

ITEM 1**Change of use of existing building to create 42 residential apartments (Use Class C3) and associated external alterations at Burlington House, Burlington Street, Chesterfield for G.A.P.E Equity Limited.**

Local Plan: Town Centre

Ward: St Leonards

Plot No: 2/281

Committee Date: 18th July 2022**CONSULTATION RESPONSES**

Yorkshire Water	Based on the details submitted, no observation comments are required from Yorkshire Water, as the drainage system that serves Burlington House and connected to public sewer network, is still being used for all 3 proposals.
NHS CCG	Request contribution of £26,496 for: Inspire Health – Avenue House • Royal Primary Care Ashgate • The Surgery at Wheatbridge
CBC Housing regulation officer	We have no specific standards for flats; generally, a single persons bedroom would have to be a minimum of 6.51m ² but we would expect larger; double bedrooms would be expected to be a minimum of 10.22m ² . Overall, the individual flats seem to be a reasonable size.
The Coal Authority	The submission to which this consultation relates falls on our exemptions list, you are therefore advised to consult the Coal Authority guidance (provided to all LPAs on 18/12/2020) on this issue and to include the necessary notes/advice on any consent granted.
Historic England	Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application. We suggest that you seek the views of your specialist conservation and archaeological advisers.

Derbyshire Constabulary	In principle no objection to the conversion. Recommend condition on communal door specification and entry schedule, CCTV to the lobby, cycle storage provision and post box specification.
Highway Authority	Although the Highway Authority has no objections to the proposals due to the town centre location, to avoid any obstructions to all highway users and possibility of mud/debris being deposited on public highway during the construction phase, should The Planning Authority be minded to permit the application, it is recommended conditions and informative notes are included.
Lead Local Flood Authority	No objections in principle
Chesterfield Cycle Campaign	Welcome cycle storage but have queries. There should be cycle storage for each apartment and to appropriate standards, a cycle ramp should be provided to the rear.
CBC Forward Planning	Comments made referring to the policy requirements which are integrated into the content of the report below
CBC Housing Delivery Manager	Comments made see report
Derbyshire Wildlife Trust	Comments made see report
Representations	The impact of the development is that funding of £106k is required for the hospital

2.0 **THE SITE**

- 2.1 The application site relates to the existing building which dates from the mid-20th Century constructed of concrete with cladding. The building appears to be formed in two distinct phases in terms of the design and is a prominent building within the town centre. The building has been largely retained as built retaining its distinct architectural form. Whilst an arguable negative element within the Conservation Area of the town centre it is nevertheless integral to the layering of development within the town.



3.0 SITE HISTORY

- 3.1 CHE/22/00178/FUL Change of use from restaurant/nightclub (Use Class Sui Generis) to Office (Use Class E g(i)) and external alterations – Conditional permission 21.06.2022
- 3.2 CHE/22/00195/FUL Erection of third storey to create 13 no. residential apartments (Use Class C3) – Pending consideration
- 3.3 CHE/21/00020/FUL Change of use of vacant first and second floor office and retail accommodation into 36 residential apartments (Amended plans)

received 02.07.2021 with reduced numbers of units to the first floor) – Refused 27.07.2021

- 3.4 CHE/21/00030/FUL Construction of 22 duplex residential apartments on 2 levels above existing second floor of building – Refused 20.04.2021
- 3.5 CHE/20/00303/PNCOU Conversion of first and second floor vacant offices into residential apartments (revised plans submitted 25.06.2020 reducing number of flats at first floor to 14) – Refused 30.06.2020
- 3.6 Numerous historic applications relating to the uses of the ground floor and advertisements and alterations to the building.

4.0 **THE PROPOSAL**

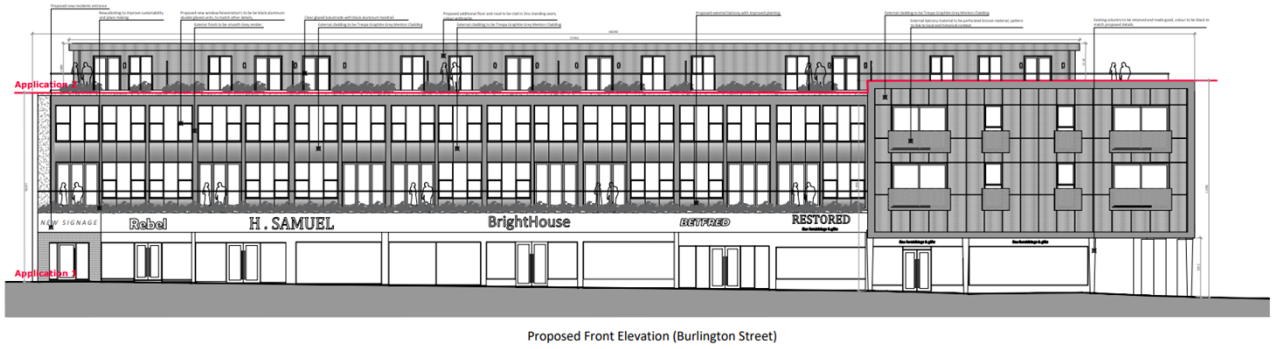
- 4.1 Planning permission is sought to convert the first and second floors of the building to create 42 apartments with access formed from the ground floor with level access from Burlington Street and stepped access from Church Lane. The ground floor entrance area will be formed from the enclosure of the existing alleyway situated between the retail units either side fronting Burlington Street.
- 4.2 The intention is also to make alterations to the building with the overall aim of enhancing the appearance through rendering and cladding of the building, provision of balconies, with integrated planting and new windows. To the southern elevation solar shading is proposed to reduce overheating.

4.3 Rear elevation as proposed:

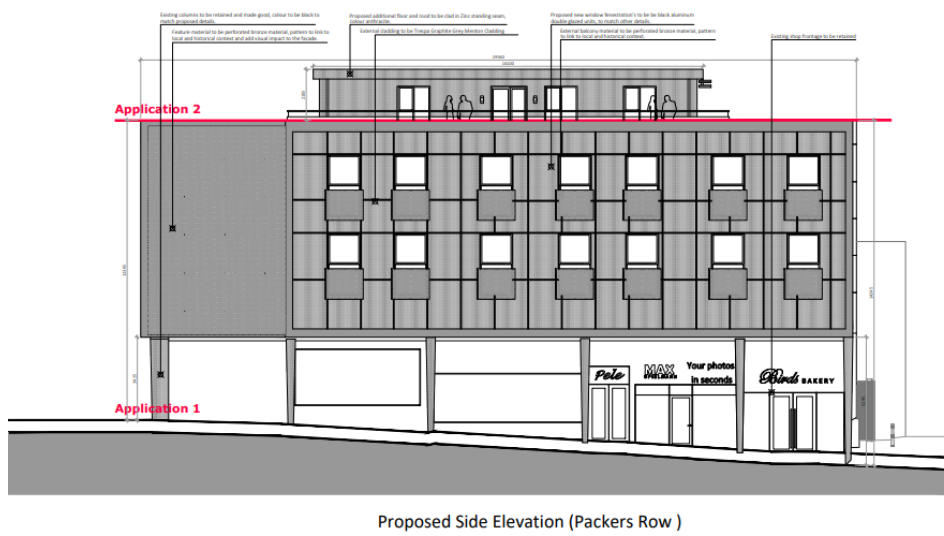


Proposed Rear Elevation (Church Lane)

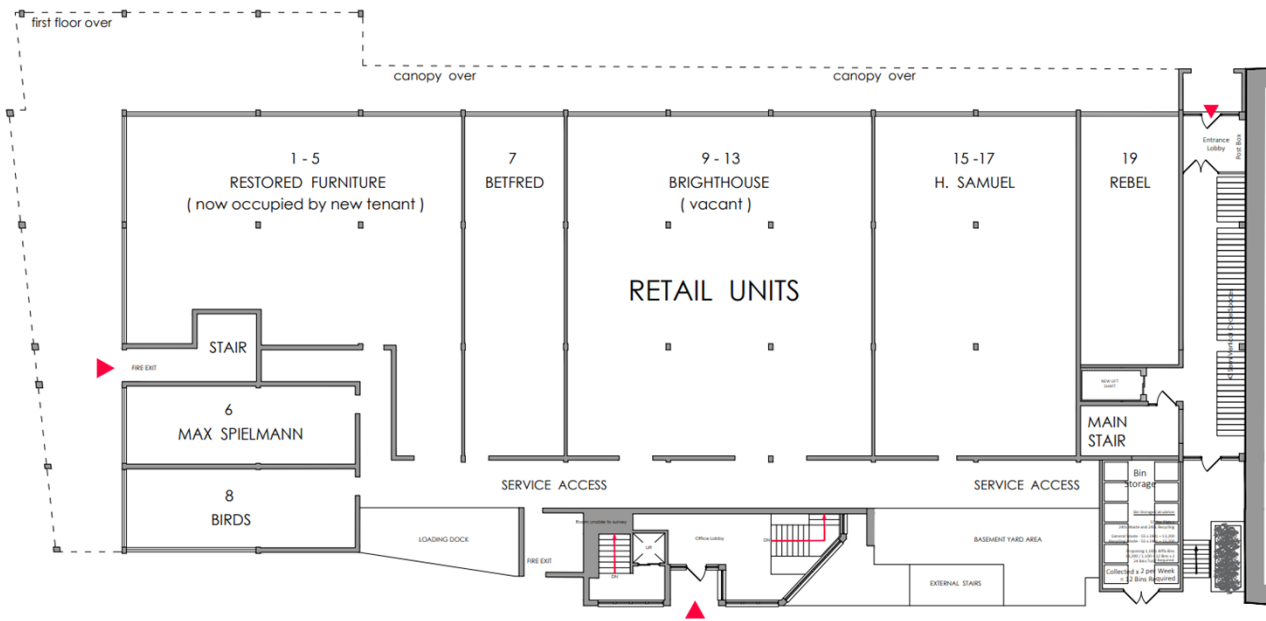
4.4 Front elevation as proposed:



4.5 Side elevation as proposed:

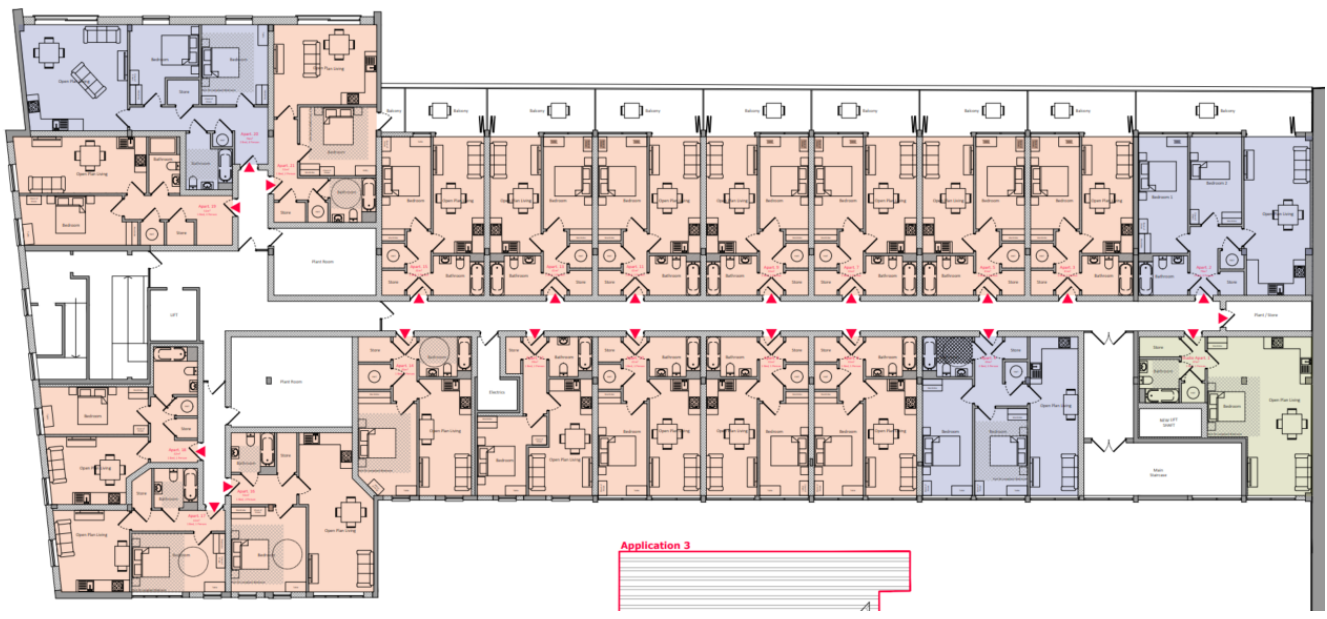


4.6 Proposed ground floor plan:

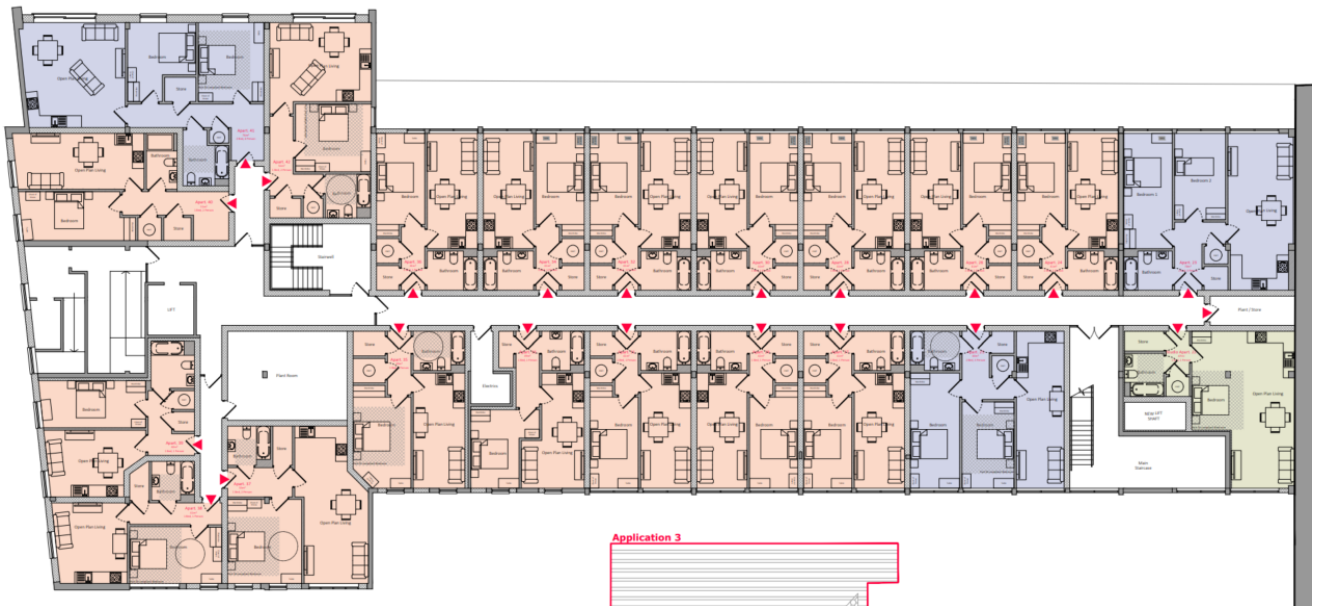


Proposed Ground Floor Plan & Site Plan Layout

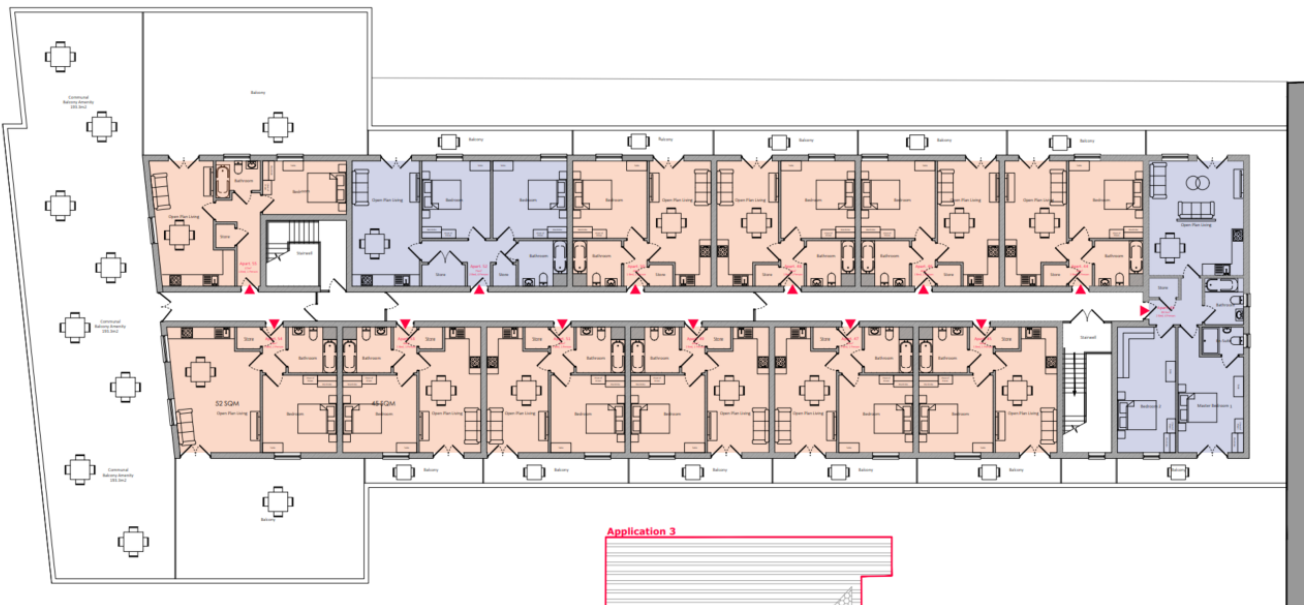
4.7 Proposed first floor plan:



4.8 Proposed second floor plan:



4.9 Proposed third floor (extension) – not being considered under this application but demonstrates the proposed communal space.



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.

- 5.1.2 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.
- 5.1.3 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 - Relevant policies

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
CLP11 Infrastructure Delivery
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 National Planning Policy Framework – Relevant sections

Part 2. Achieving sustainable development
Part 4. Decision-making
Part 5. Delivering a sufficient supply of homes
Part 6. Building a strong, competitive economy
Part 8. Promoting healthy and safe communities
Part 9. Promoting sustainable transport
Part 11. Making effective use of land
Part 12. Achieving well-designed places
Part 14. Meeting the challenge of climate change, flooding and coastal

change

Part 15. Conserving and enhancing the natural environment

Part 16. Conserving and enhancing the historic environment

5.4 Supplementary Planning Documents

Designing Out Crime

Successful Places' Residential Design Guide

Historic Environment

5.5 Key Issues:

- Principle of development
- Affordable and Accessible Housing
- Infrastructure
- Heritage and visual impact
- Residential Amenity
- Highway safety
- Biodiversity

5.6 Principle of Development

- 5.6.1 Policies CLP1 and 2 of the Adopted Local Plan set out the strategic approach to the siting of sustainable development. CLP1 states that the overall approach to growth will be to concentrate new development within walking distance of a range of Key Services, focussing on areas of regeneration. This is reiterated in Policy CLP2 where it states that; Planning applications for developments that are not allocated the Local Plan, will be supported according to the extent to which the proposals meet the following requirements which are set out in order of priority:
- a) deliver the council's Spatial Strategy (policy CLP1), this is the first priority followed by developments that;
 - b) are on previously developed land that is not of high environmental value;
 - c) deliver wider regeneration and sustainability benefits to the area;
 - d) maximise opportunities through their location for walking access to a range of key services via safe, lit, convenient walking routes;
 - e) maximise opportunities through their location for cycling and the use of public transport to access a range of key services;
 - f) utilise existing capacity in social infrastructure (Policy CLP10) or are of sufficient scale to provide additional capacity, either on site or through contributions to off-site improvements;

- 5.6.2 The application site is within the defined town centre of Chesterfield where there is immediate access to multiple services and facilities and in this regard the proposal for residential development in a sustainable location is acceptable in line with policies CLP1 and 2 of the Adopted Local Plan.
- 5.6.3 Being within the Town centre the proposal is considered under the remit of policy CLP8 of the Adopted Local Plan where it states:
Within centres and Chesterfield Town Centre Primary Shopping Area (PSA) planning permission will normally be granted for A1 retail uses. For main town centre uses other than A1 retail, consideration will be given to the extent to which proposals accord with criteria a) to e) below:
a) have a positive impact on vitality and/or viability;
b) provide active ground floor uses;
c) cater for a wide public through diversity of leisure and cultural attractions and events;
d) contribute to an appropriate mix of licensed premises; and
e) contribute to efforts to tackle vacant, under-used and derelict buildings within centres, particularly in historic buildings.
The policy goes on to note 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.
- 5.6.4 The proposed ground floor access provision and the conversion of the upper floors will not impact on the ability of the ground floor commercial uses to remain and therefore the proposed conversion will not adversely impact upon the vitality and viability of the town centre in terms of the loss of any commercial floorspace. The provision of additional housing in a centre area where there is easy access to services and facilities will have a beneficial economic impact on the centre.
- 5.6.5 It should be noted that policies CLP1, 2 and 8 support such residential uses within sustainable locations and therefore whilst the density of residential accommodation proposed is high this is not in principle contrary to the adopted policies of the local plan.
- 5.6.6 Policy SS1 criteria (i), specifically refers to “enhancing the range and quality of residential uses within Chesterfield town centre” and the proposals would enhance the range of residential uses. Therefore, the principle of residential development in this location is acceptable in principle, subject to meeting the other policy requirements within the Local Plan.

5.7 Affordable and Accessible Housing

- 5.7.1 Policy CLP4 requires development of more than 10 dwellings to provide a proportion of affordable housing. This location is in the medium CIL zone with a requirement of 10% of the total units to be provided as affordable housing. Therefore, a 10% affordable housing contribution would normally be required and is required for the third floor extension. Para 64 of the NPPF notes that: To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount. This amount in footnote 30 is stated to be equivalent to the existing gross floorspace of the existing building. As this application is converting existing floorspace within the vacant areas of the building, the vacant building credit applies such that no affordable housing contribution can be requested for the conversion elements of the scheme.
- 5.7.2 Policy CLP4 requires that 25% of new dwellings should be constructed to the higher M4(2) standards of adaptability and accessibility. In this case the conversion of the first and second floor and includes lift access with the M4(2) standard properties identified in the key. The proposal is therefore that of the 55 apartments proposed overall in the conversion and extension applications relating to the property; 14 of the properties would be M4(2) compliant. This equates to just over 25% which meets the CLP4 policy requirements for the building overall and is therefore considered to be acceptable. To ensure this is the case it is considered that a condition needs to be imposed on any permission to ensure the lift is provided prior to occupation.

5.8 Infrastructure

- 5.8.1 The provision of Community Infrastructure Levy ensures that monies are provided for facilities such as school provision. However, health contributions are dealt with outside of the CIL provision. In this case the NHS CCG has requested a contribution of £26,496 for the extension and conversion elements of the development. The CCG have commented that; *“It is unlikely that NHS England or NHS Derby and Derbyshire CCG would support a single-handed GP development as the solution to sustainably meet the needs of the housing development and that the health contribution would ideally be invested in enhancing capacity/infrastructure with existing local practices.* *The development sits within the area identified in the Primary Care Estates Strategy as Chesterfield and Surrounds and includes the following GP practices:*

- *Inspire Health – Avenue House*
- *Royal Primary Care Ashgate*
- *The Surgery at Wheatbridge*

We would like to discuss the potential for S106 funding to be used to provide additional capacity within the vicinity of the development, the immediate area is identified in the Primary Care Estates Strategy as Chesterfield and Surrounds. This area has been identified as a high priority for investment, as a result of planned housing developments and population growth.”

5.8.2 This sum can be secured via S106 agreement to ensure GP practice capacity to accommodate the additional units.

5.8.3 There has also been a request for substantial contribution towards Chesterfield Hospital. However, the Hospital does not merely serve Chesterfield but the whole of North Derbyshire and the southerly edge of Sheffield. Infrastructure relating to hospitals is directly financed by Central Government and on this basis it is therefore inappropriate to seek contributions in relation to the Hospital from local developments.

5.9 Heritage and visual impact

5.9.1 The application site is within the Town Centre Conservation Area and within the setting of a number of listed buildings, most notably:

- Church of St Mary and All Saints Grade I
- Lamp post near south porch of St Marys Church Grade II
- Churchyard walls and piers to St Marys Church Grade II
- 12 and 13 the Shambles Grade II
- The Royal oak inn Grade II*
- 21 Market Place Grade II
- 10 High Street Grade II
- The Market Hall Grade II

5.9.2 In considering the impacts on development upon heritage assets it is important to set out the legislative and policy requirements:

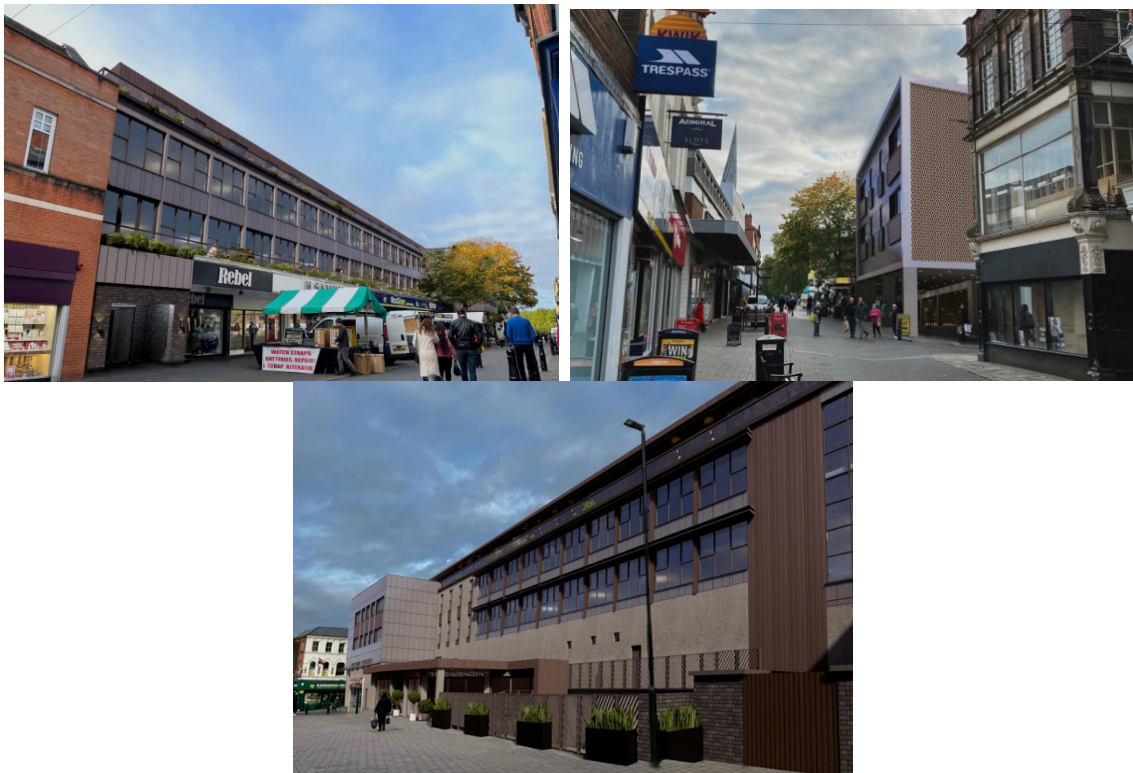
As the application would affect the significance of designated heritage assets, namely the listed buildings and the conservation area, the statutory requirements to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses and the character and appearance of the conservation area (sections 66 (1) and 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act, 1990) must be taken into account when determining this application.

- 5.9.3 The NPPF sets out the desirability of sustaining and enhancing the significance of heritage assets (paragraph 199 NPPF). The NPPF also states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to its conservation (paragraph 199). The more important the asset the greater the weight should be given (paragraph 199). The significance of a heritage asset derives not only from its physical presence, but also from its setting. Significance can be harmed or lost through development within a heritage asset's setting and since heritage assets are irreplaceable any harm or loss to significance requires 'clear and convincing' justification (paragraph 200). Where harm is identified that harm is less than substantial harm should be weighed against the public benefits of the proposed development (paragraph 202).
- 5.9.4 Policy CLP21 of the Adopted Plan reiterates the legislative and national policy stance; 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 order to ensure that new development conserves or enhances the significance of designated and non-designated heritage assets and their settings, the council will:
- a) apply a presumption against development that would unacceptably detract from views of St Mary's Church (the Crooked Spire) by virtue of its height, location, bulk or design;
 - b) protect the significance of designated heritage assets and their settings including Conservation Areas, Listed Buildings.
- 5.9.5 Policy CLP20 requires that: All development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context.
- 5.9.6 The proposal in this case is to alter the exterior of the premises seeking to enhance the building within this sensitive setting. The existing building is of relatively neutral colours and whilst being a large and somewhat imposing building that is at odds with the prevailing character of the area, the building does sit quite quietly within this setting. The architecture of the building is contemporary and of its time. As a distinct building showing the evolution of the Conservation Area it is considered the original architecture should be respected in the alterations proposed.
- 5.9.7 Initially the proposal was for dark grey cladding to the exterior. Whilst dark coloured finishes often result in a visually recessive development, given the

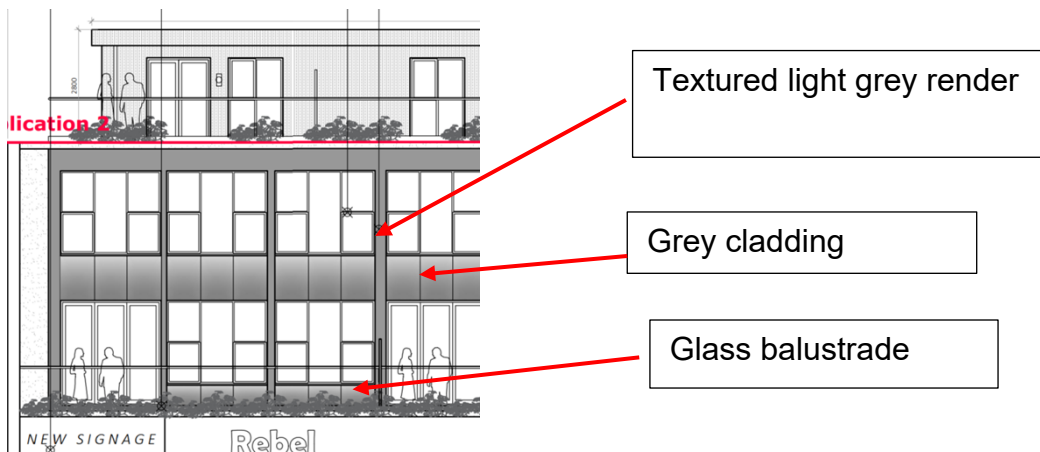
scale and prominence of the building and the existing colour palette in the area, in this case it was considered that such finishes would not be appropriate. The intention is therefore to introduce lighter colours to the cladding as shown on the submitted materials board:



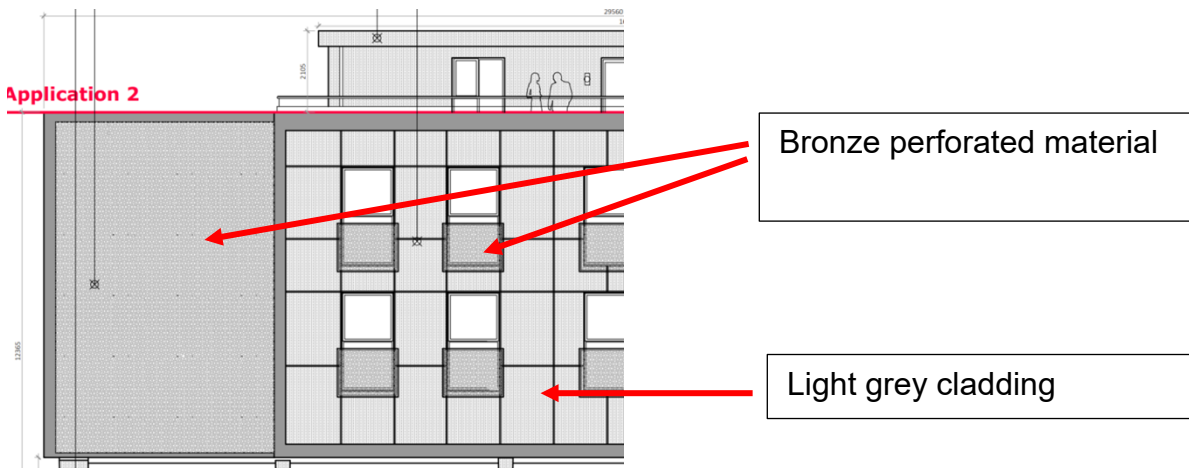
5.9.8 The applicant has provided visuals to demonstrate this:



5.9.9 To the vertical divides of the front elevation on the upper floors is intended to be a textured light grey render, and a light grey cladding is intended to the horizontal panels between the windows. Balustrading to the external balconies is to be glazed.



5.9.10 To the western end of the building where there is already a different material treatment a bronze perforated material is proposed which is also to be used to the Juliette style balconies on this elevation. The light grey cladding is again proposed to the remainder of the elevation.



5.9.11 Materials are similarly proposed on the rear elevation with more of the textured render proposed and contrast element of the brown cladding as proposed for the third storey extension.

5.9.12 The amended materials palette is considered to be broadly acceptable and to suitably address the architecture and context of the building. Nevertheless, a condition is required regarding the materials to ensure consideration of samples of the materials, details of junctions with existing features of the building, along with areas where the materials are still to an extent unknown – such as the border to the western elevation. Subject to this condition the proposal is considered to meet the requirements of policy CLP20 of the Adopted Local Plan. In terms of the heritage impacts it is considered that at worst the impact will be the preservation or slight enhancement of the building which will benefit the wider conservation area and will not result in any harm to the setting of listed buildings within the

town centre. The proposal is therefore acceptable in accordance with policy CLP21 of the Adopted Local Plan and Part 16 of the NPPF.

5.10 Residential Amenity

5.10.1 Local Plan policy CLP14 states that development will be expected to have an acceptable impact on the amenity of users and neighbours.

5.10.2 The Council's Forward planning team have commented as follows:
All residential units conform with the NDSS limits (based on floorspace measurements provided). Comparisons against the standards are set out within Table 1 below. The flats do not exceed the minimum standards by a significant amount but the scheme's attention to occupier amenity is a substantial improvement on previously refused applications.

Table 1: Performance Against Nationally Described Space Standard (NDSS)

FIRST FLOOR						SECOND FLOOR					
Apt	Beds/ size (sqm)	1 bed 1 person 39sqm	1 bed 2 person 50sqm	2 bed 3 person 61 sqm	2 bed 4 person 70 sqm	Apt	Beds/size	1 bed 1 person 39sqm	1 bed 2 person 50sqm	2 bed 3 person 61 sqm	2 bed 4 person 70 sqm
1	1 bed 1p (47)	✓				22	1 bed 1p (47)	✓			
2	2 bed 3p (70)			✓		23	2 bed 3p (70)			✓	
3	1 bed 1p (41)	✓				24	1 bed 1p (41)	✓			
4	2 bed 3p (63)			✓		25	2 bed 3p (63)			✓	
5	1 bed 1p (41)	✓				26	1 bed 1p (41)	✓			
6	1 bed 1p (41)	✓				27	1 bed 1p (41)	✓			
7	1 bed 1p (41)	✓				28	1 bed 1p (41)	✓			
8	1 bed 1p (41)	✓				29	1 bed 1p (41)	✓			
9	1 bed 1p (41)	✓				30	1 bed 1p (41)	✓			
10	1 bed 1p (41)	✓				31	1 bed 1p (41)	✓			
11	1 bed 1p (41)	✓				32	1 bed 1p (41)	✓			
12	1 bed 1p (39)	✓				33	1 bed 1p (39)	✓			
13	1 bed 1p (41)	✓				34	1 bed 1p (41)	✓			
14	1 bed 1p (45)	✓				35	1 bed 1p (45)	✓			
15	1 bed 1p (41)	✓				36	1 bed 1p (41)	✓			
16	1 bed 2p (55)		✓			37	1 bed 2p (55)		✓		
17	1 bed 1p (41)	✓				38	1 bed 1p (41)				
18	1 bed 1p (42)	✓				39	1 bed 1p (42)	✓			
19	1 bed 2p (51)		✓			40	1 bed 2p (51)		✓		
20	2 bed 4p (76)				✓	41	2 bed 4p (76)				✓
21	1 bed 2p (51)		✓			42	1 bed 2p (51)		✓		

THIRD FLOOR					
Apt	Beds/ size (sqm)	1 bed 1 person 39sqm	1 bed 2 person 50sqm	2 bed 3 person 61 sqm	2 bed 4 person 70 sqm
43	2 bed 4p (83.5)				✓
44	1 bed 1p (46)	✓			
45	1 bed 1p (46)	✓			
46	1 bed 1p (46)	✓			
47	1 bed 1p (46)	✓			
48	1 bed 1p (46)	✓			
49	1 bed 1p (46)	✓			
50	1 bed 1p (46)	✓			
51	1 bed 1p (46)	✓			
52	2 bed 4p (71)				✓
53	1 bed 1p (46)	✓			
54	1 bed 2p (54)		✓		
55	1 bed 1p (47)	✓			

Although outdoor space is constrained in the Town Centre, the Council's Adopted Successful Places SPD (3.11.18) states that; wherever possible, flats should also be provided with some outdoor amenity space, whether private or communal. Upper floor flats should be provided with 25 m² of space per flat. Table 4 of the SPD sets this out as a minimum. Last Updated July 2020 Communal amenity space is provided at third floor level

(139 m²) and balconies are provided for all 13 no new flats on the third floor rooftop extension, and for 8 no flats on the first floor. Whilst it would not be feasible to achieve the recommended provision in a town centre location with no external setting, teamed with the distance to quality public amenity greenspace, the lack of outdoor amenity space is likely to have a detrimental impact on the amenity and wellbeing of occupiers. The current permitted development rights for the conversion of commercial units to residential require that all habitable rooms to benefit from 'adequate natural light' and it follows that planning applications should adhere to these requirements.

If approved, the residential units proposed through applications CHE/22/00194/FUL and CHE/22/00195/FUL would be located above the proposed office (subject of application CHE/22/00178/FUL), which was last used as a restaurant / nightclub. There is no planning guarantee that the extant Sui Generis use would not be picked up in the future with implications for the amenity of any future residents. The inclusion of a clause within the S106 that releases the extant permission unless otherwise agreed in writing with the Council is recommended as this would remove the risk of residential units coming forward whilst the Sui Generis use is available.

The NPPF (paragraphs 98 and 99) and the adopted Local Plan policy CLP17 require that open space is accommodated and seek to protect existing open spaces from development. The apartments (55 units in total) would not create a requirement for any on site open space or play provision (using the thresholds set out within Appendix B of the Local Plan) but do generate a requirement of 0.68 hectares of open space in total and would contribute to existing deficiencies within the Town Centre Assessment Area. The Assessment Area is sufficient against the recommended CBC quantity standard for amenity greenspace and provision for children Last Updated July 2020 and young people. A deficiency is noted against allotments, parks and gardens and semi-natural greenspace. where proposals do not trigger the open space thresholds, any deficiencies will usually be addressed through Community Infrastructure Levy (CIL), however the need created by the development and any existing deficiency in provision in the relevant analysis area should be appropriately monitored.

5.10.3 The Council's Housing Delivery Manager has commented that:

- From research carried out by ICENI projects, we understand there is potential for complex impacts on the wider town centre given the type, size and subsequently market for units of this nature*

- *Chesterfield has a fragile and immature market for town centre living and this type and size of development will be the highest density development in the town centre*
- *This development will put residents directly into a historic retail area, given that currently there is a limited residential offer, if possible, I would strongly recommend seeking a plan from the applicant on how he intends to integrate a new offer into an area with differing uses.*
- *I understand that an addition to the building will create 13 new dwellings, which will attract an affordable housing requirement of 1.3 units. On multi-family development of this nature we would request a 'commuted sum' financial payment in lieu of onsite provision, I would expect commuted sum to be c£95k for this element.*
- *I would also seek confirmation of future building and tenancy management arrangements, with a view of preventing multiple building and tenancy management.*

5.10.4 The Council's Housing Regulation Officer has raised no concerns regarding the application in terms of the quality of the living accommodation proposed.

5.10.5 In terms of the living space now proposed, balconies have been provided to some of the first-floor apartments and all of the third-floor apartments along with a maximised communal space for all occupants to share as a roof terrace. Given the constrained nature of the site and building it is considered that the provision of outdoor space whilst less than would normally be anticipated is maximised as far as is reasonably possible. The size of the flats proposed is now considered to be appropriate. The extent of natural light to each flat is also at an acceptable level. To prevent overheating to the south facing units solar shading is proposed. Therefore, the impact on future occupiers is considered to be acceptable.

5.10.6 The Crime Prevention Officer has requested details of entrance door, CCTV, Cycle storage and post box specification, to ensure appropriate levels of security to occupants, this can be appropriately conditioned.

5.10.7 As set out in the principle of development section above, policies CLP1, 2 and 8 along with national planning policy; support the re-use of buildings within town centre for residential uses given these are sustainable locations. Therefore, whilst the density of residential accommodation proposed here is high and different to what is currently offered within the centre, this is not in principle contrary to the adopted policies of the local plan. Whilst the wider social impacts of the extent of

this type of housing within the centre over the longer term are not known at this time, a development which allows appropriate living space for occupants in a sustainable location cannot be considered unacceptable in planning policy terms due to the unknown wider long-term impacts.

- 5.10.8 It is considered that further controls over the management of the development in terms of tenure and maintenance are secured to ensure that over the long term the building will be kept in good condition for the benefit of tenants/owners and the wider town centre. Again, details will be secured via condition.
- 5.10.9 Given that the extant use on the ground floor as a nightclub could be reinstated without the need for planning permission and that this is an inappropriate use which will result in noise and nuisance for occupiers of the flats, a S106 agreement is required to rescind that use. The applicant's agent has indicated agreement to this restriction on the use of the basement level of the building. (The proposed long-term use of the basement level is being considered under application CHE/22/00178/FUL.) On this basis the proposal is considered to accord with the provisions of policy CLP14 of the Local Plan.

5.11 Highway Safety

- 5.11.1 Local Plan policy CLP20 and CLP22 require consideration of parking provision and highway safety.
- 5.11.2 Given the town centre location a no car parking scheme is considered acceptable. There are car parks available for users within the town. To promote cycle use, details of cycle parking is proposed within the entrance area of the building. The Cycle Campaign has commented on the extent of parking proposed and the quality of this along with the need for a cycle ramp to the rear. The applicant's agent has noted in response to this request that: "*On the basis that level access is provided from Burlington Street, we consider that this would be an unnecessary intrusion into the street scene*". This is considered to be reasonable in terms of cycle access. Whilst a cycle store is not provided for each unit, due to the constrained ground floor space, details of the number and specification of the cycle stores can be secured under the consideration of the conversion application. Some residents may wish to store cycles within their own apartments which is feasible and will accommodate any additional cycles. On balance, subject to a condition the cycle parking provision is acceptable.

5.11.3 On this basis the proposal is considered to accord with the provisions of policies CLP20 and CLP22 of the Local Plan.

5.12 Biodiversity

5.12.1 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”.

5.12.2 Derbyshire Wildlife Trust has commented on the scheme as follows:

“This application is considered low impact in terms of ecology, with protected species constraints unlikely due to its location and construction. Based on the photographs provided in the Design and Access Statement, the building appears well-sealed with few, if any, features that could be used by roosting bats or nesting birds. We do not consider survey proportionate in this instance. Policy CLP16 of the Local Plan requires planning decisions to achieve measurable net gains for biodiversity. This could be achieved through the provision of green walls, green roofs, planting at roof level or street level and the inclusion of bat and bird boxes. Swift boxes would be particularly well-suited to a building of this height and multiple boxes should be added to provide habitat for this species which often nest communally. These details could be secured through a condition for a Biodiversity Enhancement Plan, however, features such as green walls or roofs would need consideration by the design team at an early stage. Condition recommended.”

5.12.3 Subject to a condition to secure biodiversity enhancements, the proposal is considered to accord with the provisions of policy CLP16 of the Local Plan.

5.13 Climate Change

5.13.1 The impact of climate change has to be considered within the remit of planning policy. In regard to climate change Policy CLP20 requires that: Major development should, as far as is feasible and financially viable minimise CO2 emissions during construction and occupation, and also maximise both the use of and the generation of renewable energy. Planning applications for major new development should be accompanied

by a statement (as part of or in addition to a design and access statement) which sets out how the development would do this in terms of:

- i. following the steps in the energy hierarchy by seeking to use less energy, source energy efficiently, and make use of renewable energy before efficiently using fossil fuels from clean technologies;
- ii. optimising the efficient use of natural resources;
- iii. reducing emissions through orientation and design.

5.13.2 The Adopted Local Plan primarily seeks to address climate concerns in seeking development which is sustainable in terms of ensuring easy access to local services and facilities. The application site is located in the town centre which is a sustainable location as well as being the re-use of a vacant building. The new residential element is also car free as there is good access to public transport and walking and cycling will be sufficient for travel to necessary facilities. Therefore, in terms sustainability the proposal is acceptable.

5.13.3 Although the government has not published how it intends to achieve the overall carbon reduction target that it has adopted (making it difficult for LPAs to determine the extent of carbon emission reductions necessary to deliver the adopted target), uplifts to building regulations came into force on the 15th June 2022 and are anticipated to change again in 2025. Policy CLP20 has a very clear requirement that ‘Major development should, as far as is feasible and financially viable minimise CO2 emissions during construction and occupation, and also maximise both the use of and the generation of renewable energy’.

5.13.4 The application is accompanied by limited information in terms of climate measures and therefore it is considered reasonable for a condition to be imposed to clarify the measures to be taken, and in terms of building fabric to ensure compliance with the most up to date building regulations as it appears possible in some circumstances to delay compliance until 2023. On this basis it is considered that matters of climate change have been addressed so far as is feasible for this type of development.

5.14 Developer contributions

5.14.1 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 \(CIL\) \(chesterfield.gov.uk\)](https://www.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

			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)	2710	0	2710	£50 Medium	332	288	£156,202

permission) (C) = CIL Charge (E)

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

6.0 REPRESENTATIONS

6.1 One representation received from the Hospital in terms of a contribution request which is covered in para 6.3.3 above.

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 The action in considering the application is in accordance with clearly established Planning law and the Council's Delegation scheme. It is considered that the recommendation accords with the above requirements in all respects.

8.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT

8.1 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 and paragraph 38 of 2021 National Planning Policy

Framework (NPPF) as the proposed development does not conflict with the NPPF or with 'up-to-date' policies of the Local Plan, it is considered to be 'sustainable development' to which the presumption in favour of the development applies.

- 8.2 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 the previous reasons for refusal in order to achieve a positive outcome for the application.

9.0 CONCLUSION

- 9.1 Overall the proposal is considered to be acceptable in accordance with the above mentioned policies of the Adopted Local Plan noted above.

10.0 RECOMMENDATION

- 10.1 That a s106 Agreement be negotiated to cover the following matters:

- CCG contribution of £26,496 (combined between applications CHE/22/00194 and 00195/FUL)
- Rescinding use of basement floor premises (nightclub) prior to first occupation of any of the apartments within the upper floors of the building, including the first and second floor conversion and the third floor extension

- 10.2 It is therefore recommended that the application be **GRANTED** subject to completion of the s106 agreement and subject to the following planning conditions:

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 and condition requirements listed below.

All external dimensions and elevational treatments shall be as shown on the approved plan/s (listed below).

Proposed rear and side elevations, site and block plan 1068 008 Rev M received 13.06.2022

Proposed front and side elevations, site and block plan 1068 007 Rev I received 13.06.2022

Proposed ground floor and site layout plan 1068 003 Rev C received 23.06.2022

Proposed roof plan 1068 011 received 21.03.2022

Location plan 1068 012 Rev B received 07.04.2022

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. No individual dwelling hereby approved shall be occupied until the optional requirement for water consumption (110 litres use per person per day) in Part G of the Building Regulations has been complied with for that dwelling.

Reason: To protect the water environment in accordance with policy CLP13 of the of the adopted Chesterfield Borough Local Plan and to accord with paragraph 149 of the National Planning Policy Framework.

4. Within 28 days of the commencement of development, a Biodiversity Enhancement Plan (including a programme of implementation and maintenance) shall be submitted to and approved in writing by the Local Planning Authority. The enhancement plan shall be implemented, retained and maintained thereafter in accordance with the scheme and programme so approved. Photographs of the measures in situ shall submitted to the LPA to validate the provision prior to final occupation.

Reason: To ensure measurable net gain is achieved, in line with the aims of Planning Policy CLP16.

5. Prior to the commencement of development, the lift from the ground to the first and second floors shall be installed and be fully operational prior to first occupation of the first or second floor accommodation hereby approved.

Reason: In order to ensure 25% of the overall individual apartments will be constructed to the M4(2) standard in line with policy CLP4 of the Adopted Local Plan.

6. Prior to first occupation details of:
 1. A communal door specification and entry schedule to an agreed third party certified security level, including audio/visual verification.
 2. CCTV provision for the lobby and communal areas of the building
 3. Cycle storage numbers and specification
 4. Post box specification to an agreed third party certified security standard (ideally the Door and Hardware Federation Technical spec TS0025, Shall be submitted to and agreed in writing by the Local Planning Authority. The details shall be fully installed prior to first occupation and maintained thereafter.

Reason: To ensure appropriate security measures for the amenity of the occupants in line with policy CLP14 of the Adopted Local Plan.

7. Prior to first occupation a detailed tenure and property management and maintenance plan shall be submitted to and agreed in writing by the Local Planning Authority. The property shall be managed in accordance with the agreed details.

Reason: To minimise any adverse impacts between occupiers and to the wider town centre in accordance with policy CLP14 of the Adopted Local Plan.

8. Notwithstanding the submitted materials plan, details including samples of all facing materials; including windows, doors, entrance feature, balcony finishes and brise soleil; along with details of junctions with existing features of the building and junctions between materials, shall be submitted to and agreed in writing by the Local Planning Authority prior to being installed on the building. Work shall be completed in accordance with the agreed details prior to the first occupation of any apartment to the first, second or first floor of the building.

Reason: To ensure an appropriate finished form of development in accordance with Policy CLP20 of the Adopted Local Plan.

9. Prior to the commencement of development, a sustainability statement shall be submitted to and agreed in writing by the Local Planning Authority detailing; demonstration (without pre-registration) compliance with the June 2022 building regulations in terms of building fabric and heating systems, along with a statement on how emissions will be reduced through the construction process. Works shall be completed in accordance with the agreed statement.

Reason: To seek to make the development suitable for renewable technologies and to seek to reduce emissions from development in accordance with Policy CLP20 of the Adopted Local Plan.

10. No development shall commence until a Highway Construction Management Statement / Plan has been submitted to and approved in writing by the Local Planning Authority. The statement / plan shall include details specifically relating to:
 - a. parking for vehicles of site personnel, operatives and visitors
 - b. site accommodation
 - c. storage of plant and materials
 - d. routes for construction traffic to and from the site and measures to ensure adherence to the approved routing plan for vehicles under the applicants / developers control
 - e. provision of roadside boundary hoarding behind any visibility zones
 - f. any proposed temporary traffic management.
 - g. measures to minimise mud and dust arising from the site works, including wheel washing.Only the approved details shall be implemented, which shall be maintained throughout the construction period.

Reason: To ensure safe and suitable access for all users, in the interests of highway safety, recognising that initial preparatory works could bring about unacceptable impacts / inconvenience for existing highway users / nearby residents in line with policy CLP22 of the Adopted local plan.

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

Reason: This is a pre commencement condition in order to support the regeneration and prosperity of the Borough, in accordance with the provisions of Policy CLP6 of the Core Strategy.

12. Following completion of at least 50% of the dwellings and secondly at the stage of the final completion of the remaining 50% of the dwellings, a post construction Accessible Housing Certification Table containing the full details of the following matters shall be submitted to and approved in writing by the Local Planning Authority;
 - Which and how many dwellings within the development have satisfied M4 (2)* accessible and adaptable dwellings standards

- Which and how many dwellings within the development have satisfied M4 (3)* wheelchair adaptable dwellings standards
- Which and how many dwellings within the development have satisfied M4 (3)* wheelchair accessible dwellings standard. *contained within Part M Volume 1 (Approved Document) of The Building Regulations 2010, or any such Approved Document or Regulations for the time being in force, including any modification, extension or re-enactment of the same and including all instruments, orders, regulations and directions for the time being made, issued or given under the Approved Document or Regulations (or deriving validity from the same).

The accessible dwellings shall be provided in accordance with the agreed details and shall be retained as provided for thereafter.

Reason: To ensure compliance with policy CLP4 of the Adopted Local Plan.

13. Prior to the development hereby permitted being occupied/brought into use glazed screens located between the balconies shall be installed with obscure glazing which shall be obscured to a minimum of Pilkington - Privacy Level 3 or an equivalent product. Once installed the glazing shall be retained as such thereafter.

Reason: To safeguard the privacy and amenities of the occupiers of adjoining properties in accordance with Policy CLP14 of the Adopted Local Plan.

14. No construction or demolition works, movement of construction traffic, or deliveries to and from the premises, shall occur other than between 0800 and 1800 hours weekdays, and 0800 and 1300 hours on Saturdays, and at no time on Sundays or Public Holidays.

Reason: To safeguard the privacy and amenities of the occupiers of adjoining properties in accordance with Policy CLP14 of the Adopted Local Plan.

15. Prior to first occupation of either the first or second floor of the premises a scheme for the provision of the outdoor amenity space to the roof top area shall be submitted to and agreed in writing by the Local Planning Authority, the approved scheme for the outdoor amenity space shall be made available for use prior to first occupation and retained for use in perpetuity.

Reason: To ensure appropriate external amenity space is available for residents to use in accordance with policy CLP14 of the Adopted Local Plan.

10.3 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 the previous reasons for refusal 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 at the surface or shallow depth. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former 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 new development taking place.

It is recommended that information outlining how former mining activities may affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), is 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 land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine 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, excavations for 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.

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. When you carry out the work, you must avoid taking, damaging or destroying the nest of any wild bird while it is being built or used, and avoid taking or destroying the egg of any wild bird. These would be offences (with certain exceptions) under the Wildlife and Countryside Act 1981, the Habitats Regulations 1994 and the Countryside and Rights of Way Act 2000.
5. In line with condition 4 above - The enhancement plan shall clearly show positions, specifications and numbers of features, such as bat boxes, swift boxes and new landscaping / planting features.