

ITEM 2**Erection of third storey to create 13 no. residential apartments (Use Class C3) 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	As an extension to the main conversion there would be no objection to this application subject to the same suggested conditions.
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, its 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
CBC Housing team	Request affordable housing contribution of £95,293
Representation	Requesting funding of £33k for 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/22/00194/FUL Conversion of first and second floor to create 42 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 applications relating to the uses of the ground floor and advertisements and alterations to the building.

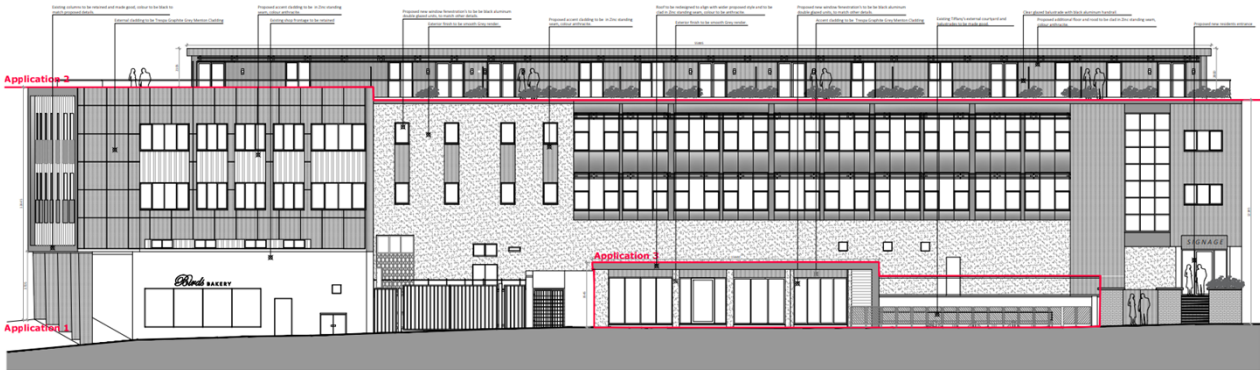
4.0 THE PROPOSAL

- 4.1 Planning permission is sought to erect an additional floor to the building to create 13 apartments, 11 x 1 bed units and 2 x 2 bed units. The extension is proposed to be set in from the edge of the existing roofline in order to

have balconies to serve each unit. At the western end of the floor is a communal area for the use of all intended occupants of the building including the proposed apartments to be created in the first and second floors of the building. There is no lift provision to the third floor.

4.2 The height of the third-floor structure ranges from 2.1m to 2.8m above the existing roof level which has differences in height to the exterior edge.

4.3 Rear elevation as proposed:



Proposed Rear Elevation (Church Lane)

4.4 Front elevation as proposed:



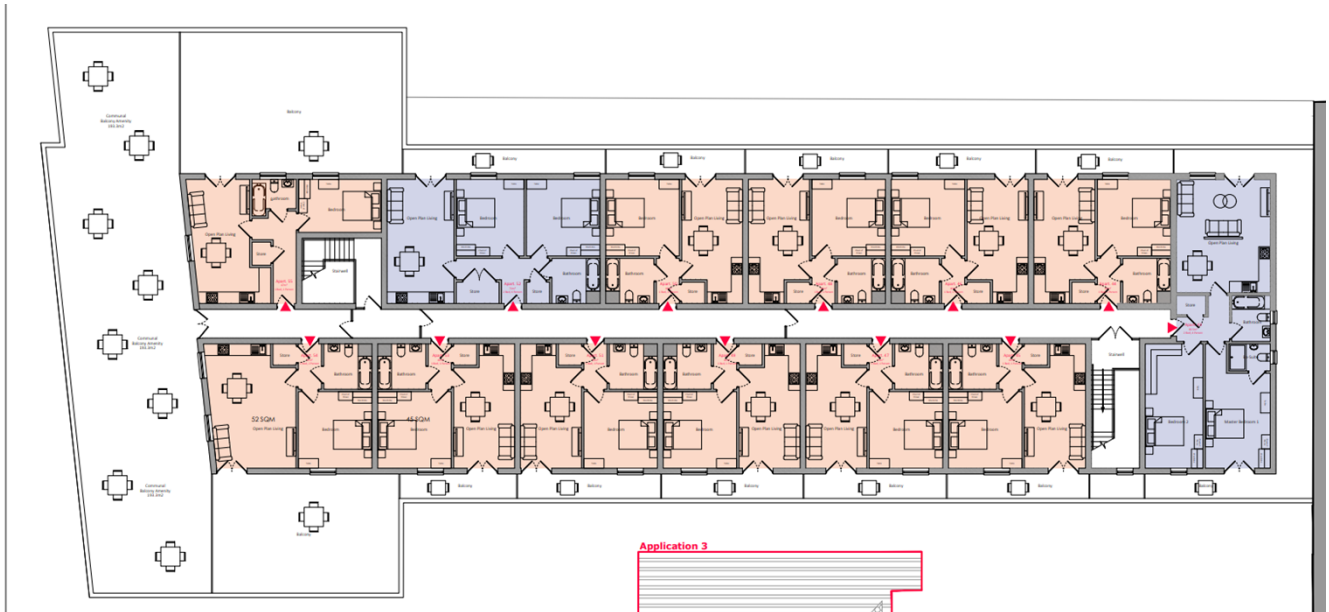
Proposed Front Elevation (Burlington Street)

4.5 Side elevation as proposed:



Proposed Side Elevation (Packers Row)

4.6 Proposed third floor plan:



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 The site is within the defined town centre area which 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 upper floor development will not impact on the ability of the ground floor commercial uses to remain and therefore the use 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 is required for the proposed extension (which equates to a contribution of 1.3 units). Policy CLP4 states that “where it is not possible or appropriate to deliver affordable housing on site, a financial contribution will be sought for provision off-site...”. As the proposed apartments would have communal areas it is unlikely that a Registered Social Landlord will want to take on these units. It is therefore appropriate in this case to seek a financial contribution. This has been calculated to be £95,293 which can be secured via a S106 agreement. This meets the policy requirements in terms of affordable housing provision.
- 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 proposed third floor is accessed via a staircase only with no lift access. Associated planning application CHE/22/00194/FUL relates to the conversion of the first and second floor and includes lift access and M4(2)

standard properties. The proposal put forward is that of the 55 apartments included overall in the applications (for the extension and conversion elements), 14 of the properties would be M4(2) compliant. This equates to just over 25% and subject to the lift provision in regard to the conversion element of the proposal meets the policy requirements for the building. This is considered to be acceptable, despite none of these being provided within the extended element of the building the subject of this application. Given the policy requirement link between the two applications it is considered reasonable to also impose via S106 that the lift is installed and the occupation of the units of the 2 applications interlinked to ensure all are constructed to ensure policy compliance overall.

5.8 Infrastructure

5.8.1 The provision of Community Infrastructure 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. 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 contribution towards Chesterfield Hospital. The Hospital does not merely serve Chesterfield but the whole of North Derbyshire and the southerly edge of Sheffield. Infrastructure relating to hospitals is financed by Central Government. It is therefore inappropriate

to seek further 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 A previous application for the construction of a two-storey extension on top of the existing roofline was refused due to concerns in terms of the impact on the setting of the nearby Grade I listed Church and Grade II listed Market Hall as well as impacts on the character and appearance of the conservation area in terms of enlarging such a prominent building.

5.9.6 In this proposal the applicant has aimed to overcome these reasons for refusal. The proposal is now for a single storey element to the roof of the building. The structure has a flat roof and projects only a maximum of 2.8m from the existing roof line. The structure being substantially lower than the refused proposal is also set away from the perimeter edge of the roof to further minimise the visual impact and ensure the third-floor structure is recessive when viewing the building as a whole.

5.9.7 The applicant has provided visuals to demonstrate this:





5.9.8 Some of the important vistas to consider are from Church Way, Knifemithgate, Burlington Street and Market Place, these views are shown in the images in para 2.1 above.

5.9.9 Taking into account these important vistas; It is considered that the reduced extent of the proposed roof extension whilst leading to some change to the building and context is considered to be low-level harm, which is classed at the lower end of the spectrum of harm, this is considered to be outweighed by the other visual enhancements resulting from the redevelopment of the building within the wider heritage context.

5.9.10 Whilst the form of the extension is acceptable an initial concern in this application was the dark colour palette proposed for the building and extension. This has now been revised to be lighter colours (see image below) however given the sensitivity of the site and the complex nature of the overall building it is considered details of the materials need to be fully agreed via condition.



5.9.11 Subject to this condition the proposal is considered to be acceptable in accordance with Para 202 of the NPPF and policy CLP21 of the Adopted Local Plan.

5.9.12 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.

5.9.13 The design of the extended element being visually subservient and simple in form is considered to better reflect the context of the site whilst respecting the original design ethos of the building which was contemporary in its time and reflects the evolution of the built environment within the town. In this regard the proposal is considered to meet the requirements of policy CLP20 of the Adopted Local Plan.

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), providing that the occupancy of the flats does not exceed the stated amount. 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 previous proposals (CHE/21/00020/FUL and CHE/21/00030/FUL).

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*
- *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. Therefore, the impact on future occupiers is considered to be acceptable.

5.10.6 The Crime Prevention Officer has requested details of CCTV, Cycle storage and post box specification, whilst this is being primarily considered under the conversion element of the scheme application CHE/22/00194/FUL, this area also provides access to the extended accommodation and therefore it is also appropriate to condition under this application.

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 to be converted under application CHE/22/00194/FUL, however it should be noted this also provides the entrance the proposed extension accommodation. The cycle campaign have 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 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 via condition. Some residents may wish to store cycles within their own apartments (under the associated conversion application) which is feasible and will accommodate any additional cycles. On balance, subject to a condition on both this application and the conversion application, the cycle parking provision is acceptable.

5.11.3 A number of conditions have been recommended by the Highway Authority in relation to construction works, it is considered these can be amalgamated into one condition on construction safety measures. On this basis the proposal is considered to accord with the provisions of policies CLP20 and CLP22 of the Local Plan.

5.12 Biodiversity including trees and landscaping

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 have 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 being located in the town centre is within 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 in terms of fabric to ensure these comply 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 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)	834.1	0	834.1	£50 Medium	332	288	£48,077

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 The proposal is considered to be acceptable in accordance with the above mentioned policies of the Adopted Local Plan as set out above.

10.0 RECOMMENDATION

10.1 It is therefore recommended that the application be **GRANTED** subject to completion of a S106 agreement to cover the following matters:

- CCG contribution of £26,496 (combined between applications CHE/22/00194 and 00195/FUL)
- Affordable housing contribution of £95,293 in relation to the 13 units hereby approved
- 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.
- None of the units to the third floor extension shall be occupied until the ground floor entrance area is completed and ready for use in line with: Proposed ground floor and site layout plan 1068 003 Rev C received 23.06.2022 and condition 5 below has been agreed and implemented on site and that the lift from the ground floor to the first and second floor accommodation associated with planning application CHE/22/00194/FUL is installed and ready for use.

10.2 That the following conditions be included as part of any planning permission issued:

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 third floor plan 1068 006 Rev F received 13.06.2022

Proposed roof plan 1068 011 received 21.03.2022

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

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 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 TS0024,

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.

6. 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.

7. Notwithstanding the submitted materials plan, details including samples of all facing materials; including windows, doors, balcony finishes and 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. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

11.3 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.