

ITEM 4**Conversion of existing bar/ former chapel to form 9 residential flats.
Resubmission of CHE/21/00448/FUL, at the Sports Bar, adjacent 37 Holywell
Street for City Realty Ltd.**

Local Plan: Town centre secondary shopping area CLP8

Ward: St Leonards

Plot No: 2/1250

Committee Date: 10th October 2022**CONSULTATIONS**

Highway Authority	Refer to comments on earlier application – see report below.
Fire and Rescue Authority	Recommend sprinkler system or minimum 32mm supply capable of delivering the required water volume to allow for future installation.
CBC Environmental Health	Requested additional information, following which confirmed no further comments to make.
CBC Waste	Further information on bin storage required.
Archaeology	Comments made see report
CBC Forward Planning	No biodiversity net gain information supplied.
Chesterfield Cycle Campaign	Chesterfield Cycle Campaign welcomes the inclusion of a bicycle storage room in this application and to bring a well known unused building back into use.
Representations	Three received summarised in section 6.0 below

2.0 THE SITE

2.1 The application site is a vacant former Primitive Methodist Chapel which has previously been used as a nightclub/venue. The existing structure is a fine red brick building prominently sited on Holywell Street opposite

the car park. To the rear of the site is a further car park, the land then slopes away towards Durrant Road.

2.2 The site is within the Conservation area and the building itself is a noted local heritage asset No 145 and is described as:

Large former Methodist Chapel in a prominent location on Holywell Street. It was also used as a YMCA until becoming a nightclub. The frontage is rich in typical gothic detailing of the period, primarily stone dressed lancet arch windows and doors. The main central bay is framed by buttress style pilasters and entrance doorway with quatrefoil window, colonnettes and pitched hood with kneelers & finials. The large upper story mullioned window has four lights with gothic stone tracery above. Immediately in front of the building are two brick pillars with stone banding and finials. A key feature of the building is the octagonal tower with steeple roof with stone arcade cornicing and octagonal windows. The side elevation has smaller pitched bays and the rear of the building is much plainer with window openings bricked up. Oversized and inappropriate signage is currently attached to the frontage.

The reason for local listing is that the building is a prominent and distinctive Methodist Chapel which acts as a reminder of the town's ecclesiastical history and makes a positive contribution to the wider street scene and Conservation Area.

2.3 The building due to its vacant state is in need of repair and renovation along with a long term use to secure its future.

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

3.0 SITE HISTORY

3.1 CHE/21/00448/FUL Conversion of existing pub/ club (former church) to form 9 residential units and external landscaping (Revised plans dated 24.11.2021 and 05.12.2021). Refused 15.03.2022

This application was refused, contrary to the Officer recommendation by the Planning Committee on the 15th March 2022 for the following reason:

The conversion of the former Chapel will result in residential accommodation in close proximity to existing commercial premises where there is known noise emanating from nearby premises until the

early hours of the morning. In addition, the development is located in an area where air quality is of concern. These matters will result in unacceptable adverse amenity impacts to future residents which cannot be suitably mitigated. As such the proposal is considered to be contrary to policy CLP14 of the Adopted Local Plan.

3.2 CHE/0902/0551 Change of use of premises to licensed bar - Conditional Permission 27.11.2002

3.3 Numerous older applications relating to former YMCA use.

4.0 THE PROPOSAL

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

4.2 To the ground floor:

Unit 1 – 1 bed accessed from main entrance on Holywell Street, a small area to the Devonshire Street side elevation to become garden amenity space.

Unit 2 – 1 bed accessed from Devonshire Street, a small area to the Devonshire Street side elevation to become garden amenity space.

Unit 3 – 1 bed accessed from the rear of the building on Devonshire Street

Unit 4 – 1 bed accessed from the rear of the building on Devonshire Street, a small area to the rear elevation to become garden amenity space.

Unit 5 – 2 bed accessed from the rear of the building on Devonshire Street, a small area to the rear to become garden amenity space.

Windows to adjacent bar to be blocked.

Garden, cycle and bin storage now to be stored within the ground floor of the building adjacent to the shared amenity space.



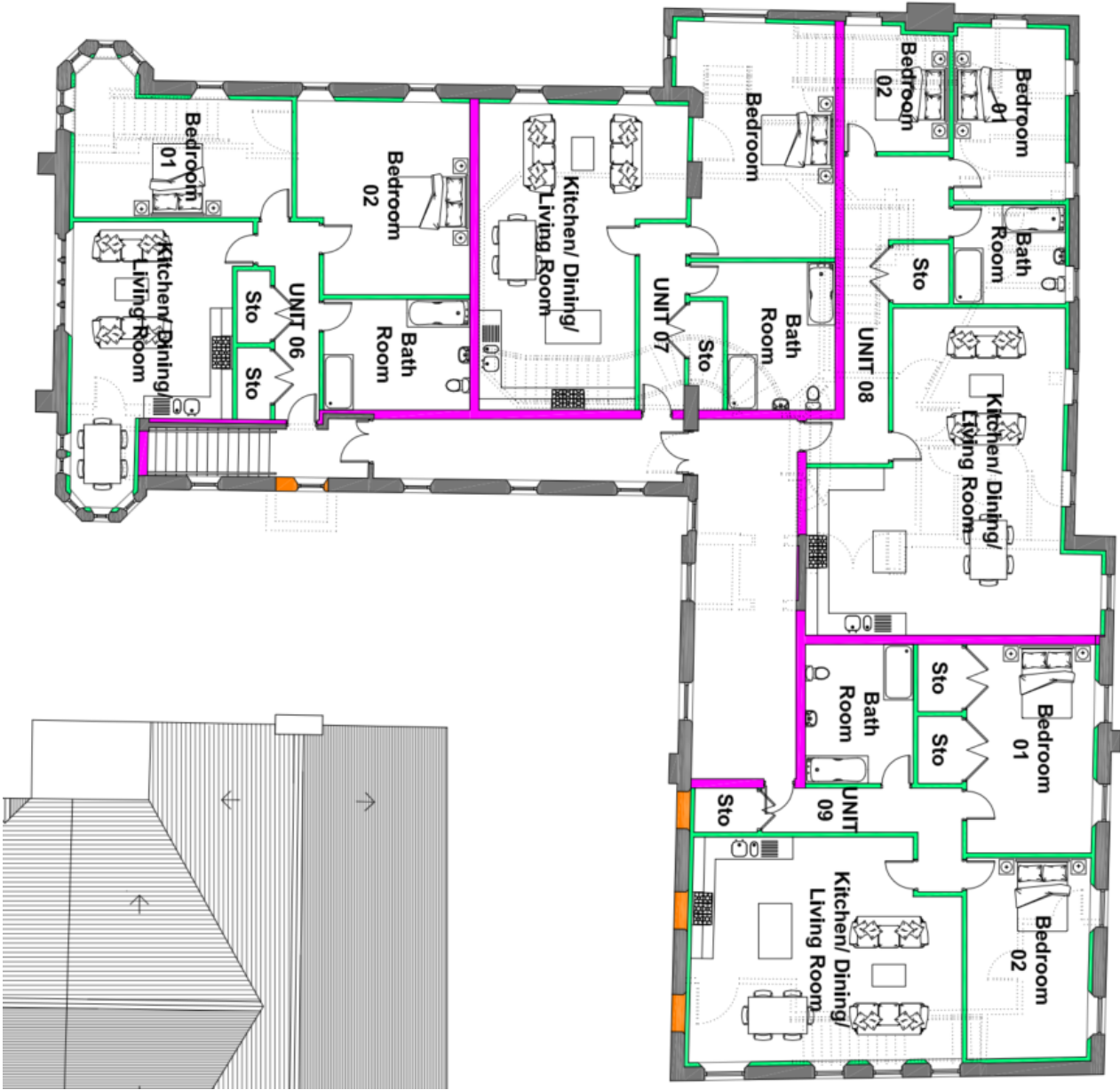
4.3 To the first and second floor, all accessed from main entrance on Holywell Street and via an internal stair and corridor:

Unit 6 – 2 bed

Unit 7 – 1 bed

Unit 8 – 2 bed

Unit 9 – 2 bed accessed from the rear of the building on Devonshire Street, windows to adjacent bar area blocked.



Elevations as proposed from Holywell Street:



Elevation from side Devonshire Street:



Elevation from rear on Devonshire Street:

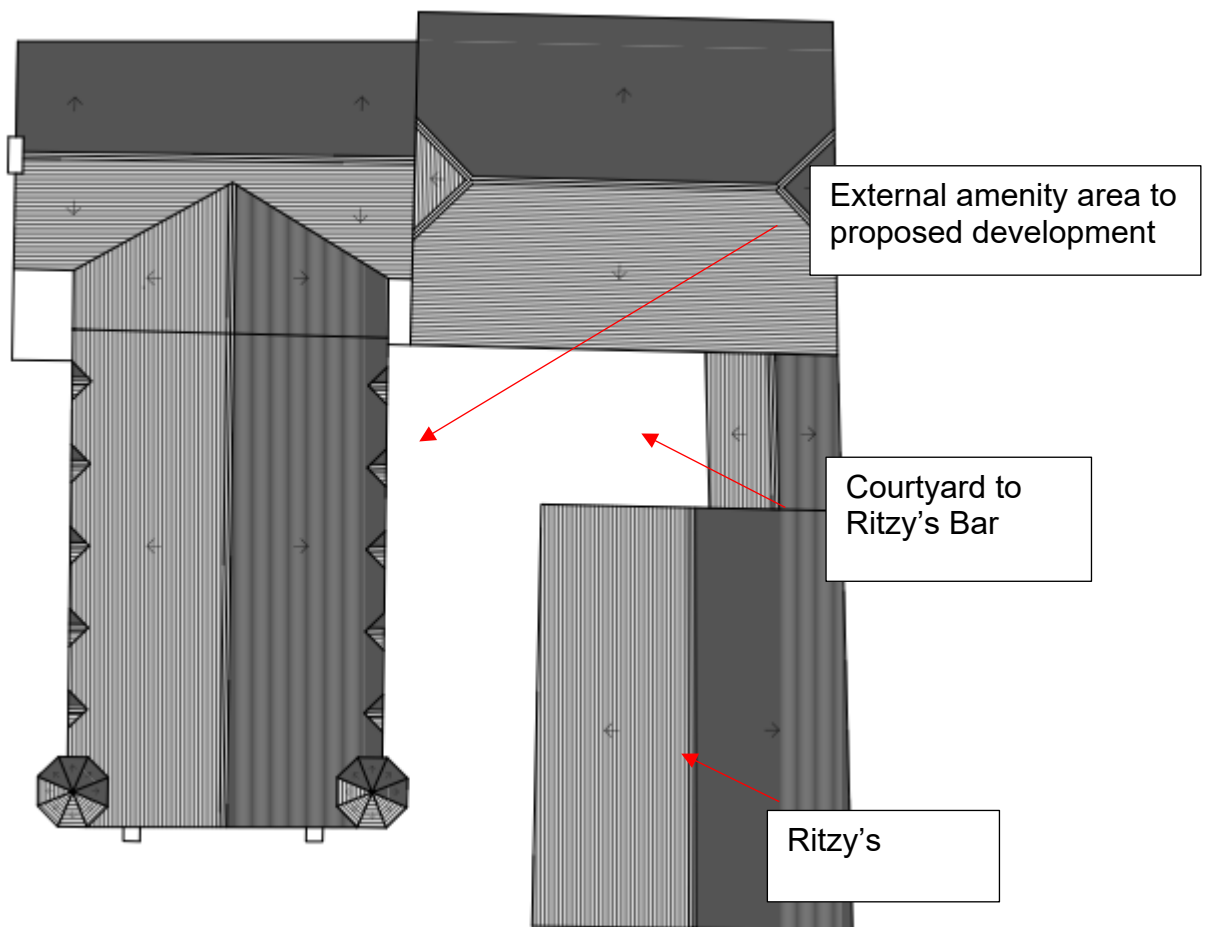


Elevation from Cowley Close and to internal courtyard:



4.4

Layout of the site and neighbouring courtyard and business premises:



4.5

The submission notes in the Design and Access Statement:

The previous scheme has been amended to address the points raised and the following amendments/ actions undertaken:

- *Residential units relocated such that there are no units looking out to the rear courtyard area adjacent to the source of noise that was a concern. All residential units now look out to the rear and side of the site with storage and access corridors acting as a buffer between the residential areas and the source of noise*
- *All windows noted to be replaced with new painted timber double glazed units with the exception of the large traceried window to the roadside. All windows to be fitted with aluminium secondary glazing. This measure to all areas will be in association with the location of windows away from the noise source as noted above*
- *All external walls to be lined internally with an acoustic insulated partition wall that is separated from the external wall to address both airborne and impact sound*
- *All habitable accommodation to be heated and ventilated by way of a MVHR system*

with source air and extraction to be to the rear and side walls and roof and therefore away from the noise source.

• A commitment that each residential unit will be acoustical tested prior to occupation to ensure that all residential units offer acoustic levels within acceptable limits. No unit will be occupied until such testing has proved satisfactory.

4.6 Additional information was also provided regarding levels of insulation as follows:

Acoustic Insulation – we have shown on the drawings that all perimeter walls (as well as internal partition walls) are to receive an additional timber frame stud partition to the inside that will incorporate 100mm Rockwool Sound Insulation Slab within. These partitions will be fully taped and jointed to seal.

The windows – we have proposed all existing windows to residential areas to be replaced (with the exception of the original decorative windows to the West end of the church). The new windows are to be painted timber double glazed fixed casement windows to be fully sealed. The existing decorative windows will be retained and overhauled to again allow for fully sealing. All windows are then to also receive powder coated aluminium secondary glazing by Clearview Secondary Glazing installed to the inside of each window reveal.

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

CLP1 Spatial Strategy (Strategic Policy)
CLP2 Principles for Location of Development (Strategic Policy)
CLP3 Flexibility in Delivery of Housing (Strategic Policy)
CLP4 Range of Housing
CLP8 Vitality and Viability of Centres (Strategic Policy)
CLP10 Social Infrastructure
CLP13 Managing the Water Cycle
CLP14 A Healthy Environment
CLP16 Biodiversity, Geodiversity and the Ecological Network
CLP20 Design
CLP21 Historic Environment
CLP22 Influencing the Demand for Travel
SS1 Chesterfield Town Centre (Strategic Policy)

5.3 Other Relevant Policy and Documents

- National Planning Policy Framework (NPPF)

5.4 Key Issues

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

5.5 Principle of Development

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

5.5.2 The proposal accords with Policy CLP1 which seeks to concentrate new development to within walking distance of a range of Key Services and regeneration areas. The dwellings would be well served by a range of facilities and services given their proximity to town centre transport links

and the high concentration of facilities within the town centre itself. The proposal would also accord with criteria a-b and d-h of CLP2 owing to the proposal's compliance with the spatial strategy, utilisation of previously developed land and accessibility to active transit routes / public transport. It is expected that utilisation of a vacant building on the Local List will provide regeneration benefits (CLP2 c).

5.5.3 Policy SS1 (Chesterfield Town Centre) seeks to enhance the range and quality of residential uses within Chesterfield town centre (SS1 i) and the proposed conversion would contribute towards this objective. Policy CLP8 (Vitality and Viability of Town Centres) states that "Residential uses (C3) will be permitted at first floor level and above (with the exception of suitable provision for access) and on appropriate redevelopment sites where it would not undermine the vitality of the centre". The proposal would not retain any main town centre uses within the building. However, as the application site is not located within the Primary Shopping Area the proposal is not expected to negatively impact on the vitality of the centre itself (CLP8). Furthermore, paragraph 86 of the NPPF advocates a flexible approach to growth and diversification of centres and references housing as part of the suitable mix of uses to be encouraged.

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

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

5.6 Heritage and design matters

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

In this case the designated assets are the adjacent listed buildings and conservation area.

b) goes on to state: the Council will; the significance of designated heritage assets and their settings including Conservation Areas, Listed Buildings, Scheduled Monuments and Registered Parks and Gardens,

e) goes on to state: the council will; identify and, where appropriate, protect non-designated heritage assets of local significance, set out in and referred to as the Local List;

In regard to other non-designated assets such as potential below ground archaeology; the exceptional circumstances where loss or partial loss of designated or non-designated heritage asset is considered to be justified, the council will require the developer to have the asset surveyed and recorded by a suitably qualified professional in advance of any alterations, demolition or groundwork.

- 5.6.2 The NPPF in para 206 requires that: Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.
- 5.6.3 The NPPF in para 205 requires that: Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.
- 5.6.4 The County Archaeologist was consulted on the case and reiterated the comments made on the previous submission: *This building is included in the Derbyshire Historic Environment Record (DHER no 13492). Originally built as a Primitive Methodist Chapel and Sunday school, it was erected in 1881 on the former site of a school/chapel. Brick built in a Gothic style, whilst this is not a listed building it is considered a non-designated heritage asset on the basis of its antiquity, architectural design and communal values associated with the historical development of the town. The building is also within the Chesterfield Town Centre Historic Core (see local plan core strategies), an area corresponding to the medieval/Roman core of Chesterfield and with potential for below-ground archaeological remains of these periods. In*

relation to this application, whilst we recognise that the building has seen structural changes as a result of changes of use since it ceased to function as a place of worship, the current proposals will involve further alteration to its fabric. This will occur through the division of existing spaces, demolitions, changes in fenestration and new openings being established in existing elevations. The proposed works will impact on the surviving historic fabric of the structure, its setting, and potentially on any below ground archaeological remains associated with it. Such remains are part of the historical and evidential significance of the building, and as yet the applicants have not fully assessed the impact of their proposals on this significance.

In order to address this we would recommend that the applicants commission a historic building appraisal and heritage impact assessment of the structure. This should include a desk-based study of the site (including map regression and other archival searches). The report should assess the significance of the heritage asset and the impact of the proposed works upon it. The report should be produced by a suitably qualified heritage professional (Chartered Institute of Archaeologists registered) we can give guidance on specialists who might undertake this work if necessary. The results of this assessment should then inform any required changes to the scheme to conserve its significance or to mitigate for the loss of any significance. NPPF para 194 requires that applicants establish the significance of heritage assets, and the level of proposed impact to that significance through their development proposals. The requested building appraisal and desk-based assessment will inform this with regard to the heritage asset involved. We would recommend that the application is not determined until the results of these studies are available to inform sensitive works to the building.

- 5.6.5 The above comments are noted and whilst ideally a historic building appraisal would be sought prior to determination in line with this advice, it is clear from an inspection of the interior of the building that limited historic fabric remains. The only remaining internal features other than the decorative windows to the façade of the building are the internal beams and an arch detail which would be within the flats on the first floor of the building. This is seen in the images below:



5.6.6

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

5.6.7

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

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

5.6.8 At this stage it is unknown as to whether the conversion works will impact on any below ground archaeology through the insertion of utilities and services. In view of this it is reasonable to impose a further condition in relation to works below the existing floor of the building and prior to any works on any exterior hardstanding detailing necessary and appropriate archaeological investigations and mitigation measures. This is considered to be a proportionate response to archaeological potential in line with para 205 of the NPPF.

5.6.9 The proposed conversion does include some elements that may remove or alter some remaining features of the building. This will be revealed once demolition of the extension has commenced. This relates in particular to where the store areas are to be located. Therefore, more information of the remaining features of the building are required to be submitted and the detailed works further considered once the single storey element is demolished. A condition will ensure that any agreed works to the storage area openings are appropriate to the remaining features of the building.

5.6.10 The works to the building include a small number of new openings to create access to the proposed flats and to allow light into the Cowley Close elevation. However, as the works overall will substantially improve the building these minor additions are considered to be acceptable. Subject to conditions the repair and re-use of this locally important building which contributes positively to the significance of the Conservation Area is considered to be a substantial benefit of the development in line with para 206 of the NPPF.

5.7 Neighbouring uses and amenity impacts

5.7.1 Policy CLP14 requires that: All developments will be required to have an acceptable impact on the amenity of users and adjoining occupiers, taking into account noise and disturbance, dust, odour, air quality, traffic, outlook, overlooking, shading, daylight and sunlight and glare and other environmental impacts.

5.7.2 In this case concern has been raised by adjacent business owners and other interested parties as to the impacts of creating new residential

units immediately adjacent to existing businesses which operate until the early hours of the morning. The concern is that residential uses in such close proximity to these existing businesses will lead to complaints about noise which could lead to restrictions being imposed on those businesses and therefore impacting on their economic viability.

- 5.7.3 As set out in para 4.5 above the scheme has been amended to reduce the impacts associated with the use of the adjacent business premises. In response to the amended scheme the Council's Environmental Health Officer has noted:
The application is a revised resubmission of CHE21/00448/FUL, which was refused due to noise from adjacent and nearby commercial venues (which operate as bars and nightclubs). I note that the internal layout of the proposed redevelopment has been altered to move the noise sensitive areas away from the closest noise source, and this is helpful. The applicant also states that the property is to be fitted with noise insulation, but there is no details on this. Given this, I am unable to support the application at this stage.
- 5.7.4 In response to these comments the agent provided the additional details set out in para 4.6 above to which the Council's Environmental health officer responded:
It wasn't clear on the information in the application, but I'm happy to withdraw my objections given the information supplied.
- 5.7.5 On this basis, subject to conditions to ensure the internal insulation as specific and details of all glazing including non-opening windows adjacent to the courtyard area where an internal corridor is now formed. It is considered that the scheme will not result in such adverse impacts on the future residents within the town centre area that a refusal is warranted.
- 5.7.6 The application site is a town centre location and therefore it is reasonable to assume that anyone proposing to occupy a flat in such an area is accepting of the associated impacts of living in the centre which includes noise from neighbouring premises. In addition, the Local Plan seeks to promote appropriate town centre living to ensure activity within the centre and its associated economic benefits for the long-term future of the town.

- 5.7.7 Subject to the conditions noted above appropriate consideration of the noise issues likely to occur at the site has been undertaken and will be suitably mitigated to enable the re-use of this vacant non-designated heritage asset which is in need of investment and re-use located within the town centre where appropriate residential uses are encouraged.
- 5.7.8 In terms of the internal space standards and access to light there are no concerns in relation to the details submitted, although some are only 1 bedroom the spaces of the flats internally are acceptable. External amenity space is provided for the ground floor flats and communally for the upper floor units through the removal of the flat roofed extension adjacent to the Ritzy's courtyard.
- 5.7.9 As set out above it is considered that in terms of noise, nuisance and amenity issues the proposal is considered on balance to meet the requirements of policy CLP14 of the Adopted Local Plan.

5.8 Air quality

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

5.8.4 The Environmental Health Officer then responded: *Side elevations can still be a route of entry for air pollution. When the applicant has considered air quality I will be able to reconsider this.*

5.8.5 The applicant then had a formal letter submitted from enzygo environmental consultants in relation to air quality matters which states: *Following our recent email correspondence with Chesterfield Borough Council (CBC) regarding the requirement of a detailed air quality assessment for the proposed development at 39 Holywell Street, Chesterfield, I am writing to query the necessity of this.*

The following response has been received from Environmental Health (via email on 20/12/21 from CBC Planning Department):

“I have no concerns about the consultant using the data from the nearby diffusion tube. Please also be aware that the Environment Act is undergoing a ‘refresh’ and there will likely be additional requirements placed on local authorities to monitor particulates. Please convey to the applicant that particulates as well as vehicle exhaust gases need to be considered as part of the air quality report.”

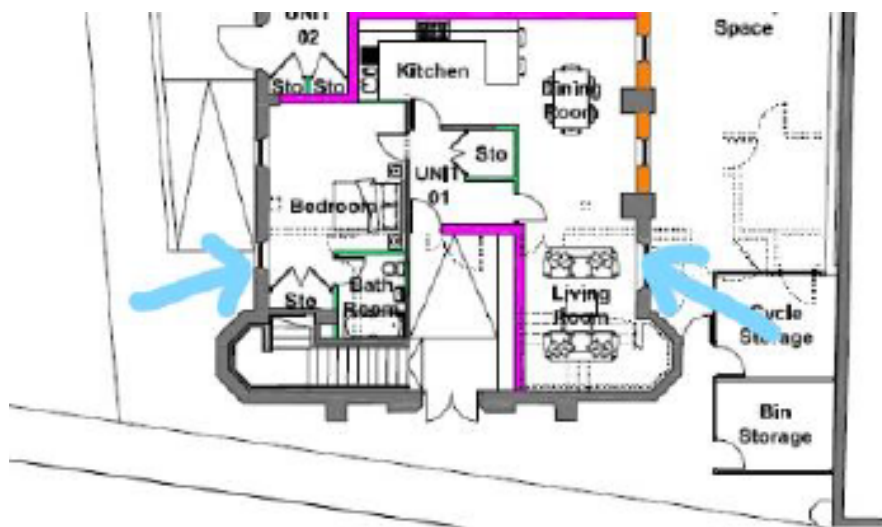
As such it is understood that concentrations of nitrogen dioxide (NO₂) at the proposed development site can be represented by the monitored levels at the nearby diffusion tube location (CBC monitor ref. 29). This monitor shows that roadside concentrations are consistently below the annual mean air quality objective (AQO) for NO₂ and it can be considered that concentrations at the site, which is set further back from the roadside than the monitoring location would also be below the AQOs. Following the agreement from CBC above, it is proposed that this can be reported with the planning application by means of an Air Quality Screening Assessment. Following a telephone conversation with the environmental health department it has been requested by CBC that an Air Quality Dispersion Modelling Assessment is carried out to assess particulate matter (PM₁₀ and PM_{2.5}) concentrations at the proposed development site and assess these against the AQOs. Given that roadside PM concentrations are below the relevant AQO at locations where the NO₂ AQO levels are achieved across the UK, it is considered reasonable to assume that that PM concentrations at the proposed development site would also be below the AQO and that a modelling assessment would not be required. In addition, CBCs review and assessment of local air quality in their area of administration has highlighted no exceedances of PM concentrations across the whole borough.

We are aware that the National Planning Policy Framework (NPPF) requires assessments to be proportional to the impacts or as in this case the potential risk of unacceptable exposure to pollution. We consider

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

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

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



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

5.8.6 No further response was received from the Environmental Health Officer to this information on the previous application. It is understood that as the Environment Act is still awaiting secondary legislation the “additional requirements placed on local authorities to monitor particulates” are not yet in place. As the concerns regarding air quality have not been raised in this case this matter is assumed to no longer be of sufficient concern to Environmental Health to raise concerns regarding the revised proposal bearing in mind there if no air quality management area in this part of the Borough.

5.8.7 The NPPF in para 186 states: Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or

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

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

5.9 Highways Safety and Parking Provision

- 5.9.1 Local Plan policy CLP20 and CLP22 require consideration of parking provision and highway safety.
- 5.9.2 In this case there is no parking provision at the property which is sustainably located in the town centre with access to a range of public transport.
- 5.9.3 The Highway Authority has been consulted on the matter and have commented: *No highway safety objections in principle to the conversion proposals given the previous use, town centre location and availability of public parking. Consideration should be given to securing appropriate cycle parking facilities for residents in line with your Authority's Local Plan requirements.*
- 5.9.4 A cycle store has been included in the proposed scheme. On this basis the proposal is considered to be acceptable in terms of highway safety matters in line with policies CLP20 and 22 of the Adopted Local Plan.

5.10 Biodiversity

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

5.10.3 In addition, the amended scheme now includes small garden areas which can be planted to aid biodiversity therefore a condition shall be added to secure an appropriate landscaping scheme.

5.10.4 On this basis the biodiversity requirements of Policy CLP16 are met.

5.11 Developer contributions

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

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

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

			A	B	C	D	E
Development Type	Proposed Floorspace (GIA in Sq.m)	Less Existing (Demolition or change of use) (GIA in Sq.m)	Net Area (GIA in Sq.m)	CIL Rate	Index (permission)	Index (charging schedule)	CIL Charge
Residential (C3)	928	-74	854	£50	332	288	<u>£49,224</u>

6.0 REPRESENTATIONS

6.1 Three representations (2 of which have the same wording) received which are summarised:

6.2 The plans indicate that 5 possible windows overlooking our property will not be put in place. There are still 6 first floor windows which overlook our property and we request that the plans are altered to these windows being triple glazed with opaque glass and non opening to avoid interaction between Ritzy’s customers and residents.

Windows will often let in noise even when double glazed. We are unsure if the plans state that additional secondary glazing means that windows will be triple glazed or will they just be single glazed with secondary glazing? If the second option is what the plans mean then we think that sounds inadequate.

Will the proposed MVHR system give each flat occupiers the option to have air conditioning switched on? This is unclear to us and would be essential in a development such as this.

We note that there is a commitment that each residential unit will have acoustic levels checked prior to occupancy.

These must be checked when the noise of local entertainment scene is at its loudest as well as at other times. What plans are there if noise levels are not acceptable when checked?

The new plan has several windows (including bedrooms) of unit 5 a few metres away from Punch Bowl's beer garden. The walkway, directly next to these windows, is the main walked route used by college students walking to and from Chesterfield college and town. Unit 9 also has windows overlooking punch bowl's beer garden.

Checks completed by ourselves indicate that noise from Ritzys does not reach this far. But these checks also indicate that very loud noise comes from other establishments, including Punchbowl, Vibe, Aruba, Moo bar, Association, Tiki bar etc. This would be a problem for residents, especially in summers months when there are loud outside speakers until 6am.

Our checks also indicate loud entertainment noise reaches the proposed development overlooking the car park.

The noise report completed on the original submission did not cover points MP3 (car park side) or MP4 (next to Punchbowl) at night, readings were only recorded during the day. This was stated in Esther Thelwell's email dated 22 February.

6.3 My objections to the application remain as before which are increased traffic. Pedestrian safety on a very busy road and what will be the visual effect on a building of historic interest. To say that disturbance of sleep or people being in danger of losing their business or having it curtailed is not irrelevant.

6.4 **Officer response:**
The internal layout of the development has been altered to seek to minimise the impacts between the adjacent businesses and the proposed residential units. On this basis Environmental health have no objection to the scheme. Conditions will be imposed to ensure the insulation proposed is appropriate that the first floor corridor windows adjacent to the adjacent courtyard area are fixed and non-opening. The windows are to be double glazed with secondary glazing in addition to this. Subject to conditions on this basis the proposal is considered to have reasonably addressed concerns relating to noise and nuisance.

In response to the issue of highway safety there is no parking or access proposed as part of this development and therefore no adverse impacts will arise in terms of highway safety. The Highway authority have raised no concern in regard to pedestrian safety as those on foot would be able to use existing crossings.

7.0 HUMAN RIGHTS ACT 1998

- 7.1 Under the Human Rights Act 1998, which came into force on 2nd October 2000, an authority must be in a position to show:
- Its action is in accordance with clearly established law
 - The objective is sufficiently important to justify the action taken
 - The decisions taken are objective and not irrational or arbitrary
 - The methods used are no more than are necessary to accomplish the legitimate objective
 - The interference impairs as little as possible the right or freedom

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

7.3 The recommended conditions are considered to be no more than necessary to control details of the development in the interests of amenity and public safety and which interfere as little as possible with the rights of the applicant.

8.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT

8.1 The following is a statement on how the Local Planning Authority (LPA) has adhered to the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 in respect of decision making in line with paragraph 38 of 2021 National Planning Policy Framework (NPPF).

8.2 Given that the proposed development does not conflict with the NPPF or with 'up-to-date' Development Plan policies, it is considered to be 'sustainable development' and there is a presumption on the LPA to seek to approve the application. The LPA has used conditions to deal with outstanding issues with the development and has been sufficiently proactive and positive in proportion to the nature and scale of the development applied for.

8.3 The applicant /agent and any objectors/supporter will be notified of the Committee date and invited to speak, and this report informing them of the application considerations and recommendation /conclusion is available on the website.

9.0 **CONCLUSION**

9.1 The principle of residential development within a sustainable town centre location is supported by policies CLP1, 2 and SS1. In such locations there are more likely to be noise concerns from the night-time economy, however the layout of the units and proposed insulation and windows details will ensure these impacts are appropriately mitigated. In addition, anyone moving into such a location will be aware of the surrounding commercial uses and their impacts.

9.2 In terms of air quality there is no AQMA in this location and the development will not lead to further air quality impacts, therefore the low risk from air quality is considered acceptable and no concerns on this basis have been raised by Environmental Health.

9.3 This development will provide a sustainable residential use within a vacant local non-designated heritage asset and the regeneration benefits associated with this is acceptable in line with local plan policy as set out above.

10.0 **RECOMMENDATION**

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

Conditions

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

Reason - The condition is imposed in accordance with section 51 of the Planning and Compulsory Purchase Act 2004

2. The development hereby approved shall only be carried out in full accordance with the approved plans (listed below) with the exception of any approved non-material amendment or conditional

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

Location plan 100 received 05.07.2022

Ground floor plan as proposed 201 Rev F received 12.07.2022

First floor and roof plan as proposed 2020 Rev E received 05.07.2022

Proposed elevations sheet 1 of 2 203 Rev E received 12.07.2022

Proposed elevations sheet 2 of 2 204 Rev C received 12.07.2022

Email from agent dated 17th August 2022

Sound insulation slab details received 17.08.2022

Design and access statement received 05.07.2022

Reason - In order to clarify the extent of the planning permission.

3. A - Notwithstanding the elevational detail of the garden store openings shown on plan no 204 Rev C to the south east facing elevation, and prior to works commencing on this element of the build, and following demolition of the single storey extension; photographs of this elevation of the building and any remaining features (such as window cills) shall be incorporated into a revised design detail of the elevation showing the opening and treatment of these all to be submitted to and agreed in writing by the Local Planning Authority. Works shall be completed in accordance with the agreed details.

B – Notwithstanding the elevational detail of the bin and cycle store openings shown on plan no 203 Rev E to the south west facing elevation, and prior to works commencing on this element of the build, and following demolition of the single storey extension; photographs of this elevation of the building and any remaining features (such as window cills) shall be incorporated into a revised design detail of the elevation showing the opening and treatment of these all to be submitted to and agreed in writing by the Local Planning Authority. Works shall be completed in accordance with the agreed details.

C - The agreed design of the garden, bin and cycle stores shall be installed and ready for use prior to first occupation of the accommodation.

Reason: To ensure an appropriate design finish to the building in the interests of the character and appearance of the Conservation Area in accordance with policies CLP20 and 21 of the Adopted Local Plan.

4. The windows to the upper floor corridor area shall be fixed and non-opening and shall remain so throughout the life of the development.

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

5. The ground floor windows to unit 5 and upper floor windows to unit 9 as identified on plans 202 Rev E and 201 Rev F shall be fully blocked, in accordance with details to be submitted to and agreed in writing by the Local Planning Authority, the agreed works shall be fully installed prior to first occupation.

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

6. Prior to any works commencing on the installation of new windows a detailed schedule of window and door details, including those to be retained, shall be submitted to and agreed in writing by the Local Planning Authority. Works shall be completed in accordance with the agreed details. The schedule shall include:

- a. Elevational design of all windows and doors including sections to align with an elevational plan of the building.
- b. Window design to accord with the email from the agent dated 17th August 2022.
- c. A detailed assessment of the existing windows and schedule of those to be retained and repaired along with full justification and method of repair.
- d. Details of secondary glazing to the retained windows
- e. Details of non-openable windows to the frontage of the building on Holywell Street to address air quality concerns.

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

7. Prior to first occupation the building shall be insulated in accordance with the details specified in the email from the agent dated 17th August 2022.

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

8. Prior to any works taking place to the floor of the existing building, below the existing floor level or to any exterior hardstanding; a detailed heritage assessment to inform the need for and where necessary details of a Written Statement of Investigation (WSI) all to be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include where necessary an assessment of the significance and research questions; and
 - a. The programme and methodology of site investigation and recording.
 - b. The programme for post investigation assessment.
 - c. Provision to be made for analysis of the site investigation and recording.
 - d. Provision to be made for the publication and dissemination of the analysis and records of the site investigation.
 - e. Provision to be made for archive deposition of the analysis and records of the site investigation.
 - f. Nomination of a suitably qualified, competent and experienced archaeological contractor or organisation to undertake the works set out within the Written Statement of Investigation.

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

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

and/or recording in accordance with details submitted to and approved in writing by, the Local Planning Authority.
Works shall be completed in full accord with the agreed details.

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

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

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

10. 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.

11. A scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the development, with planting to be carried out within the first planting seasons following first occupation. The details of which shall include :-
 - a) all plant species, planting sizes, planting densities, the number of each species to be planted in order to aid biodiversity;
 - b) means of enclosure;
 - c) hard surfacing materials;
 - d) external lighting details;

Reason - To ensure a satisfactory landscaped setting for the development and enhance biodiversity in line with policy CLP16 of the Adopted Local Plan.

12. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

Reason: To ensure a satisfactory landscaped setting for the development and enhance biodiversity in line with policy CLP16 of the Adopted Local Plan.

Informative Notes

1. The Local Planning Authority have during and prior to the consideration of this application engaged in a positive and proactive dialogue with the applicant with regard to parking and manoeuvring space on the site in order to achieve a positive outcome for the application.
2. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.
3. The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

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

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

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

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

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

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

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

4. The buildings have potential to support nesting birds. The active nests of all wild birds are protected under the Wildlife & Countryside

Act 1981 (as amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent. No building demolition work should be undertaken between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the work is commenced. If any active nests are discovered then the nest should be left undisturbed until the birds have fledged with an appropriate buffer surrounding the nest.

5. When you carry out the work, you must not intentionally kill, injure or take a bat, or intentionally or recklessly damage, destroy or block access to any structure or place that a bat uses for shelter. These would be offences under the Wildlife and Countryside Act 1981, the Habitats Regulations 1994 and the Countryside and Rights of Way Act 2000. Planning consent for a development does not provide a defence against prosecution under European and UK wildlife protection legislation.
6. Lighting installed on site shall be designed to ensure no glare or overspill occurs to nearby residential properties or the public highway.
7. In line with the advice of Derbyshire Fire and Rescue Service the proposed development should have a sprinkler system and if not a piped water supply of to allow for future installation.