to enhance the range and quality of residential uses within Chesterfield town centre (SS1 i) and

the proposed conversion would contribute towards this objective. Policy CLP8 (Vitality and Viability of Town Centres) states that “Residential uses (C3) will be permitted at first floor level and above (with the exception of suitable provision for access) and on appropriate redevelopment sites where it would not undermine the vitality of the centre”. The proposal would not retain any main town centre uses within the building. However, as the application site is not located within the Primary Shopping Area the proposal is not expected to negatively impact on the vitality of the centre itself (CLP8). Furthermore, paragraph 86 of the NPPF advocates a flexible approach to growth and diversification of centres and references housing as part of the suitable mix of uses to be encouraged.

5.5.4 In terms of the loss of a Facility - Public houses are listed as an example of a community facility in Paragraph 93 of the NPPF and in the description of policy CLP10, however, having been previously used as a nightclub the bar is considered to be a ‘drinking establishment’ rather than a ‘public house’ and therefore does not need to be assessed against the loss criteria presented in CLP10. Furthermore there are numerous other such drinking facilities within the immediate vicinity of the site.

5.5.5 Therefore in line with Adopted Local Plan policy the principle of the development as a conversion of a vacant building within the town centre is accepted. Consideration needs to be given to matters of heritage, neighbouring uses and amenity, highway safety and biodiversity.

5.6 Heritage and design matters

5.6.1 Policy CLP21 requires that in assessing the impact of a proposed development on the significance of a designated heritage asset, the council will give great weight to the conservation of designated heritage assets and their setting and seek to enhance them wherever possible. In this case the designated assets are the adjacent listed buildings and conservation area.

b) goes on to state: the Council will; the significance of designated heritage assets and their settings including Conservation Areas, Listed Buildings, Scheduled Monuments and Registered Parks and Gardens,
e) goes on to state: the council will; identify and, where appropriate, protect non-designated heritage assets of local significance, set out in and referred to as the Local List;

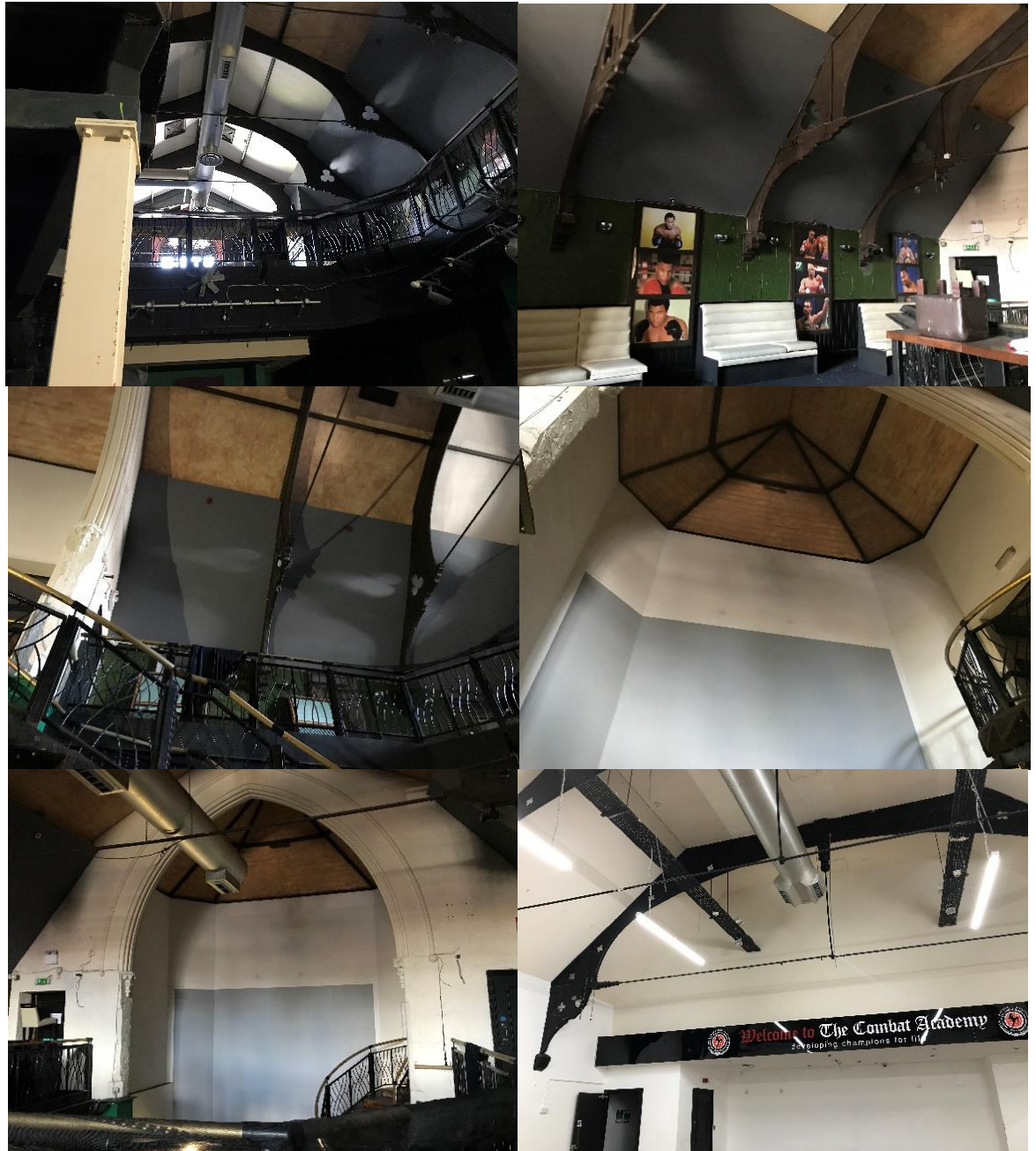
In regard to other non-designated assets such as potential below ground archaeology; the exceptional circumstances where loss or

partial loss of designated or non-designated heritage asset is considered to be justified, the council will require the developer to have the asset surveyed and recorded by a suitably qualified professional in advance of any alterations, demolition or groundwork.

- 5.6.2 The NPPF in para 206 requires that: Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.
- 5.6.3 The NPPF in para 205 requires that: Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.
- 5.6.4 Given the heritage sensitivity of the case the Council's Conservation Officer was consulted and commented that: *My initial assessment is no objection to the principle. I would like to see details of materials, particularly windows, doors and rooflights please. I would like to see the explanation and assessment of existing windows and doors, rather than an assumed extensive replacement. I note that DCC has asked for a Heritage Assessment/Appraisal of the building. It would be useful in the plans were annotated to show new work, plus any replacement work, rather than generals detailed. Comparing existing with proposed it is unclear where new work will take place. Velux windows should be the Conservation style, and fitted flush with the roofline. An additional fixing pack needs to be purchased alongside the Conservation rooflight, and this is not necessarily clear at the point of sale. I would like to see rooflights evenly spaced.*
- 5.6.5 The County Archaeologist was also consulted and noted: *This building is included in the Derbyshire Historic Environment Record (DHER no 13492). Originally built as a Primitive Methodist Chapel and Sunday school, it was erected in 1881 on the former site of a school/chapel. Brick built in a Gothic style, whilst this is not a listed building it is considered a non-designated heritage asset on the basis of its antiquity, architectural design and communal values associated with the historical*

development of the town. The building is also within the Chesterfield Town Centre Historic Core (see local plan core strategies), an area corresponding to the medieval/Roman core of Chesterfield and with potential for below-ground archaeological remains of these periods. In relation to this application, whilst we recognise that the building has seen structural changes as a result of changes of use since it ceased to function as a place of worship, the current proposals will involve further alteration to its fabric. This will occur through the division of existing spaces, demolitions, changes in fenestration and new openings being established in existing elevations. The proposed works will impact on the surviving historic fabric of the structure, its setting, and potentially on any below ground archaeological remains associated with it. Such remains are part of the historical and evidential significance of the building, and as yet the applicants have not fully assessed the impact of their proposals on this significance. In order to address this we would recommend that the applicants commission a historic building appraisal and heritage impact assessment of the structure. This should include a desk-based study of the site (including map regression and other archival searches). The report should assess the significance of the heritage asset and the impact of the proposed works upon it. The report should be produced by a suitably qualified heritage professional (Chartered Institute of Archaeologists registered) we can give guidance on specialists who might undertake this work if necessary. The results of this assessment should then inform any required changes to the scheme to conserve its significance or to mitigate for the loss of any significance. NPPF para 194 requires that applicants establish the significance of heritage assets, and the level of proposed impact to that significance through their development proposals. The requested building appraisal and desk-based assessment will inform this with regard to the heritage asset involved. We would recommend that the application is not determined until the results of these studies are available to inform sensitive works to the building.

- 5.6.6 The above comments are noted and whilst ideally a historic building appraisal would be sought prior to determination it is clear in this case and from an inspection of the interior of the building that limited historic fabric remains other than the decorative windows to the façade of the building and internal beams and an arch detail which would be within the flats on the first floor of the building.



5.6.7

It is considered that subject to detail regarding the internal design of the partitions that these remaining features can be retained. All other internal elements of the building appear to have been changed likely at the point of the nightclub use. Therefore, in terms of a heritage assessment for the building itself it is considered that to request a detailed document for a building which is so clearly substantially altered would be unreasonable for consideration of works to a non-designated asset.

5.6.8

It is considered that prior to any works on the building commencing details of how the remaining features will be retained is provided and

agreed in consultation with the Council's Conservation Officer. It will also be necessary to ensure any changes to windows are carefully considered with details of any repairs needed to the retained feature windows, again a condition will appropriately consider such matters.

- 5.6.9 At this stage it is unknown as to whether the conversion works will impact on any below ground archaeology through the insertion of utilities and services. In view of this it is reasonable to impose a further condition in relation to works below the existing floor of the building and prior to any works on any exterior hardstanding detailing necessary and appropriate archaeological investigations and mitigation measures. This is considered to be a proportionate response to archaeological potential in line with para 205 of the NPPF.
- 5.6.10 Details of the proposed exterior bin and cycle store have been provided, however as this structure is on the frontage of the site within the conservation area a more robust and attractive bin store than the timber one proposed is required e.g. a brick built store, and therefore a condition will also ensure this detail is appropriately conditioned.
- 5.6.11 The repair and re-use of this locally important building which contributes positively to the significance of the conservation area is considered to be a substantial benefit of the development in line with para 206 of the NPPF.

5.7 Neighbouring uses and amenity impacts

- 5.7.1 Policy CLP14 requires that: All developments will be required to have an acceptable impact on the amenity of users and adjoining occupiers, taking into account noise and disturbance, dust, odour, air quality, traffic, outlook, overlooking, shading, daylight and sunlight and glare and other environmental impacts.
- 5.7.2 In this case considerable concern has been raised by adjacent business owners and other interested parties as to the impacts of creating new residential units immediately adjacent to existing businesses which operate until the early hours of the morning. The concern is that residential uses in such close proximity to these existing businesses will lead to complaints about noise which could lead to restrictions being imposed on those businesses and therefore impacting on their economic viability.

5.7.3

Given the concerns in this regard the applicant was requested to carry out a noise survey the conclusions of which are detailed above. In response to this noise report the Council's Environmental Health Officer has made comment:

Further to my previous emails regarding the noise report, I wish to update my comments. On Thursday 17th February 2022 I visited Ritzy's Bar. The proprietor of this business has expressed concerns about noise from their venue potentially impacting on the future residents of the adjacent building (should planning consent be granted).

I have attached two photos (court yard 1 and court yard 2) which show the view from the rear of Ritzy's to the building for the proposed development. The court yard at Ritzy's is flanked by the walls of the former church.



Also seen in the images (seen in the noise report section above), the monitoring locations taken from the noise report supporting this application. You will see that monitoring point 5 (MP5) is the closest monitoring location to Ritzy's.

Long term noise monitoring was carried out at MP5 between 15:35 on Friday 3rd September and 10:40 on Sunday 5th September 2021 (long term measurement at a single location). The results of this monitoring is available on Page 4 of the noise report at table 3.2.

The noise monitoring results show an overall/average for a period of time and do not appear to specify a frequency analysis.

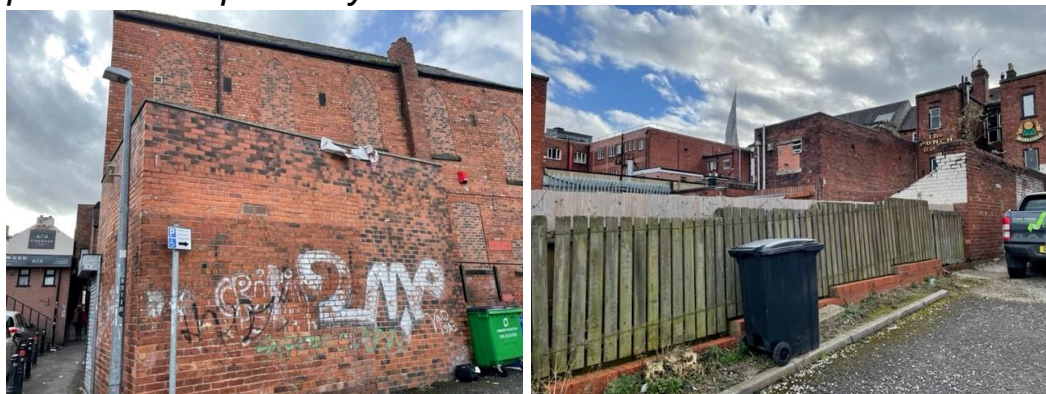
A sound is made up of different frequencies ranging from low/bass notes to higher pitched tones.

The sound waves for lower frequency noises (such as a deep bass from dance music), will travel at a different speed when compared to higher pitch tones of the same song. Bass tones are much more difficult to

attenuate and can penetrate thick brick walls causing the receiver to notice a vibrational noise/tone.

From plan 202 submitted with the application (proposed basement, first and second floor), it does appear as though all the windows on the facades facing towards Ritzy's court yard will be openable windows. If windows are opened this will allow for music to enter into the properties and potentially impact on the proposed occupants.

I have also attached a couple of photos taken at the rear of the proposed building (rear of building 1 and rear of building 2), showing the rear façade of the former church building and the rear of adjacent licensed premises respectively.



Noise monitoring was carried out near to these locations as shown as MP3 and MP4 on the attached 'monitoring location' plan.

Locations MP3 and MP4 would be impacted on by music noise from adjacent businesses; one of which plays music until 5am during summer months.

If I have interpreted the noise report correctly, there is no data supporting long term/overnight monitoring at locations MP3 and MP4.

As you will see from the attached screen shot showing floor plans, the developer has proposed bedrooms near to locations MP3 and MP4.

For information, during the summer months, the Council has received complaints about music noise from the licensed premises on Holywell Street – on nights/early mornings when there is very little air movement, the music can be heard over 1 mile away.

In the current format, the noise assessment (reference: NA/1039/21/050 V1.0) does not appear to be as detailed as is necessary to calculate the potential impact on residential occupiers of the proposed development. The report does not appear to consider bass/low frequencies which can easily penetrate through closed windows and brick walls. Furthermore, the report does not specify the height that the microphone was placed. If the microphone was placed at 1.5m above ground level, some of the existing buildings would shield the audible noises at those monitoring locations. The bedrooms in the proposal are at first and second floor

and the monitoring position needs to be more representative of these locations.

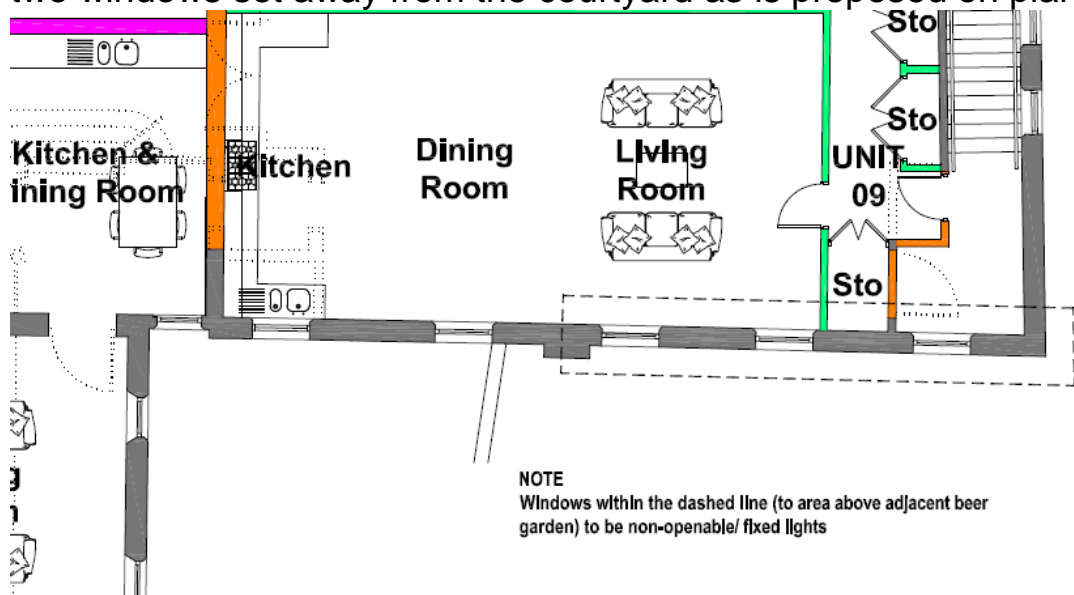
The applicant will need to provide an updated noise assessment, which takes into account long term/overnight monitoring at locations MP3 and MP4 at times when entertainment noise (music and people) are at their loudest. The updated assessment must also take into account frequency analysis at all monitoring locations near to where the residential accommodation is planned. The noise consultant must agree the methodology with environmental health prior to undertaking on site measurements.

Also queried was the potential for noise internally via chimney routes.

- 5.7.4 It is clear from these comments and the complaints already received by Environmental Health that the commercial uses associated with the town's night time economy do result in noise which will impact on the development. Whilst a further report on the noise issues has been requested it appears that further surveys will demonstrate albeit in more detail the noise issues in the area. It is therefore questioned whether it is reasonable to require a further noise report to be carried out at this stage when the result of this is largely already known. The question therefore is whether the measures proposed in the noise report and as appears to be suggested by the Environmental Health Officer that the design of the windows and the openable nature of the windows as well as internal insulation are reasonable and will result in appropriate living accommodation for future residents.
- 5.7.5 The application site is a town centre location and therefore it is reasonable to assume that anyone proposing to occupy a flat in such an area is accepting of the associated impacts of living in the centre which includes noise from neighbouring premises. Future occupants will be aware of the immediate neighbours before deciding to move top the building. It also needs to be noted that the Local Plan seeks to promote appropriate town centre living to ensure activity within the centre and its associated economic benefits for the long term future of the town.
- 5.7.6 The noise report recommends appropriate window design including secondary glazing to ensure any noise impacts are minimised for future occupiers. Appropriate window design to ensure noise mitigation when closed is considered to be reasonable and can be secured via condition, bearing in mind the heritage implications of the window design which means that any window details will need to be carefully considered.

5.7.7

Both the noise report and the Environmental Health Officer recommend non-openable windows for much of the building. This would mean that the majority of the flats within the building would be reliant on mechanical ventilation only which is not considered to result in an appropriate quality of living accommodation. It is therefore considered reasonable to allow any future occupiers the choice as to when their windows are open or closed. Within the town centre area there will be times within the day when its quieter and windows may wish to be opened. The method of opening can be secured and agreed via condition as part of the window design considerations. The opening of windows to the upper floor above Ritzy's courtyard will be limited to the two windows set away from the courtyard as is proposed on plan:



5.7.8

To minimise the potential for conflict between the occupiers and customers within the courtyard, the extent of the opening to the dining room window of flat 9 will need to be limited or angled away from the courtyard area. It is noted that the ground floor windows within Ritzy's courtyard will remain blocked.

5.7.9

To further ensure appropriate mitigation for external noise a detailed scheme for the insulation of the building and roof space as recommended in the noise report can be secured by condition. Mitigation from potential internal noise transmission arising from the route of chimneys within the building can also be provided.

5.7.10

Subject to the conditions noted above appropriate consideration of the noise issues likely to occur at the site has been undertaken and will be suitably mitigated to enable the re-use of this vacant non-designated

heritage asset which is in need of investment and re-use located within the town centre where appropriate residential uses are encouraged.

- 5.7.11 Concern has also been raised about the location of the bin store and impacts on nearby windows. The location of the bin store has now been moved to the frontage of the site against the gable end of the adjacent building. As noted above due to appearance concerns this will need to be a robust and visually attractive feature being located to the frontage of the site.
- 5.7.13 In terms of the internal space standards and access to light there are no concerns in relation to the details submitted, although some are only 1 bedroom the spaces of the flats internally are generous. External amenity space although limited is provided communally through the removal of the flat roofed extension adjacent to the Ritzy's courtyard.
- 5.7.12 As set out above it is considered that in terms of noise, nuisance and amenity issues the proposal is considered on balance to meet the requirements of policy CLP14 of the Adopted Local Plan.

5.8 Air quality

- 5.8.1 Policy CLP14 requires that; Where appropriate, development proposals will include an assessment of impact on air quality and incorporate measures to avoid or mitigate increases in air pollution and minimise the exposure of people to poor air quality. Development that would make the air quality in a declared Air Quality Management Area (AQMA) materially worse either in isolation or cumulatively when considered in combination with other planned development, will not be permitted.
- 5.8.2 The Council's Environmental Health Officer has raised concern in relation to residential accommodation in this area due to the air quality issues in the locality. The comments made are as follows:
The proposed location is in an area of Chesterfield that is frequently congested with traffic. The applicant will need to provide further details for noise and air quality.
- 5.8.3 The applicant's initial response: *None of the windows to the South-Western façade will be openable which will prevent any issues with noise and air pollution to this area – the natural ventilation to the flat to this area will be provided from the side elevations*

- 5.8.4 The Environmental Health Officer responded: *Side elevations can still be a route of entry for air pollution. When the applicant has considered air quality I will be able to reconsider this.*
- 5.8.5 The applicant then had a formal letter submitted from enzygo environmental consultants relation to air quality matters which states: *Following our recent email correspondence with Chesterfield Borough Council (CBC) regarding the requirement of a detailed air quality assessment for the proposed development at 39 Holywell Street, Chesterfield, I am writing to query the necessity of this.*
- The following response has been received from Environmental Health (via email on 20/12/21 from CBC Planning Department):*
- “I have no concerns about the consultant using the data from the nearby diffusion tube. Please also be aware that the Environment Act is undergoing a ‘refresh’ and there will likely be additional requirements placed on local authorities to monitor particulates. Please convey to the applicant that particulates as well as vehicle exhaust gases need to be considered as part of the air quality report.”*
- As such it is understood that concentrations of nitrogen dioxide (NO₂) at the proposed development site can be represented by the monitored levels at the nearby diffusion tube location (CBC monitor ref. 29). This monitor shows that roadside concentrations are consistently below the annual mean air quality objective (AQO) for NO₂ and it can be considered that concentrations at the site, which is set further back from the roadside than the monitoring location would also be below the AQOs. Following the agreement from CBC above, it is proposed that this can be reported with the planning application by means of an Air Quality Screening Assessment. Following a telephone conversation with the environmental health department it has been requested by CBC that an Air Quality Dispersion Modelling Assessment is carried out to assess particulate matter (PM₁₀ and PM_{2.5}) concentrations at the proposed development site and assess these against the AQOs. Given that roadside PM concentrations are below the relevant AQO at locations where the NO₂ AQO levels are achieved across the UK, it is considered reasonable to assume that that PM concentrations at the proposed development site would also be below the AQO and that a modelling assessment would not be required. In addition, CBCs review and assessment of local air quality in their area of administration has highlighted no exceedances of PM concentrations across the whole borough.*
- We are aware that the National Planning Policy Framework (NPPF) requires assessments to be proportional to the impacts or as in this case the potential risk of unacceptable exposure to pollution. We consider*

that the risk to unacceptable exposure to PM pollution is low and therefore that PM risks would be best represented by submission of an Air Quality Screening Assessment to state the above case rather than an Air Quality Dispersion Modelling Assessment as requested by CBC Environmental Health.

In addition, I wish to request if there are any further examples of developments within the CBC area of administration where similar assessments were required and carried out?

As a further mitigation measure there are no direct openings to the sensitive uses (i.e. residential units) on the building south west facade in the scheme design. The nearest proposed windows to Holywell Street are located c. 7m from the roadside at the locations indicated below by the blue arrows.



This allows for further assurance that PM concentrations at sensitive locations are unlikely to be above the air quality objectives.

5.8.6 No further response has been received from the Environmental Health Officer to this information.

5.8.7 The NPPF in para 186 states: Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new

development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.

- 5.8.8 Planning policy in terms of air quality seeks to consider the impacts of development on Air Quality Management Areas and any cumulative impacts that development may have upon air quality in a specific area. In this case it is not considered that the development will cause any additional impacts in terms of air quality as it is a car free scheme with good access to a range of public transport.
- 5.8.9 The remaining issue is then the principle of residential development in areas where there are concerns about air quality. In this case there is no air quality management area near the site and therefore the weight that can be given to the consideration of restricting residential development in this area has to be considered. There is also the consideration of sustainable development which seeks to reduce all emissions over time through less reliance on private motor vehicles. In this regard the provision of residential accommodation in town centre areas is trying to seek the reduction of emissions and in this respect the development could be seen as a benefit to air quality in the longer term.
- 5.8.10 The letter received from the applicant's expert on air quality matters advises that the risks from air quality in this location are low and that occupiers would be largely protected as the windows to the front of the building are the decorative feature windows which would be non-opening.
- 5.8.11 Whilst the concerns of the Environmental Health Officer are acknowledged, based on the information above and the lack of an AQMA in this area it is not considered reasonable to refuse residential development in this sustainable location due to the low risk air quality concerns. It is acknowledged that even with further investigation there is little more that can be done by the applicant to mitigate against air quality impacts given the restrictions of the site. It is therefore considered on balance that the proposal meets the requirements of policy CLP14 of the Adopted Local Plan in terms of air quality.

5.9 Highways Safety and Parking Provision

- 5.9.1 Local Plan policy CLP20 and CLP22 require consideration of parking provision and highway safety.

- 5.9.2 In this case there is no parking provision at the property which is sustainably located in the town centre with access to a range of public transport.
- 5.9.3 The Highway Authority has been consulted on the matter and have commented: *No highway safety objections in principle to the conversion proposals given the previous use, town centre location and availability of public parking. Consideration should be given to securing appropriate cycle parking facilities for residents in line with your Authority's Local Plan requirements.*
- 5.9.4 As a result of the proposals a cycle store has now been included in the proposed scheme to the frontage of the site. Again, as this is a structure to the site frontage the design and security of this needs to be robust and a condition will be added for a revised scheme for the cycle store to be submitted and available for use prior to occupation of the units. On this basis the proposal is considered to be acceptable in terms of highway safety matters in line with policies CLP20 and 22 of the Adopted Local Plan.

5.10 Biodiversity

- 5.10.1 Local Plan policy CLP16 states that all development will “protect, enhance, and contribute to the management of the boroughs ecological network of habitats, protected and priority species ... and avoid or minimise adverse impacts on biodiversity and geodiversity and provide a net measurable gain in biodiversity.” The NPPF in paragraph 170 requires decisions to protect and enhance sites of biodiversity and paragraph 174 also requires plans to “pursue opportunities for securing measurable net gains for biodiversity”.
- 5.10.2 Given the internal space of the building is vaulted into the roof space there is minimal opportunity for bats. As the site is otherwise devoid of any potential habitat there has been no ecological survey work submitted as part of this application. However, there remains a need to provide biodiversity net gain. In this case it is possible to install bird boxes to the exterior of the building. The Derbyshire Swift Conservation Project have requested swift boxes be attached/integrated into the building, this is considered to be a reasonable way to encourage biodiversity at the site and is to be secured by condition. On this basis the biodiversity requirements of Policy CLP16 are met.

5.11 Developer contributions

- 5.11.1 The proposed development is liable for the Community Infrastructure Levy (CIL), subject to any exemptions that may be applied for. The site is located within the medium £50, CIL charging Zone as set out in the Council's Charging Schedule ([Community Infrastructure Levy \(CIL\) \(chesterfield.gov.uk\)](http://chesterfield.gov.uk)). The CIL charge is calculated as follows:

Net Area (A) x CIL Rate (B) x BCIS Tender Price Index (at date of permission) (C) = CIL Charge (E)

BCIS Tender Price Index (at date of Charging Schedule) (D)

| | | | A | B | C | D | E |
|------------------|-----------------------------------|---|------------------------|----------|--------------------|---------------------------|-----------------------|
| Development Type | Proposed Floorspace (GIA in Sq.m) | Less Existing (Demolition or change of use) (GIA in Sq.m) | Net Area (GIA in Sq.m) | CIL Rate | Index (permission) | Index (charging schedule) | CIL Charge |
| Residential (C3) | 1121 (Existing floorspace 1195) | -74 (Demolition from existing 1195) | 1121 | £50 | 332 | 288 | <u>£64,613</u> |

6.0 REPRESENTATIONS

- 6.1 Ritzy's is an established Karaoke bar located next door to the proposed development open until 2.30am several nights per week. There are blocked up windows directly onto the courtyard to which we object to these being reopened. The courtyard would be flanked by most of the flats. Any building work should not disrupt our business. It will be off putting for customers to be overlooked by residents. There are often 30 people in the courtyard chatting and laughing. There is a further late night bar Punch Bowl who play loud music outdoors for around 100 people.
- There is also C2 which have an outside area until 3 am and Vibe has outdoor music until 6am. The creation of flats in this area will lead to noise complaints. This is not a suitable area for flats due to being in the heart of the town's nightlife.
- 6.2 The building has been neglected for years and is now looking shabby so redevelopment is welcomed. However, we are concerned about the impact on adjoining properties and our tenants, particular the adjacent

bar. The business has struggled through covid and does not need more restrictions. A previous extension at the premises blocked our windows, this will be removed, and we trust the windows will not be blocked in future. The location of the bin area will cause smells and vermin, further consideration of this is needed.

- 6.3 If the development goes ahead will the council enforce that any contracts with tenants or buyers include a warning about noise from the bars and nightclubs in the surrounding area, perhaps use of acoustic glass. Can we be reassured that if this goes ahead we will not be adversely effected for example our courtyard made to close earlier, as this would close us down.
- 6.4 This may lead to job losses and the demise of part of Chesterfields night life. Unblocking the windows to the courtyard seems unbelievable.
- 6.5 Will future occupiers be made aware of the local noise from bars and clubs in the area. The area is busy with traffic and pollution and the windows a the back open directly onto a busy courtyard area.
- 6.6 The area is of archaeological importance and the original building was designated for religious purposes – are there remains of burials there? Are the church commissioners aware of the application? I agree that something needs to be done with this fine old building and we need more housing I just hope these points are set out to occupiers.
- 6.7 Worrying that if this goes ahead it will be within a stones throw of a lot of late night venues which will lead to complaints.
- 6.8 Feel for the residents of this development with loud music until 6am in this part of chesterfield. It shouldn't be allowed.
- 6.9 Ritzy's is an established, popular and prosperous high-end bar which has increasingly successfully served the hospitality market of Chesterfield for almost four years. Our clients have grave concerns about the planning application. The Lease demise of Ritzy's includes a rear courtyard area, which is operated as a seating/smoking/patio area that is ancillary to the fundamental beneficial us of Ritzy's as a licensed bar. The demise also includes a long passageway to the rear of the property, which connects to the alleyway adjacent to Ritzy's and serves as the fire escape. Whilst our clients have instructed us that they have received a suggestion from Chesterfield Borough Council that a site inspection has taken place in respect of the Application, our clients fail

to see how any such site inspection can have fully taken into account the extent and location of our clients' courtyard. The courtyard can only be accessed via the rear door of Ritzy's, or via the external fire escape gateway, both of which are ordinarily locked outside of the bar's opening hours and access through which would need to be by prior arrangement. No such visit has been requested from our clients. The courtyard is accessed from the main bar at Ritzy's, by way of an external door and wooden decking stairs.

At the time of writing, our clients have not been contacted for a suitable site assessment to be carried out. Without the same, the Application cannot possibly be regarded as having been given all diligent and lawful consideration. Our clients understand from their assessment of the Application and the supporting documents thus far published to the website of Chesterfield Borough Council that there is a general intention to open-up the windows of the Application Property, which have historically been bricked or boarded-up. It would appear from the plans exhibited herewith at Annexure E and Annexure F that it is intended that the windows comprising part of the Kitchen/Dining Room and Living Area of Unit 04 (ground floor) and the Kitchen/Dining Room and Living Area of Unit 08 (first floor) will be opened-up and directly overlook the courtyard. Part of our clients' operation is a "late licence", to remain open until 02:30am. As our clients very astutely highlight, who on earth will wish to purchase a residential flat that immediately looks out upon an active, busy, noisy and contained licensed bar courtyard as their only material view! Our clients have requested we raise the following objections:

1. Overshadowing, overlooking and loss of privacy – the opening-up of the windows of the Application Property which directly face Ritzy's (particularly those on the ground floor elevation) would not only directly impair the privacy of the bar and its patrons, but would also render it almost impossible to preserve any element of privacy for the owners and occupiers of the residential flats themselves. Given the height and proximity of the locations of the ground floor windows (Annexure D – Photo 1), it would represent both a potential nuisance for our clients and its patrons and the owners/occupiers alike. There is no safe manner in which to protect or preserve the location of the windows.

On the basis that all windows – both ground floor and first floor – directly overlook the courtyard, the residential flats would be exposed to noise-levels from the courtyard. Whilst our clients do not play entertainment and music from external speakers within the courtyard, the rear door of the bar remains open during opening hours, for each of access to the

courtyard, fire escape purposes and ventilation. Whilst Ritzy's promotes a responsible patronage and has a zero tolerance approach to any failure to comply by its entry and behaviour requirements, the noise emanating from the property caused by both acceptable decibel output from the internal entertainment and music, combined with the natural volume of 30 or so external guests chatting, singing and occasionally shouting would likely emanate to the windows in question. Our clients are gravely concerned that this will expose them to prolonged complaints from the owners and occupiers of the flats in relation to – what is at present – an acceptable level of noise. It is not, in our clients' logical opinion, fair that an established business which both employs nine local people (who rely upon that employment as their main source of income) and serves a wide-spectrum of Chesterfield's hospitality clientele should be subjected to ongoing and relentless complaints from one or two owners of residential flats within the Application Property.

2. Design and appearance that is inconsistent with existing property, combined with layout and density of buildings – the Application Property lies in the heart of an established area of Chesterfield which is synonymous with Chesterfield's vibrant and historic hospitality and nightlife. Not only is the Application Property in immediate proximity to Ritzy's, but it is also indirectly abutted by the Punch Bowl public house, which also harbours a large external area, capable of holding between 50 – 100 people in our clients' estimate. Our clients have also noted that falling adjacent to the Punch Bowl, the C2 bar operates, which has an external area and which remains open until 03:00 some mornings. Directly adjacent to this is the Vibe nightclub, which remains open until 06:00. The Application Property is simply not suitable for residential development, given its immediate surroundings and any residential development at all is, in the opinion of our clients, utterly inconsistent with this part of Chesterfield.

3. Access, safety and security – Our clients highlight the vital importance of the fire escape route from Ritzy's, the entrance passageway of which can be regarded at Annexure D – Photo 5. Our clients make the express point (as detailed above) that is a necessary requirement that the rear door of the Ritzy's bar remains open during opening hours, to facilitate access to the rear fire escape passage way in the event of a fire or other emergency. As can be noted from the physical confines of the property (Annexure A) the rear fire escape passageway is defined by the manner in which the physical walls of our clients' landlord's property is arranged. There is no manner in which the physical confines of the fire escape passageway could be interfered

with, in order to re-site it. In addition, our clients highlight the ongoing importance (and increasing prevalence in the light of Covid-19) of ventilation at Ritzy's bar. The rear door of the bar will also undoubtedly be required to remain open for this additional reason during the course of the bar's operation. Our clients also harbour significant concern as to the increased security risk to the courtyard. At present, the courtyard can only be accessed via Ritzy's bar internally, or via the external fire escape passage, which remains securely locked outside of operational hours. Ground floor windows would present unauthorised means of access from within the residential flats themselves.

4. Noise and disturbance from the proposed development – given the layout and proximity of the courtyard to the Application Property, our clients fail to see the basis upon which any development at all could be carried out without having an ongoing and material interference on their right to quiet enjoyment of the property under the Lease. It would be impossible for the Application Property to be developed without access to the courtyard – something which our clients have been very clear in stating that they would not facilitate or permit.

5. Legal right to light or air – On our clients' request, we have examined the legal title to our client's landlord's freehold reversion, out of which the Lease is granted. The same is registered at HM Land Registry under title number DY187729. A cursory review has not revealed the existence of any reservations or subjections for the benefit of the Application Property which would seem to permit any right to light or associated overlooking. Our clients are, therefore, concerned as to what legal basis upon which the developers of the Application Property would expect to gain such an opening-up of the windows.

- 6.10 Would you give consent to build busy bars/nightclubs underneath a block of flats, definitely not. The tenants would end up with mental problems because of the noise. The vibe nightclubs outside disco area is directly opposite the right flank of the proposed development. With two large speakers outside playing music until 6am. It's going to be horrendous for the tenants. The vibes disco area is approx. 35 metres away. There's also c2 and punch bowl outside areas which also play music. It's not suitable as a residential project.
- 6.11 It would not be fair to any residents or the pub as it is a late license bar and this would also pose a security risk to Ritzys bar as the bar is too close to the development and there are also other venues too close and

all the residents could make noise complaints which I believe would be unfair to the established businesses in the area.

- 6.12 I've worked in the construction industry for over 30 years. On returning to new builds for the 6 months snags, speaking to new tenants or buyers - many have said that they wish they had known about an issue before they moved in, for example noisy gennel or nightlife. This proposed project will definitely result in unhappy residents, due the bars and clubs v nearby. The property developer should have a duty of care to inform residents of the noise. In my opinion this building is not suitable to be turned into flats
- 6.13 Amazed it's not listed it is a wonderful building with some stunning architectural features it has been neglected on the outside not sure on the inside. With a restoration grant it could become a valuable asset to the town once again. To turn this building into any form of living accommodation would potentially jeopardize its interior and historical features would be hidden from public sight which as an entertainment venue was visible to the patrons some features would have been hidden by false roof cladding etc. I seriously believe that in the seemingly unlikely event of it being an entertainment venue again it could be put to use as a community venue there are various groups which I'm sure would be interested in the ability to host meetings and events and could be hired out for special events. As Covid as swallowed up 18 months of our lives the ability to market it would surely have been compromised greatly. The proposal to convert it to nine residential units seems to be flawed and somewhat a cop out as I'm sure your aware the building sits right next to a late bar on a street with a high proportion of entertainment venues and takeaways with heavy footfall and constant traffic which would surely compromise any tenants safety and standard of living. There are various opportunities in the immediate vicinity for residential accommodation. Which would surely be better built from scratch or a sympathetic conversion. The loss of this wonderful building for use as a public amenity would be sacrilege given its long history fascinating architecture and being of historic significance a former Sunday school and Presbyterian Chapel. It is a landmark building in the town and deserves protection and preservation for future generations to enjoy I presume English Heritage and Historic England would want to see it retained as a building of historical interest and significant value. So I sincerely hope and wish it can again be used for public use and restored fully to it's former glory. I don't know when the application will be debated and decided but would like to attend in the public gallery if Covid rules permit. Though I realise you should write to object within three weeks of

the application to object I would like to formally object which I have by email previously. I don't want to see this fantastic part of the town's history languish and remain disused but don't believe enough opportunity has been given to market the building more widely they're maybe a demand and a shift to town centre living but they're are buildings of much lesser historical interest which could cater for those needs this building is a prized asset and one of the few of its style still in existence. Sorry if this is exhaustive but I feel passionately that this building should not be lost or closed off as a private venue. I really hope it has a viable future as perhaps a mixed use publicly accessible venue

6.14 The proposed area of the bins is a major cause of concern. It is right next to our beer garden. I am very concerned about flies, smell and vermin. Which would lead to environmental health issues.

6.15 I notice the proposed bin area has been moved forward towards the main road. Bin areas are not attractive structures and given time, they can become very shabby. I've seen bin areas with rubbish, old cookers and old mattresses lent up outside bin areas and in full view. Given that Holywell St is a busy main road through our historic town, it's not a good look and would leave a bad impression on anyone walking or driving past a bin area is in full view. Is it possible to locate the bin are to the rear of the property where it would be out of general view. It would also make bin collections easier because a bin lorry parking on the main road would disrupt traffic flow. Independent noise test have concluded that noise levels are acceptable. I have to query the results, for instance, were the tests conducted on rainy or cold evenings when customer numbers would be lower than usual or perhaps Covid kept customers away. I was there one busy evening recently and the high noise level from Ritzys and surrounding pubs seemed very inappropriate for a residential area. My concern is, if this development goes ahead and tenants move in and complain about the noise, what repercussions will there be for Ritzs and the surrounding pubs? It wouldn't be fair to impose restrictions on existing businesses. Please note. Historically, this proposed development was a noisy late night disco and has therefore set a precedence.

The proposed plan has several 1st floor windows overlooking our beer garden on two sides. To retain our privacy these should be non-opening frosted glass. Temporary trellis is the only thing stopping the windows adjacent to Ritzy's beer garden having full sight to our beer garden. From our observations and the noise report it is very clear that noise is a major issue. And most of the loud noise is late at night. We don't think

the plans go far enough to prevent noise being a problem for future tenants. Sound proofing for the windows (argon is an insular not a noise insular, roof and walls etc. Has anyone taken a reading from inside the building when the outside noise is at its loudest?

Just to reiterate the noise at night comes from many venues, especially Vibe. 89 decibel, as recorded on the noise report and is consistent with the noise recordings we have done, is the equivalent to a jack hammer (the equipment used for digging up roads). At 3am when Ritzy's is shut it is in the late 80 decibels in the car park directly under the proposed bedrooms, with the noise mainly coming from Vibe's outside disco.

As far as we can tell there is no residential properties within a 500m radius. This proposal is in the heart of a commercial area of Chesterfield. If these flats had already been built would you have let us open a bar which is surrounded on 2 sides by flats, with a noisy beer garden overlooked by living room windows?

Ritzy's operates 7 days a week. Any building work could be very disruptive to our business. How would the work be completed without entry to our beer garden?

We are concerned that there may be a security issue whereby unscrupulous persons could access Ritzy's via the wall next to the amenity space.

If the project goes ahead we would like some assurances that the amenity area, bin and cycle storage area would be kept clean and no food split for rats. We were wondering when the archaeology report is to be posted on the portal? We were wondering where the tenants would park their cars. Also is there any issue from exhaust fumes from the busy car park underneath the proposed bedroom windows?

- 6.16 If planning permission is granted. Please could a deed of easement be put in place which allows our venue to continue making noise at the current level and would require the developers to make residents aware of the potential noise.
- 6.17 Is this really a suitable place for these apartments? They are going to be very close to several commercial businesses. What impact is this going to have on the bar that will be directly at the side of it? There will be noise complaints from the start which will then impact on the bar. If planning does go ahead will the specifications be upgraded in the apartments? Sound insulation? Triple glazed glass? I believe the complaints will be aimed at one specific bar although there are several bars very close which will all add to the noise levels late at night.

6.18 It wouldn't be a true representation of the reality of the situation doing another noise report until summer. I know from experience of working in town for over 10 years that the noise literally trebles in summer, due to firstly more people being outside in provided beer gardens. Punch bowl beer garden which is directly underneath the proposed development plays outdoor music (speaker on the outside of the rear part of their building) and about 20 yards from the proposed bedroom windows, vibe nightclub has their outside disco area with a live DJ plying loud music and drum and bass till 6am, I don't think it would be fair on any tenants as surly they would not be able to sleep through this

6.19 Swift Conservation Project: request that planning consent for the above-mentioned development includes a requirement for multiple internal nest sites for Swifts as a biodiversity enhancement. Swifts have experienced a catastrophic decline of over 60% in the last 20 years caused mainly by the loss of nesting sites on existing buildings due to re-roofing and replacement of soffits and fascias. Swifts are expected to be red listed in 2022 and should be designated a priority species when the Biodiversity Action Plan is replaced. Swifts breed in small numbers in Chesterfield, their numbers constrained only by the lack of nest sites. Integration of Swift bricks is very easy to include into routine building practices and results in a permanent, discrete, inexpensive, maintenance-free biodiversity enhancer which will provide much-needed breeding spaces for Swifts.

7.0 HUMAN RIGHTS ACT 1998

7.1 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

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.

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 paragraph 38 of 2019 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 objectors/supporter will be notified of the Committee date and invited to speak, and this report informing them of the application considerations and recommendation /conclusion is available on the website.

9.0 CONCLUSION

- 9.1 The principle of residential development within a sustainable town centre location is supported by policies CLP1, 2 and SS1. In such locations there are more likely to be noise concerns from the night time economy, but it is considered subject to suitable mitigation through insulation and window design that these impacts can be mitigated to an acceptable degree. In addition, anyone moving into such a location will be aware of the surrounding commercial uses and their impacts. Whilst there are concerns in terms of air quality there is no AQMA in this location and the development will not lead to further air quality impacts, therefore on balance the low risk from air quality considered along with providing a sustainable residential use within a vacant local non designated heritage asset and the regeneration benefits associated with this is acceptable in line with local plan policy as set out above.

10.0 RECOMMENDATION

- 10.1 It is therefore recommended that the application be **GRANTED** subject to the following:

Conditions

1. 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 Compulsory Purchase Act 2004

2. The development hereby approved shall only be carried out in full accordance with the approved plans (listed below) with the exception of any approved non-material amendment or conditional requirements below. All external dimensions and elevational treatments shall be as shown on the approved plan/s (listed below).

Site location plan no. 100 received 11.06.2021

Elevations as proposed sheet 1 of 2 no. 203 Rev C received 24.11.2021

Elevations as proposed sheet 2 of 2 no. 204 received 11.06.2021

Basement, first and second floor plan and roof plan no. 202 Rev D received 24.11.2021

Ground floor plan no. 201 Rev C received 24.11.2021

Noise assessment V1.0 dated 20 Sept 2021 by RP Acoustics Ltd received 20.09.2021

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.

3. The bedrooms of the units hereby approved shall be as specified on plans Basement, first and second floor plan and roof plan no. 202 Rev D received 24.11.2021, Ground floor plan no. 201 Rev C received 24.11.2021 only.

Reason – To minimise the noise impacts on the occupants in accordance with policy CLP14 of the Adopted Local Plan.

4. Notwithstanding the elevational detail of the bin and cycle store shown on plan no 205, prior to the occupation of the accommodation hereby approved, a revised detail of the elevation and roof design of the bin and cycle store shall be submitted to and agreed in writing by the Local Planning Authority. The agreed design of the bin and cycle

store shall be installed prior and ready for use prior to any occupation of the accommodation.

Reason – To ensure an appropriate design of the bin store in the interests of the character and appearance of the Conservation Area in accordance with policies CLP20 and 21 of the Adopted Local Plan.

5. The ground floor windows to unit 5 serving the kitchen and living area as shown on Ground floor plan no. 201 Rev C received 24.11.2021 shall remain so throughout the life of the development.

Reason – In the interests of amenity given the neighbouring relationship in accordance with policy CLP14 of the Adopted Local Plan.

6. The windows to the living area of unit 9 shall be fixed non-openable windows as shown on the Basement, first and second floor plan and roof plan no. 202 Rev D received 24.11.2021 and shall remain so throughout the life of the development.

Reason – In the interests of amenity given the neighbouring relationship in accordance with policy CLP14 of the Adopted Local Plan.

7. In accordance with condition 6 above and prior to the commencement of development a detailed schedule of window and door details as proposed and to be retained shall be submitted to and agreed in writing by the Local Planning Authority. Works shall be completed in accordance with the agreed details. The schedule shall include:

- a. Elevational design of all windows and doors including sections to align with an elevational plan of the building.
- b. Window design to accord with the recommendations of the submitted noise report received 20.09.2021.
- c. A detailed assessment of the existing windows and schedule of those to be retained and repaired along with full justification and method of repair.
- d. Details of secondary glazing to the retained windows

- e. Details of non-openable windows to the frontage of the building on Holywell Street to address air quality concerns and in accordance with condition 6 above.
- f. Details of the method of opening to all windows including to the dining room window of flat 9 as shown on the Basement, first and second floor plan and roof plan no. 202 Rev D received 24.11.2021 which will need to be limited or angled away from the courtyard area of Ritzy's Bar.
- g. Details of all roof lights to be conservation type with roof profile section included and to accord with the recommendations of the noise report received 20.09.2021

Reason – To ensure appropriate design due to the character of the building and to minimise potential noise issues in accordance with policies CLP14, 20 and 21 of the Adopted Local Plan.

- 8. Prior to the commencement of development a detailed scheme for the insulation of the building and roof space to address the recommendations of the submitted noise report received 20.09.2021 shall be submitted to and agreed in writing by the Local Planning Authority, work shall be completed in accordance with the agreed details.

Reason – In the interests of amenity given the neighbouring commercial operations and likely noise impacts, in accordance with policy CLP14 of the Adopted Local Plan.

- 9. Prior to the commencement of development details of the insulation of the chimneys in line with Part E of the Building Regulations to prevent noise transmission within the building shall be submitted to and agreed with the Local Planning Authority. Works shall be completed in accordance with the agreed details.

Reason – In the interests of residential amenity in accordance with policy CLP14 of the Adopted Local Plan.

- 10. Prior to any works taking place to the floor of the existing building, below the existing floor level or to any exterior hardstanding; a detailed heritage assessment to inform the need for and where necessary details of a Written Statement of Investigation (WSI) all to be submitted to, and approved in writing by, the Local Planning

Authority. The scheme shall include where necessary an assessment of the significance and research questions; and

- a. The programme and methodology of site investigation and recording.
- b. The programme for post investigation assessment.
- c. Provision to be made for analysis of the site investigation and recording.
- d. Provision to be made for the publication and dissemination of the analysis and records of the site investigation.
- e. Provision to be made for archive deposition of the analysis and records of the site investigation.
- f. Nomination of a suitably qualified, competent and experienced archaeological contractor or organisation to undertake the works set out within the Written Statement of Investigation.

The building shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out within the approved Written Scheme of Investigation and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Any historic or archaeological features not previously identified which are revealed when carrying out the works hereby permitted shall be retained in-situ and reported to the Local Planning Authority in writing within 2 working days. Works shall cease in the area/part of the building affected until provision has been made for the retention and/or recording in accordance with details submitted to and approved in writing by, the Local Planning Authority.

Works shall be completed in full accord with the agreed details.

Reason - To safeguard the identification and recording of features of historic and/or archaeological interest associated with the site in accordance with Policy CLP21 of the Adopted Local Plan.

11. Prior to the occupation of the accommodation hereby approved details of swift boxes to be installed/integrated into the building shall be submitted to and agreed in writing by the Local Planning Authority. The agreed details shall be installed on site prior to first occupation and retained and maintained throughout the life of the development.

Reason – To enhance biodiversity in accordance with policy CLP16 of the Adopted Local Plan.

Informative Notes

1. The Local Planning Authority have during and prior to the consideration of this application engaged in a positive and proactive dialogue with the applicant with regard to parking and manoeuvring space on the site in order to achieve a positive outcome for the application.
2. 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.
3. The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant).

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property-specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com or a similar service provider.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at:

www.gov.uk/government/organisations/the-coal-authority

4. The buildings have potential to support nesting birds. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (as amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent. No building demolition work should be undertaken between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the work is commenced. If any active nests are discovered then the nest should be left undisturbed until the birds have fledged with an appropriate buffer surrounding the nest.
5. When you carry out the work, you must not intentionally kill, injure or take a bat, or intentionally or recklessly damage, destroy or block access to any structure or place that a bat uses for shelter. These would be offences under the Wildlife and Countryside Act 1981, the Habitats Regulations 1994 and the Countryside and Rights of Way Act 2000. Planning consent for a development does not provide a defence against prosecution under European and UK wildlife protection legislation.

6. Lighting installed on site shall be designed to ensure no glare or overspill occurs to nearby residential properties or the public highway.