

**ITEM 3****ERECTION OF 3 STOREY BUILDING CONTAINING THREE 4 BED APARTMENTS (ONE ON EACH FLOOR) - EACH TO BE USED AS A HOME IN MULTI OCCUPATION AT 3A WHARF LANE, CHESTERFIELD, DERBYSHIRE FOR DOVEDALE PROPERTIES.**

Local Plan: Unallocated, within the built up area

Ward: St Helens

**1.0 CONSULTATIONS**

|                                |  |
|--------------------------------|--|
| Ward Members                   | Updates requested from Local Ward Councillors – no objections or formal comments submitted   |
| Strategic Planning             | No objection to Principle of Development – See report.   |
| Environmental Health           | Conditions recommended covering hours of construction, details of lighting, electric charging facilities and land contamination.   |
| Design Services Drainage       | No objection – see report.   |
| Yorkshire Water                | No comments received   |
| Local Highways Authority (DCC) | Comments received – see report. Conditions recommended covering the submission of a construction management plan/method statement, provision of off-street parking prior to occupation, provision of cycle parking and no gates/barriers |
| Derbyshire Wildlife Trust      | No comments received   |
| Coal Authority                 | Comments received – see report. Conditions recommended covering intrusive site investigations  |
| Conservation Officer           | No comments received   |

Private Sector Housing      Dependent on numbers of occupants the property is likely to be subject to HMO licencing. See report

Representations      Letters of objection received from 7 residents.

## 2.0      **THE SITE**

2.1      The application site is within the defined 'Built up Area' and is unallocated on the Chesterfield Borough Council adopted local plan policies map 2018-2035. The site is located in an established residential area with access to bus services on Sheffield Road, as well as access to nearby centres and local amenities.



Extract of location plan ©



Aerial photograph taken from Google maps ©

2.2      The site comprises of an irregular shaped area of land to the rear of 3 and 5 Wharf Lane, on which stands a two-storey Victorian workshop building and a single storey outbuilding/garage. The site extends to include land formerly associated with No 5 Wharf Lane. The site is situated behind terraced housing on Wharf Lane to the north and Sheffield Road to the west. Immediately adjacent to the southern boundary is Sunny Springs, a private road. To the north and east are the rear gardens of dwellings on Wharf Lane.

2.3      Permission was previously granted for the conversion of the former workshop to three flats and one additional dwelling on the site in 2017 (application reference CHE/17/00218/FUL). This scheme has not been implemented and the site remains vacant.



Site access photo taken from Wharf Lane



Photo taken from within site facing towards Wharf Lane



Two storey former workshop building



Single storey detached building



Photos of site taken from Sunny Springs

2.4 Access to the site is taken through an opening between No 1 and 3 Wharf Lane formed of a single width driveway leading to the buildings and also to the rear of surrounding buildings. It is noted that at least 5 premises on the Sheffield Road frontage appear to utilise the rear yard/amenity space for off-road parking with access taken through the same entrance on Wharf Lane.

2.5 The gradient of the site rises towards the south west. The land level of the former garden of No 5 Wharf Lane is set lower than the

remaining site with a retaining structure to the south and the side elevation of the existing single storey garage/outbuilding enclosing the space to the west.

- 2.6 The Abercrombie Street Conservation Area boundary lies to the west of the site. The site frames views into the Conservation Area and out of the Conservation Area along Sunny Springs. There are views towards listed buildings situated on Sheffield Road including No 52 (to the west) and Ashton Lodge (to the south west).
- 2.7 The application is not supported by existing elevational drawings. An existing site plan is provided which illustrates the existing ground floor footprint, the application does include a structural survey of the two storey former workshop which includes measurements of the workshop building. The provided measurements in the survey have been cross referenced with previous elevational drawings submitted under application CHE/17/00218/FUL which did include detailed existing elevations. The measurements provided in the structural survey largely correlate with the previously submitted elevational drawings.
- 2.8 The gross external area of the two storey building is approximately 16m x 4.5m in footprint at ground floor level therefore the overall gross external area of the building is approximately 147sqm. The building measures 4.5m to the eaves and 6.9m to the ridge. The gross external area of the single storey outbuilding/garage is 66.6sqm measuring 13.6m x 4.9m in footprint. The single storey building incorporates a pitched and flat roof structure, measuring a maximum of 3.8m to the ridge of the pitched roof and 2.5m to the top of the flat roof (taken from west elevation ground level). Land levels vary across the site and as a result the height of the single storey structure is greater when viewed from the east elevation.

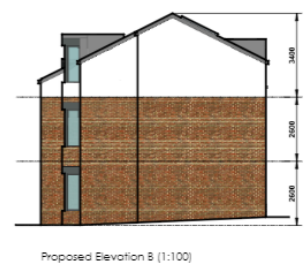
### **3.0 SITE HISTORY**

- 3.1 CHE/21/00804/FUL - Erection 9 new apartments – **WITHDRAWN 18.02.2022**
- 3.2 CHE/17/00218/FUL - Conversion of vacant former joiners workshop to form three numbers flats. Addition of 1 extra dwelling and enlargement of the site - received 14/06/2017. – **CONDITIONAL PERMISSION 19.09.2017**
- 3.3 CHE/11/00783/COU - Change of use of derelict property to form private parking including demolition of derelict building – **CONDITIONAL PERMISSION 20.01.2012**

3.4 CHE/0289/0085 - Permission for change of use to an Islamic centre for education and worship at 3A Wharf Lane Stonegravels Chesterfield for Muslim Association. – **CONDITIONAL PERMISSION 12.04.1989**

4.0 **THE PROPOSAL**

4.1 The application proposes the demolition of the existing two storey former workshop and single storey garage building and the erection of a three storey building containing three, four bedroom apartments. The proposed building is faced in brick and render with a grey slate roof. Windows are proposed to the north and south elevations with projecting bay style windows which provide an outlook from certain windows to the east and west.



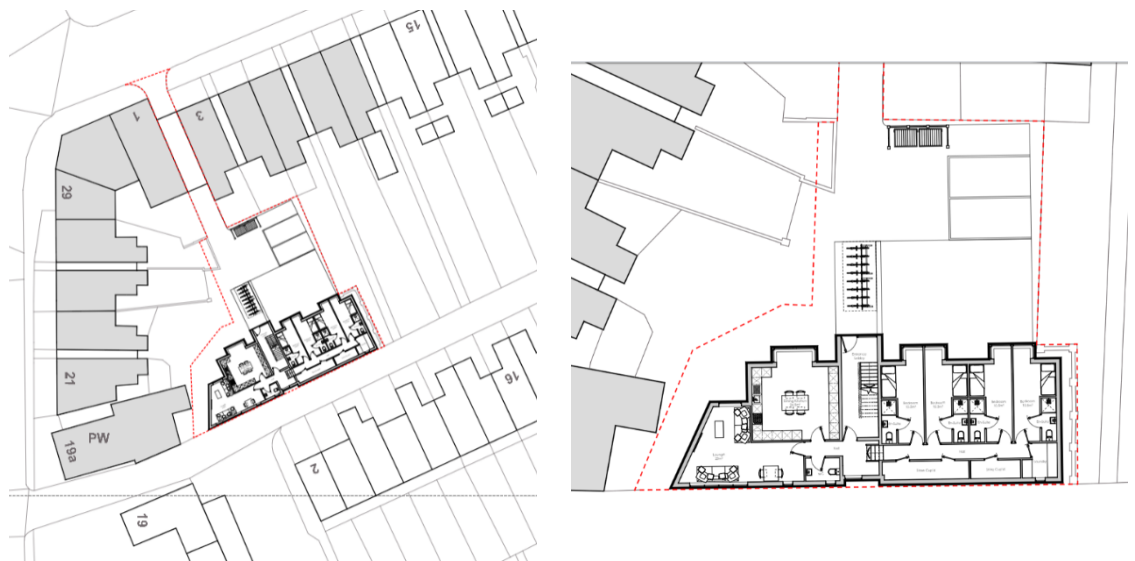
Proposed elevations ©



Illustrative visuals of scheme ©

#### 4.2

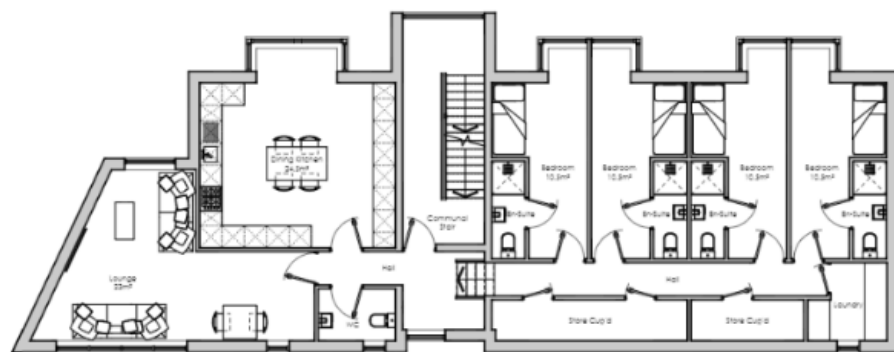
The proposed building measures a maximum of 23.8m x 9.1m in footprint. The gross external area of the three storey building is 174.5sqm at each floor therefore 523.5sqm gross external area overall. The design of the building is stepped to accommodate the changes in land levels across the site, the maximum measurement to the ridge therefore varies between approximately 8.5m and 9.1m. Eaves level also vary between 6m and 7.3m overall.



Proposed site layout plans ©

4.3 The submitted site layout shows the proposed building will be situated adjacent to the southern boundary of the site with Sunny Springs. Separation distances are considered to be approximately 8.7m to residential properties on Sunny Springs to the south and 17m to properties on Wharf Lane to the north. A minimum separation distance of 11.7 is proposed between the proposed projecting bay windows and the nearest rear elevation of the premise on Sheffield Road (21A), however separation increases with buildings on Sheffield Road towards the north west. The proposed layout includes off-street parking for two vehicles, bin store to the rear of No 3 Wharf Lane and 8 bicycle stands.

4.4 The three storey building comprises of one flat per floor each containing four bedrooms with shared facilities to operate as individual houses in multiple occupation. All the accommodation is accessed via the same route into the building. The layout on each floor is the same and includes a kitchen, separate lounge, shared w.c, laundry room and four single bedrooms each with en-suite. Storage cupboards are indicated on each floor.



Proposed First Floor Plan (1:100)

Proposed floorplan ©

## 5.0 CONSIDERATIONS

### 5.1 Planning Policy

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

### 5.2 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
- CLP11 Infrastructure Delivery
- CLP13 Managing the Water Cycle
- CLP14 A Healthy Environment
- CLP15 Green Infrastructure
- CLP16 Biodiversity, Geodiversity and the Ecological Network
- CLP20 Design
- CLP21 Historic Environment
- CLP22 Influencing the Demand for Travel

### **5.3 National Planning Policy Framework**

- Part 2. Achieving sustainable development
- Part 5. Delivering a sufficient supply of homes
- Part 8. Promoting healthy and safe communities
- Part 9. promoting sustainable transport
- 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**

Successful Places' Residential Design Guide

### **5.5 Reference Documents**

Technical Housing Standards – Nationally Described Space Standards

### **5.6 Principle of Development**

#### **Relevant Policies**

- 5.6.1 The application site is unallocated and is located within the built up area (CLP3) therefore policies CLP1 and CLP2 are of relevance.
- 5.6.2 Policy CLP1 sets out the overall approach to growth will be to concentrate new development within walking distance of a range of Key Services as set out in policy CLP2.
- 5.6.3 Policy CLP2 states that when *'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);*
- 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;*
- g) ensure the long term protection of safeguarded Minerals Related Infrastructure as identified in the Derbyshire and Derby Minerals Local Plan and shown on the Policies Map;*
- h) are not on the best and most versatile agricultural land;'*

### **Considerations**

- 5.6.4 The principle of development is assessed through consideration of Local Plan Policies CLP1 and CLP2 (see extracts above).
- 5.6.5 The Strategic Planning Team were consulted on the proposal and they confirmed that *'The site is within walking and cycling distance of a range of key services, including the services in the Newbold Local Centre and town centre, primary schools, further education and GP/Pharmacy. Bus services are good. The site performs well against criterion (d), being a reasonable walking distance to a key services, and contributes well to delivering the Spatial Strategy in this regard. As such the proposal would appear to a greater degree to accord with policy CLP2. In summary, whilst the application site is not allocated for any specific use in the adopted Local Plan, it is centrally located with access to a wide range of key facilities by walking. In principle residential use in this location accords with the spatial strategy as expressed in policies CLP1 and CLP2 of the adopted Local Plan.'*
- 5.6.6 The application site is located within walking and cycling distance of key services located in the defined Newbold Local Centre and town centre with access to public transport and facilities. The proposal is within the settlement boundary and would introduce additional housing within the existing built up area and therefore in principle meets the strategic requirements of Local Plan policies CLP1 and CLP2 and the NPPF.

## 5.7 Design and Appearance of the Proposal

### Relevant Policies

- 5.7.1 Local Plan policy CLP20 states *'all development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context respect the character, form and setting of the site and surrounding area by virtue of its function, appearance and architectural style, landscaping, scale, massing, detailing, height and materials.'*

### Considerations

- 5.7.2 The proposed development is three storey in character with a stepped design reflecting the land level changes across the site. The re-submission seeks to address concerns raised regarding the previous withdrawn proposal for nine flats by reducing the massing and scale of the scheme, re-considering window placement and removing of balconies. The development now proposed represents an improvement on CHE/21/00804/FUL, however a comparatively large building is still proposed.
- 5.7.3 The application site is highly constrained with a small and irregular site area bound predominately traditional terrace dwellings in close proximity. Whilst the site sits adjacent to Sunny Springs the site has the character of a backland location where small outbuildings and workshop could be expected. The existing site comprises of a two storey outbuilding measuring a maximum of 6.9m in height to the ridge and no windows to the south elevation facing Sunny Springs. A single storey outbuilding garage is located centrally within the site measuring a maximum of 3.8m in height. The current built form on the site accounts to approximately 213.6sqm in gross external area overall.
- 5.7.4 The proposed development comprises of a three storey stepped design. To reduce the overall height and scale of the structure dormers have been incorporated at third floor with the overall maximum measurement to the ridge varying between approximately 8.5m and 9.1m and the gross external area is approximately 523.5sqm (174.5sqm per floor) representing a substantial increase on existing built form comparatively. The proposed materials do reflect the surrounding palatte of materials which is predominately red brick with slate roof tiles and some areas of render.
- 5.7.5 The height, scale and massing of the proposal (whilst smaller than the design submitted under application CHE/21/00804/FUL)

is still relatively large in respect of the modest size of the application site and close relationship with surrounding neighbouring properties. The size and siting of the building will result in a very dominant and overbearing structure to the detriment of the neighbours amenity. The proposal is considered to be excessive in its context and an over-intensive development of the plot which fails to reflect the prevailing pattern of development and results in adverse impacts on the amenity of existing and future occupiers (see following section).

- 5.7.6 The proposal is therefore contrary to policy CLP20 and the adopted 'Successful Places' SPD as a dense overbearing development resulting in an incongruous addition in the context of the surrounding built form due to the height, scale and massing of the scheme resulting in adverse impacts of the amenity of neighbouring premises contrary to the requirements of policy CLP20 and the Successful Places SPD. The proposal does not reflect locally adopted design policies and government guidance on design and should therefore be refused in accordance with paragraph 134 of the NPPF.

## **5.8 Impact on Neighbouring Residential Amenity and Amenity of Future Occupiers**

### **Relevant Policies**

- 5.8.1 Local Plan policy CLP14 states 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*'
- 5.8.2 Local Plan policy CLP20 expects development to '*k) have an acceptable impact on the amenity of users and neighbours;*'
- 5.8.3 The adopted 'Successful Places' SPD is a material consideration and covers design and amenity considerations. The document also details minimum recommended requirements for separation distances and private amenity space.

### **Considerations**

- 5.8.4 The proposed development will create three flats each with four single bedrooms. Each flat has a gross internal area of approximately 138sqm. In 2015 the Government produced a document detailing 'Technical Housing Standards – Nationally Described Space Standards'. It is necessary to note that the Local Planning Authority has not formally adopted these standards,

however the documents provides a bench mark guide for reference. The technical standards do not include a minimum gross internal floor area for a single storey four bedroom four person dwelling, the nearest is four bedroom five person dwelling at 90sqm. The overall floorspace of the flats would therefore exceed the minimum recommended gross internal area. The space standards also set out minimum sizes for bedroom spaces stating that a single bedroom should have a floor area of at least 7.5m<sup>2</sup> and be at least 2.15m wide. Each room has an overall floorspace of 10.5sqm including the ensuite which is approximately 10.2sqm of bedroom space when the ensuite is discounted. The width of room is stepped from between 1.5m and 2.5m overall providing a small personal bedroom space for individual occupiers.

- 5.8.5 The Council's Private Sector Housing team were consulted on the proposal and they raised no objections to the scheme. The Housing Officer noted that the property would likely be subject to HIMO licencing and potentially could require one licence per floor.
- 5.8.6 The adopted Successful Place SPD sets out the minimum recommended separation distances between direct facing windows to be 21m (at 90-degree angle). The submission sets out the location of windows has been reconsidered as part of the re-submission with windows on the rear south elevation facing towards the car park at Sunny Springs with non-habitable room facing towards the principal elevation of dwellings on Sunny Springs.
- 5.8.7 The proposal features a large area of glazing on each floor in the south elevation of the building with separate single windows serving the shared living area, these windows are less than 9m from the windows of the closest dwelling No 2 Sunny Springs allowing for direct visibility from the proposed development to the property. It is acknowledged that the angle of direct sight for the adjoining properties on Sunny Springs (No's 4,6,8 and 10) is restricted however the proposal will still result in an overbearing and oppressive built form due to the highly restricted separation distance and close relationship between the application site and habitable room windows of the properties.
- 5.8.8 A similar adverse impact is considered to occur for the nearby residential properties on Sheffield Road. As the proposed development includes bay windows with glazing on three sides a direct line of sight will be available between the projecting bay kitchen windows and properties on Sheffield Road with a minimum separation of approximately 11.7m to the nearest rear elevation of

the premise on Sheffield Road (21A), however separation increases with buildings on Sheffield Road towards the north west.

- 5.8.9 A separation distance of approximately 17m is indicated between the proposed development habitable room windows serving properties on Wharf Lane to the north.
- 5.8.10 In summary the proposal would not meet the minimum recommended separation distances as set out within the SPD, therefore resulting in adverse impacts of overlooking/loss of privacy to the residential neighbours on Sunny Springs, Sheffield Road and Wharf Lane.
- 5.8.11 The proposed layout includes a bin store immediately adjacent to the rear boundary and amenity space serving No 3 Wharf Lane. The bin store faces south and therefore could be impacted by varying temperatures particularly during warm months which may result in odour which would have an adverse impact on the amenity of the occupants.
- 5.8.12 The submitted plan indicates private amenity space serving the development of approximately 59sqm. The adopted SPD recommends amenity space of 25sqm per flat therefore the amenity space is less than the minimum recommended. It is acknowledged that the figure is a recommendation, and the surrounding pattern and density of development can be taken into account. In this instance however this further illustrates that the proposal represents overdevelopment of the site. It is noted that the amenity space appears to extend to immediately in front of the windows for all bedrooms for the ground floor flat with no separation indicated which would adversely impact the amenity and privacy of the future occupiers of these flats.
- 5.8.13 On the basis of the observations listed above the submitted application would result in overdevelopment of the plot resulting in dwellings which do not meet the minimum recommended standards, adversely impacting the amenity of future occupiers and that of neighbouring residents. The proposal would not be in keeping with the character of the area resulting in an overbearing and cramped scheme with insufficient private amenity space, and inadequate separation distances to the detriment of amenity. The proposal is therefore contrary to policy CLP14, CLP20 and the adopted 'Successful Places' SPD.
- 5.8.14 In addition, the proposal would be contrary to paragraph 130 part f of the NPPF requires developments to provide a high standard of amenity for existing and future occupiers. The proposal does not

reflect locally adopted design policies and government guidance on design and should therefore be refused in accordance with paragraph 134 of the NPPF.

## **5.9 Historic Environment Including Impact on Setting of Listed Buildings and Conservation Area**

### **Relevant Policies**

- 5.9.1 Local Plan policy CLP21 states 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.
- 5.9.2 Section 16 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance and continues to states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

### **Consideration**

- 5.9.3 Consultation was undertaken with the Council's Conservation Officer and no comments have been received.
- 5.9.4 The application site is located adjacent to Abercrombie Street Conservation Area and there are two listed buildings on the opposite site of Sheffield Road, the nearest being No 52 Sheffield Road situated approximately 60m due west of the application site. Both listed buildings occupy an elevated position above Sheffield Road highway.
- 5.9.5 The proposed development will impact views into and views from Abercrombie Street Conservation Area. The proposal will result in the creation of a building which is 3 storey in character. Due to a variation in land levels buildings on Sheffield Road are elevated above the application site providing a degree of screening. The Christadelphian Hall is single storey in character providing some wider views of the application site and proposed development from the listed buildings and surrounding conservation area. The introduction of a new 3 storey building is considered to amount to

less than substantial harm to the listed buildings and conservation area however due to the separation and arrangement of the existing built form and land level changes this would be at a low level of harm. On balance it is not considered that the proposal could be refused based on the adverse impacts on the heritage assets and is therefore considered to accord with the principles of Local Plan policy CLP21.

## **5.10 Highways Safety, Parking Provision, Air Quality and Impact on Public Footpath**

### **Relevant Policies**

- 5.10.1 Local Plan policy CLP20 expects development to '*g) provide adequate and safe vehicle access and parking and h) provide safe, convenient and attractive environment for pedestrians and cyclists*'
- 5.10.2 Local Plan policy CLP22 details the requirements for vehicle/cycle parking.

### **Considerations**

- 5.10.3 The application site is located on Wharf Lane, vehicular access to the site is through a narrow single width entrance between Nos 1 and 3 Wharf Lane. It is noted that at least 5 premises on the Sheffield Road frontage appears to use the rear yard/amenity space for off-road parking with access taken through the same entrance on Wharf Lane (see photos below). It is unclear if the parking and access is authorised and what rights occupiers on Sheffield Road have for access. The proposed layout will prevent rear parking to all properties on Sheffield Road resulting in the displacement of existing parking for residents. Concerns have been raised by a local residents regarding the implications for the access and existing off-street parking provision for the properties on Sheffield Road.





Photos showing parking to the rear of premises on Sheffield Road

- 5.10.4 The application site is located in area where traffic regulation orders are in place on Sheffield Road and Wharf Lane with double yellow lines and restricted parking bays. Parking is understood to be at a premium for local residents with parking concerns being raised in objections received. The proposed layout plan shows off-street parking for two vehicles for a development with a maximum of 12 occupants. The parking spaces shown appear tight with limited space for manoeuvring. No details have been provided regarding the level changes across the site as the existing former garden of No 5 is set lower than the existing land levels. It is clear that the existing parking opportunity to the rear of Sheffield Road properties as shown in the photographs above would be adversely affected and would certainly involve more tortuous manoeuvres.
- 5.10.5 The Local Highways Authority were consulted on the proposal and they stated that a highway safety objection would not be sustainable however the low levels of off-street parking provision were noted. The Highways Officer acknowledged that the level of off-street provision is not ideal however continued to say the site is located in a sustainable location in proximity to Chesterfield town centre with availability of facilities and public transport and suggested that residents would therefore not be totally reliant on the use of private vehicles. The Officer highlighted that on-street parking on the surrounding highway network is generally covered by a Residents parking scheme which would require future occupants to apply for the relevant permit. The Officer recommended that to prevent overly long reversing manoeuvres a revised site layout be provided demonstrating that vehicles can turn and leave the site in a forward gear. Further conditions were recommended covering the submission of a construction



management plan/method statement, provision of off-street parking prior to occupation, provision of cycle parking and a condition preventing the installation of gates/barriers on the access.

- 5.10.6 In the submitted planning statement the applicant states that an audit of comparative properties within their ownership found client car ownership rate to be approximately 30%. The scheme would therefore still result in a deficit of off-street parking based on the rate provided since the scheme proposes a rate of between 16 and 17%. It is acknowledged that the site is in a sustainable location within walking distance of the town centre and public transport connections however it is also accepted that parking in the area is at a premium resulting in the need for a specific resident only parking scheme on the surrounding streets.
- .5.10.7 The application includes provision of 8 cycle stands and the planning statement refers to this as covered provision. If minded to approve this matter could be controlled by condition to ensure secure covered cycle storage to encourage cycle use.
- 5.10.8 In so far as Air Quality, electric charging point should be installed as part of the build phase and can be controlled by condition.
- 5.10.9 The application site is situated in a sustainable location in walking distance to Newbold Local Centre and the Town Centre with access to a range of facilities and public transport opportunities. The site will provide just two off-street parking spaces, and the submitted layout plan shows turning and manoeuvring appears awkward. The proposal will prevent off-street parking for existing properties on Sheffield Road resulting in a displacement of existing vehicles to utilise the permit scheme and designated parking bays which are understood to be at a premium. It is considered that the concerns referred to are implicit in the fact that the development is over intensive on a restrained site and which will contribute to increased highway parking which cannot necessarily be accommodated for. On balance it is considered that notwithstanding the comments of the Highway Authority that the development would be adverse in so far as highways impact is concerned and would not accord with policy CLP20 and CLP22.

## **5.11 Flood risk, Drainage and Water Efficiency**

### **Relevant Policies**

- 5.11.1 Local Plan policy CLP13 states that *'The council will require flood risk to be managed for all development commensurate with the*

*scale and impact of the proposed development so that developments are made safe for their lifetime without increasing flood risk elsewhere.*

*Development proposals and site allocations will:*

*a) be directed to locations with the lowest probability of flooding as required by the flood risk sequential test;*

*b) be directed to locations with the lowest impact on water resources;*

*c) be assessed for their contribution to reducing overall flood risk, taking into account climate change.*

- 5.11.2 Local Plan policy CLP13 states that *'Development proposals will be expected to demonstrate that water is available to support the development proposed and that they will meet the optional Building Regulation water efficiency standard of 110 litres per occupier per day.'*

### **Considerations**

- 5.11.3 The application site is located in 'Flood Zone 1' as defined by the Environment Agency and is therefore considered to be at low risk of flooding. Having regards to the provisions of CLP13 and the wider NPPF the application was referred to the Council's Design Services (Drainage) Team and Yorkshire Water for comments in respect of flood risk and drainage/waste water. No comments were received from Yorkshire Water
- 5.11.4 The Council's Design Services Drainage Team raised no objections to the development and noted that several public sewers are shown to cross the proposed site which may require liaison with Yorkshire Water. The site should be developed with separate foul and surface water drainage and sustainable drainage principles should always be the first option in the hierarchy of surface water disposal.
- 5.11.5 It is considered that details of drainage and water efficiency could be controlled by condition if approved to address the requirements of Local Plan policy CLP13.

## **5.12 Ground Conditions and Land Stability**

### **Relevant Policies**

- 5.12.1 Local Plan Policy CLP14 states that *'Unstable and Contaminated Land Proposals for development on land that is, or is suspected of*

*being, contaminated or unstable will only be permitted if mitigation and/or remediation are feasible to make the land fit for the proposed use and shall include:*

- a) a phase I land contamination report, including where necessary a land stability risk assessment with the planning application; and*
- b) a phase II land contamination report where the phase I report (a) indicates it is necessary, and*
- c) a strategy for any necessary mitigation and/or remediation and final validation.*

*A programme of mitigation, remediation and validation must be agreed before the implementation of any planning permission on contaminated and/or unstable land. The requirement to undertake this programme will be secured using planning conditions.*

- 5.12.2 Paragraph 178 of the NPPF states that *'Planning policies and decisions should ensure that:*
- a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);*
  - b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and*
  - c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.'*

### **Considerations**

- 5.12.3 The application is site is situated within an area considered to be at risk of former coal mining legacy. The Coal Authority and the Council's Environmental Health Officer were consulted on the proposal.
- 5.12.4 The application is supported by a Coal Mining Risk Assessment. The assessment was reviewed by the Coal Authority and it was noted that the report included a review of coal mining and geological information and concluded that unrecorded underground coal mine workings at shallow depth may be present beneath the site. The submitted report makes recommendations for ground investigations to be carried out on the site in order to establish the extent of any unrecorded shallow mine workings and

to inform any remedial works and/or mitigation measures needed to ensure the site is safe and stable. The Coal Authority recommended a condition covering intrusive site investigations and associated mitigation/remediation works (if required)

5.12.5 The Council's Environmental Health Officer noted that the site may be at risk of land contamination and recommended a condition be imposed requiring a Phase 1 desk top study and if necessary Phase 2 investigations and remediation.

5.12.6 It is considered that conditions covering intrusive investigations and land contamination assessment could be controlled by condition if approved to address the requirements of Local Plan policy CLP14 and the NPPF.

## **5.13 Biodiversity Including Impact on Protected Species**

### **Relevant Policies**

5.13.1 Local Plan policy CLP16 states that *'The council will expect development proposals to:*

- *avoid or minimise adverse impacts on biodiversity and geodiversity; and*
- *provide a net measurable gain in biodiversity'*

5.13.2 The NPPF also requires net gains in biodiversity (paragraph 170 d).

### **Considerations**

5.13.3 The application is supported by a preliminary bat roost assessment produced by The Bat Surveyor, report dated September 2021. The preliminary assessment concludes both buildings are suitable for roosting bats with the former workshop assessed as having high bat roost potential and the single storey garage building having moderate potential. No evidence of bats was observed during the initial assessment. Further surveys were recommended as part of the preliminary assessment.

5.13.4 Further bat surveys were undertaken by Peak Ecology limited (reference DovPr01) report dated 30.06.2022. The surveys found no evidence of bats during the updated preliminary bat roost assessment conducted by Peak Ecology and no bats were recorded emerging from or re-entering either building during the nocturnal surveys confirming likely absence of roosting bats within the building. The report concludes that no European Protected

Species (EPS) mitigation licence is required prior to the demolition works.

5.13.5 Derbyshire Wildlife Trust were consulted on the proposal, however no comments were received. If minded to approve the proposal it would be advisable to seek confirmation from the Wildlife Trust that the methods and findings of the reports were acceptable. In this instance the application is recommended for refusal therefore it is not considered necessary to gain clarification from Derbyshire Wildlife Trust on the submitted reports at this stage, particularly as in this instance no evidence of bats were found during the assessment or emergence surveys.

5.13.6 The preliminary bat roost assessment produced by The Bat Surveyor in 2020 also included ecological enhancement opportunities for the site, recommending the provision of roosting and nesting habitat for birds and bats in the form of wildlife boxes, recommending at least one bat box should be integrated into the façade and one into the soffit boxes of the proposed building and at least two bird boxes should be integrated into the façade of the proposed building. The submitted elevational drawings do not include integrated bird/bat boxes, however this could be controlled by condition along with details of soft landscaping to provide ecological enhancement if recommended for approval to accord with the requirements of CLP16 and the NPPF.

## **5.14 Developer Contributions and Community Infrastructure Levy**

5.14.1 Having regard to the nature of the application proposals the development comprises the creation of a sui generis use therefore would not be CIL liable.

## **6.0 REPRESENTATIONS**

6.1 The application has been publicised by neighbour notification letters and site notice and advert in the local press. Letters of objection have been received from 7 local residents and a brief summary is provided below (the full letters of representation are available to read on the website)

Parking/highway safety concerns

- Properties that back onto the application site use the lane for access and turning. Existing issues with difficulties reversing in and out of driveways due to cars parked.

- Proposal does not provide sufficient off-street parking within the site and there are existing parking issues in the local area including Wharf Lane. The proposed development will result in 12 new tenants which could result in 12 vehicles- attempting to fit on the already overcrowded streets leaving less space of existing residents who already park on Wharf Lane.
- Additional development in immediate area include the conversion of 1A wharf lane to 3 apartments further adding to lack of parking in the area and density of development.
- already difficult at peak times with a parking permit
- bring further cars to an already busy road with little parking
- resident of wharf lane – frequently has to park car on different roads as there are no available parking spaces. There appears to be an average of 2 vehicles per property and on Fridays/weekends when visitor parking is further restricted with indiscriminate parking around the corner shop on Sheffield Road which causes issues and concerns regarding accidents. Proposal will introduce more permanent residents who will wish to park on Wharf Lane contributing to parking problems
- development will bring further traffic and pollution
- electric vehicle charging and future proofing

#### Overbearing/overdevelopment of site and amenity impacts

- Concerns regarding the size of the buildings and a three storey building will reduce daylight to properties. Proposal will tower over surrounding properties. Loss of light to properties will require use of electric lighting and heating resulting in increased energy bills
- 3 storey building will adversely overlook properties to an uncomfortable degree and compromise privacy. Proposal is overdevelopment of the site and will resulting in overshadowing surrounding gardens and overlooks neighbouring properties
- Developer has not taken into account objections from neighbours 3 four bedroom apartments too big for site, do not believe there is sufficient demand for a property of this size
- Proposal will be overbearing and intrusive impacting outlook for residents
- Development will have a detrimental impacts on character of local area due to design and massing of building
- Development will result in excess noise and nuisance to the detriment of the neighbours residential amenity

#### Land stability and drainage

- Concerns raised regarding environmental damage, potential increased flooding and excess sewage  
Neighbour notification process
- Unhappy that notification has not been received regarding the development

#### Commencement of development

- Local residents have witnessed builders/trades working at 3A residence suggesting that they have started work and intend to build the 3 properties which is against planning regulations

#### Non material planning considerations

- When purchased property on Wharf Lane under the impression the garden that was previously sold to the developer for a garden space or communal area
- Impact of proposal will devalue properties

### 6.2 Officer comments

- Parking/highway safety concerns – see section 5.10 of report
- Overbearing/overdevelopment of site and amenity impacts – see section 5.7 and 5.8 of report
- Land stability and drainage – see section 5.11 and 5.12 of report
- Neighbour notification process – letters were sent out to boundary sharing neighbours, two site notices displayed and an advert was placed in the Derbyshire Times
- Commencement of development – the Case Officer has visited the site on three occasions and no evidence of commencement of development was observed.
- Non material planning considerations cannot be given weight in the determination of planning application

### 7.0 **HUMAN RIGHTS ACT 1998**

#### 7.1 Under the Human Rights Act 1998, which came into force on 2<sup>nd</sup> 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 the application process considered the re-submission in respect of concerns raised for the previous application CHE/21/00804/FUL. The Local Planning Authority considered the merits of the submitted application and judged that there was no prospect of resolving the fundamental planning problems with it through negotiation due to the constraints and limitations of the site. On this basis the requirement to engage in a positive and proactive manner is considered to be best served by the Local Planning Authority issuing a decision on the application and thereby allowing the applicant to exercise their right to appeal.

## **9.0 CONCLUSION**

9.1 Overall the proposal is considered contrary to policies CLP14 and CLP20, of the Local Plan, the adopted Successful Places SPD and the NPPF.

## **10.0 RECOMMENDATION**

10.1 It is therefore recommended that the application be **REFUSED** for the following reasons:

The proposal is considered to be an overdevelopment of the plot which fails to reflect the prevailing pattern of development resulting in an incongruous addition in the context of the surrounding built form. The size, scale and massing of the building will result in a



very dominant structure to the detriment of the neighbours amenity. The proposal would not meet the minimum recommended separation distances as set out within the adopted Successful Places SPD, therefore resulting in adverse impacts of overlooking/loss of privacy to the residential neighbours on Sunny Springs, Sheffield Road and Wharf Lane. The proposal will result in the displacement of existing resident parking opportunities and result in inadequate parking provision on site for the new residents to the detriment of amenity and highway safety. The proposal would not be in keeping with the character of the area resulting in an overbearing and cramped scheme with insufficient private amenity space, inadequate separation distances and insufficient account of the need for accommodating adequate and useable off street parking. The proposal is therefore contrary to policy CLP14, CLP20, CLP22 Chesterfield Borough Local Plan 2018 – 2035 and the adopted 'Successful Places' SPD. The proposal does not reflect locally adopted design policies and government guidance on design and should therefore be refused in accordance with paragraph 134 of the NPPF. In addition, the proposal would be contrary to paragraph 130 part f of the NPPF requires developments to provide a high standard of amenity for existing and future occupiers.