

## **Committee Report Item No: 2**

**Application No: 19/00723/FUL**

**Type: Full Planning Application**

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### **1. Application Details**

**1.1. Address:** 3 Mansfield Road, Derby

**1.2. Ward:** Darley

**1.3. Proposal:**

Change of use from public house (Use Class A4) with flat above to an office (Use Class B1(a)) and four flats (Use Class C3) together with associated external alterations including the installation of new windows.

**1.4. Further Details:**

Web-link to application:

<https://eplanning.derby.gov.uk/online-applications/plan/19/00723>

**Brief description**

The application relates to the site of the former Waterside Inn public house. It stands at the southern end of Mansfield Road, close to its junction with Phoenix Street and Sowter Road. The irregular shaped site stands in between Mansfield Road and the river. St. Mary's Bridge provides a southern boundary to the site.

The application site is fully hard surfaced and it accommodates 3 Mansfield Road which currently accommodates signage associated with its use as a public house. It is a building that has single, two and three storey sections with the three storeys standing back to the pavement edge in Mansfield Road. The building has a pitched roof and is fully rendered and painted. To its rear and on its western (river) side, the building has been extended in the past with a conservatory style flat roof extension which connects to a mezzanine floor and provides access to a roof terrace that overlooks the river. A further roof terrace is located at first floor level and this is accessed via the building and via an external staircase. A further separate external staircase has been added to this elevation and it provides access to the buildings upper levels.

3 Mansfield Road is vacant at present but its ground and mezzanine floors have most recently been used as a public house with the first and second floors serving as a single unit of residential accommodation with five bedrooms. The applicant has advised that the building has been vacant since March / April 2018. The pub building was historically served by a car park that stands to its north which is accessed directly off Mansfield Road.

3 Mansfield Road is a locally listed building. Its local listing notes that it was constructed in approximately 1790 as a private dwelling before being converted to a public house between 1849 and 1857. It is understood that it has remained in that use since.

The application site stands in the buffer zone of the Derwent Valley Mills World Heritage Site (DVMWHS). It also sits alongside a group of listed buildings that are clustered alongside the river. This includes the Grade II\* listed and Scheduled Ancient Monument, St Mary's Bridge, the Grade I listed St Mary's Bridge Chapel and Grade II listed St. Mary's Bridge House.

## **Committee Report Item No: 2**

**Application No: 19/00723/FUL**

**Type: Full Planning Application**

Planning permission is sought for the change of use of 3 Mansfield Road to an office on the ground floor with four flats above. Three no. one bedroomed flats and one no. two bedroomed flat are proposed to extend across the mezzanine, first and second floors.

The external alterations proposed as part of the works include the redesigning of the first floor extension, replacing glazing with rendered elevations. Several new window openings are proposed to be inserted in the southern and western elevations. No new openings are proposed in the eastern elevation which faces Mansfield Road although the doorway that remains in situ would be brought back into use. A shared area of outdoor amenity space is shown on the first floor roof terrace and this would be accessible from within the building for all occupiers of the flats.

12 no car parking spaces are proposed to serve the development and would be located in the existing car park that stands adjacent to the building. The plans show 6 spaces dedicated to the office use and 6 dedicated to the residential use. In addition, 12 no cycle parking spaces are proposed with 6 allocated for use by residents and 6 allocated for use by the office. These are proposed to be located to the rear of the building along with the bin stores.

The information submitted in support of this application includes a Planning, Design and Access Statement, Community Facilities Statement, Heritage Impact Assessment, Flood Risk Assessment, Structural Condition Survey, Transport Statement, Air Quality Assessment, Noise Impact Assessment, Preliminary Bat Roost Assessment and an Assessment of Impacts to Wildlife.

### **2. Relevant Planning History:**

Most recent:

<b>Application No:</b>	17/18/01040	<b>Type:</b>	Full Planning Application
<b>Decision:</b>	Application withdrawn	<b>Date:</b>	12/02/19
<b>Description:</b>	Change of use from public house (use class A4) and a first floor rear extension to create ten flats (use class C3).		

### **3. Publicity:**

A site notice was displayed on 10/07/19 and a statutory press advert published on 12/07/19.

*This publicity is in accordance with statutory requirements and the requirements of the Council's adopted Statement of Community Involvement.*

### **4. Representations:**

The three Darley Ward Councillors have submitted objections in response to this application in addition to five individual objections from residents.

In objecting to the application, Ward Councillors have raised the following issues;

## **Committee Report Item No: 2**

**Application No: 19/00723/FUL**

**Type: Full Planning Application**

---

- The use of the building as a pub allowing for special views that are achieved from the building towards the Cathedral, the river, the ancient bridge and St Mary's Church;
- The loss of the pub use negatively impacting on the character of the area and the Bridge;
- The proposal having a detrimental impact on the cohesion and feel of the community in Chester Green;
- Other successful independent pubs in Derby have thrived and such an opportunity should be available for this pub;
- The Councillors having been approached by companies who would like to take the building on as a public house;
- The proposal being bland and uninspiring, detracting from the street scene and resulting in a loss of amenity;
- Insufficient car parking being provided to serve the development, on street parking already exceeding supply locally and the proposal leading to traffic problems in the area;
- That the Council's car park should not be used to serve the development.

The five residents have objected to the application on the following grounds;

- There already being a lot of empty offices in the area and offices having planning permission in City Road that have not yet been built;
- There already being planning permission in place for lots of flats in the local area and that increase in local population will want to use the pub;
- The rejuvenation of the historic building as a pub should be encouraged as it remains a commercially viable proposition;
- Unrealistic valuation of the building being the reason the property stands empty;
- The use of the building as a pub, adding to the character of the riverside;
- The pub should be retained to help attract visitors to Chester Green;
- The pub serving as a useful venue for people visiting the DVMWHS;
- The loss of historic amenity to allow for small volumes of offices and flats being unnecessary;
- Apart from the Council House café, the pub offering the only place in the City Centre that you can eat in a riverside setting;
- The development causing increased traffic and parking issues;
- The site being unsuitable for the proposed use given its flood risk;
- Proposing a flood evacuation route onto St Alkmund's Way being a bad idea as it is a hazardous evacuation route onto a road that would be busier during times of flood given the road closures resulting from the closure of flood gates in the area.

**5. Consultations:**

**5.1. Highways Development Control:**

The proposed development is located near the city's ring road, with excellent public transport links in the vicinity and is around 10 minute walk from the city centre.

The former public house already benefits from its own car park, which is shared with other businesses adjoining it. The existing access for the car will continue to be used for the proposed development. The car park will provide 12 spaces for the proposed development. Each of the flats will be allocated 1 space, with 2 spaces for visitors and the remaining will be for the office. Secure parking for 12 cycles, 6 for the flats and 6 for the office, is also proposed. The application does not show how these spaces will be secured, marked / delineated and reserved within the adjacent car park.

**Recommendation:**

Should planning permission be granted, I would recommend the following:

**Condition:**

No part of the development hereby permitted shall be brought into use until the cycle parking layout as indicated on drawing MPD498-PL-02B has been provided and that area shall not thereafter be used for any purpose other than the parking of cycles.

**Reason:**

To promote sustainable travel.

**Notes to applicant:**

The consent granted will result in alterations to an existing building which needs naming and numbering. To ensure that any new addresses are allocated in plenty of time, it is important that the developer or owner should contact [traffic.management@derby.gov.uk](mailto:traffic.management@derby.gov.uk) with the number of the approved planning application and plans clearly showing plot numbers, location in relation to existing land and property, and the placement of front doors or primary access on each plot.

**5.2. Conservation and Urban Design:**

This is a re-consultation on an application is for change of use to an office and residential use above for four flats and with some external changes. Some further information has been submitted including the proposal to add a timber picket fence in between the flood wall and the building to which I have no objection. I would, however, suggest that the current picket fence which is located to the river side of the flood wall be removed as this is unnecessary clutter within the setting of the building and heritage assets nearby.

The comments I have previously made are still relevant. These are as follows: -

**Heritage Assets affected and impact of proposals**

The application site is the Waterside Inn (formerly the Bridge Inn), a heritage asset as it is, a locally listed building described thus:

*'Rendered public house of circa 1790, with many later additions. Principal building is three storeys including attic windows, with a slate covered roof. Windows are a mix of late 20th C casement windows and early 20th C timber sliding sash windows. On the south elevation is a window surround (modern casement window) with cornice*

## **Committee Report Item No: 2**

**Application No: 19/00723/FUL**

**Type: Full Planning Application**

### **5. Consultations Cont'd**

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*supported by carved brackets which are damaged. There is a concrete tiled western extension to the south of this, with a late 19th C vertical sliding sash window. The western side of the building, facing the river, has had a flat roofed first floor conservatory style building added in 1989, with a roof top garden. The pub was established between 1849 and 1857, but the building was originally a private dwelling, built circa 1790 by the Improvement Commission at the same time as the adjacent grade I listed and scheduled St. Mary's Bridge, to the designs of William Forester.'*

It occupies a prominent isolated position on the east bank of the River Derwent within the Derwent Valley Mills WHS buffer zone (immediate setting of the DVMWHS) and forms part of an important group with the scheduled and Grade II\* listed C18 St Mary's Bridge (NHLE ref 1215897) and the Grade I medieval Bridge Chapel (NHLE ref 1215878) and House. The Waterside Inn is a three storey L-plan building whose principal elevation is aligned with Mansfield Road. The building's organic, incremental form, which can be appreciated from multiple viewpoints, is one of its most distinctive characteristics. It is the setting (as part of significance) of the DVMWHS and the listed buildings that is affected by these proposals. To limit this impact the detailed designs of any works proposed are important e.g. materials used, design detail of joinery for windows and doors (including where they sit within the aperture so that they are recessed enough) and the colour and finish of the render. I suggest should you be minded to grant permission that these are conditioned.

#### **Conclusion:**

It is regrettable that the building is not to remain in its original use as a public house. This is clearly the best use for the building. However if this is not possible then a historic building in use is better than a vacant one. In terms of the impact of the visual appearance of the proposals – the impact has been lessened and proposals, in my view, improved have since the last application.

Para 197 of the NPPF is relevant here as are Policies E19 of 2006 City of Derby Local Plan Review and CP20 of the 2017 Derby Local Plan Core Strategy.

In the light of para 197 of the NPPF *'The effect of an application on the significance of a nondesignated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset'*.

#### **Recommendation:**

No objection

### **5.3. Environmental Services (Health – Pollution):**

*The relevant comments provided in response to Air Quality are as follows;*

I have reviewed the application information and I would offer the following comments in relation to Air Quality implications for the development as follows.

1. The scheme introduces new sensitive receptors (i.e. the occupants of dwellings) into an area of the city which is known to experience relatively high

## **Committee Report Item No: 2**

**Application No: 19/00723/FUL**

**Type: Full Planning Application**

### **5. Consultations Cont'd**

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concentrations of air pollution and has been declared an Air Quality Management Area (AQMA).

2. Given the history of the site as a public house, the scheme is not however expected to make any notable contributions to local emissions from any traffic associated with the scheme, in comparison to the previous use.
3. I note the submission of an air quality assessment (Aerquality Ltd, Ref: 166.1, Dated: 23/11/18) in support of the application. I can comment on the report and any implications for local air quality within the planning context as follows.

#### Air Quality Assessment

4. The assessment includes detailed dispersion modelling (using AERMOD software) in order to predict the changes in concentrations of air pollutants resulting from the scheme.
5. The report does however acknowledge that modelling the changes is not necessary following the application of DMRB screening criteria.
6. Whilst construction-related emissions are not assessed in detail, the report does acknowledge the need for an appropriate *Dust Management Plan* to be in place, in accordance with IAQM Guidelines.
7. The AQ modelling is based on DfT traffic data incorporating a baseline year of 2017. An opening year scenario is based on 2020.
8. Future year predictions are based on the DMRB gap analysis methodology, which I note is considered to be more conservative than using DEFRA emission factors.
9. Modelling was completed at 4 receptor points across the façade of the proposed new dwellings of the development at 3 Mansfield Road.
10. The modelling indicates that the highest concentration of annual average nitrogen dioxide (NO<sub>2</sub>) at any of the modelled points is predicted to be 27.36µgm<sup>-3</sup> in 2020. This is well under the National Objective value of 40µgm<sup>-3</sup>.
11. Maximum predicted PM<sub>10</sub> concentrations at the dwelling façade is 18.18µgm<sup>-3</sup> against the national Objective value of 40µgm<sup>-3</sup>, indicating an even lower impact associated with particulate matter.
12. In all cases, the development itself contributes no greater than a 0.1µgm<sup>-3</sup> of either NO<sub>2</sub> or PM<sub>10</sub>. When considering the total concentrations and the development contributions together, this indicates a *negligible impact* in accordance with IAQM Guidance.

#### Conclusions and Recommendations on Air Quality

13. The modelling is suitably detailed and robust and provides confidence that the development is unlikely to create any significant air quality impacts. Furthermore, air quality mitigation is not deemed necessary.
14. The Environmental Protection Team has no objections to the application on air quality grounds.

## **Committee Report Item No: 2**

**Application No: 19/00723/FUL**

**Type: Full Planning Application**

### **5. Consultations Cont'd**

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15. Notwithstanding the above conclusions, it would still be prudent to ensure that construction-related emissions are controlled through a detailed *Construction Dust Management Plan* and this should be secured through an appropriately worded condition.

*The relevant comments provided in response to noise are as follows;*

I have reviewed the application information and I would offer the following comments in relation to noise implications for the development as follows.

#### Context

A revised noise impact assessment report has been submitted in support of the above application following comments made by DCC EP Noise in Nov 2019.

Document (s) submitted for review: Apex Acoustics Noise impact assessment report No: 7860.1C dated 6 December 2019

#### Section 3

The amendments made to this section are considered sufficient.

#### Section 4

4.24: The assertion that the daytime values are 'controlling the level of protection required' seems to be inconsistent with a comparison of Tables 8 and 6 which set out the predicted values, with Table 2, which sets out the impact thresholds. For example a required noise reduction of  $86-45 = 41$  dB is larger than  $69-35 = 34$  dB at measurement location 4.

4.25 to 4.37: It would appear that data from a nearby survey done by others for a proposed development at 12-14 Mansfield Road have been used to support the estimated  $L_{AfmMax}$  values being used for the purposes of the assessment of this proposed development. Certainly for future reference it would be helpful if night time values for assessment and design purposes are at least derived from representative measurements made during the night-time period. In the absence of this, greater uncertainty needs to be attached to the figures used, on top of the variations typically found in environmental noise measurement.

#### Section 4

Table 9: The noise reduction values required, of up to 45 dB for glazing and up to 50 dB for ventilators, are relatively high, and as the report suggests at 5.1 to 5.11 measures to achieve the noise insulation and ventilation requirements will need to be carefully considered, designed and installed.

#### Conclusion and Recommendation

It is concluded that the report provides sufficient evidence that significant adverse noise impacts could be avoided on occupants of the proposed dwellings and offices. However considering the uncertainty over the assessment and the high standard of noise insulation required it is recommended that the following Condition is included with respect to noise.

'All reasonable measures shall be taken to design and construct the proposed development so as not to exceed the following noise levels in any living room or bedroom, including during the normal operation of all space heating, cooling and ventilation systems.

## **Committee Report Item No: 2**

**Application No: 19/00723/FUL**

**Type: Full Planning Application**

### **5. Consultations Cont'd**

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- i)  $L_{Aeq, 16hr}$  (0700-2300) of 35 dB
- ii)  $L_{Aeq, 8hr}$  (2300-0700) of 30 dB
- iii) 10<sup>th</sup> highest  $L_{A_{fMax}}$  (2300-0700) of 45 dB (using 1 minute measurement intervals)

Sufficient monitoring shall take place to confirm that the above objective has been achieved. The results of such monitoring shall be reported and accepted by the Local Planning Authority in writing prior to first occupation of any dwelling. The measures installed shall be retained and maintained at all times thereafter to ensure continued satisfactory performance'

#### **5.4. Derbyshire County Council Archaeologist:**

We would refer you to our advice of 29th July 2019 relating to this scheme and the requirement for that the applicants commission an historic building appraisal of the Bridge Inn, which should include a desk-based study of the site (including map regression and other archival searches). This report should assess the significance of the heritage asset and the impact of the proposed works upon it.

We recommended that the report should be produced by a suitably qualified heritage professional (Chartered Institute of Archaeologists registered), to a written scheme of investigation to be agreed with ourselves. The reason for asking for this detailed study is because the Bridge Inn is recorded on the Derbyshire Historic Environment Record (DHER no; 32537) and is on the City of Derby Local List . It is therefore a non-designated heritage asset.

The DHER entry for the Bridge Inn describes a multi period building dating from the late 17th century describing it as follows: The pub was established between 1849 and 1857, but the building was originally a private dwelling, built circa 1790 by the Improvement Commission at the same time as the adjacent grade 1 listed and scheduled St. Mary's Bridge, to the designs of William Forester

To date the assessment that we require, produced by a suitably qualified archaeological contactor, has not been undertaken. The Heritage impact assessment produced by Astill's is completely inadequate in terms of understanding the phasing of the building, the recording of surviving original internal features, potential for below ground archaeology etc. The documentation supplied so far does not even include any internal photographs of the building.

Taking this in to account we would re-iterate the need for the buildings appraisal described above. We can provide information on suitable archaeological consultancies/contactors with the relevant expertise to produce the required assessment if necessary.

The results of this assessment should then inform any required changes to the scheme to conserve any extant significance or to mitigate for the loss of any significance.

NPPF para 198 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



## **Committee Report Item No: 2**

**Application No: 19/00723/FUL**

**Type: Full Planning Application**

### **5. Consultations Cont'd**

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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.

#### **5.5. Environment Agency:**

The Environment Agency maintains our no objection response as previously detailed, however in light of the revised FRA, would like to amend our condition to the following:

In light of the revised FRA, we would like to amend our conditions to the following-

##### Condition

The development shall be carried out in accordance with the submitted flood risk assessment (ref 2019s0334 Mansfield Road FRA\_FINAL\_v4.0 ) and the following mitigation measures it details:

- Finished floor levels shall be set no lower than existing levels within the ground floor commercial section of the development, as detailed in section 5.2 of the FRA.
- Flood resistance and resilience measures are incorporated into the development, as detailed in section 5.3 and 5.4 of the FRA.
- The basement is to be utilised for storage purposes only with no vulnerable assets placed within, as detailed in section 5.6 of FRA
- These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

##### Reasons

To reduce the risk of flooding to the proposed development and future occupants. To reduce the impact of flooding should it occur

#### **Flood warning and emergency response - advice to LPA**

We do not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network.

The [planning practice guidance](#) (PPG) to the National Planning Policy Framework states that, in determining whether a development is safe, the ability of residents and users to safely access and exit a building during a [design flood](#) and to evacuate before an extreme flood needs to be considered. One of the key considerations to ensure that any new development is safe is whether adequate flood warnings would be available to people using the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their

## **Committee Report Item No: 2**

**Application No: 19/00723/FUL**

**Type: Full Planning Application**

### **5. Consultations Cont'd**

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decisions. As such, we recommend you consult with your emergency planners and the emergency services to determine whether the proposals are safe in accordance with the guiding principles of the PPG.

#### **Environmental permit - advice to applicant**

The Environmental Permitting (England and Wales) Regulations 2016 require a permit or exemption to be obtained for any activities which will take place:

- on or within 8 metres of a main river
- on or within 8 metres of a flood defence structure or culverted main river
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the river bank, culvert or flood defence structure and you don't already have planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03708 506 506 (Monday to Friday, 8am to 6pm) or by emailing [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk).

The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

#### **5.6. Derbyshire County Council (Emergency Planner):**

In general my comments would be in line with the Derby City Highways and Land Drainage Team, about the unsuitability of residential premises in this location. If approved then I would want a condition to be recommended for a suitable and sufficient 'Flood Warning and Evacuation Plan' to be drawn up, detailing safe egress routes, as the current suggestion in the FRA of directing pedestrians to St Alkmunds Way would not in my opinion be a safe option.

#### **5.7. Derbyshire Wildlife Trust:**

I have reviewed the ecological reports prepared by Middlemarch Ecology (assessment of impacts to LWS and preliminary bat survey) together with relevant documents and drawings that describe the proposals for the site.

##### Results of Assessment

The building has been assessed as having high potential for use by roosting bats, based on an initial daytime inspection and dusk emergence / dawn re-entry surveys have been recommended to comply with current standards for determining presence / likely absence of a roost.

All British bats are European Protected Species and the Council is obliged to fully consider the extent of impacts on bat roosts and ensure that appropriate mitigation is implemented where a roost would be affected. This must be part of the decision making process when considering any planning application, therefore unfortunately I

## **Committee Report Item No: 2**

**Application No: 19/00723/FUL**

**Type: Full Planning Application**

### **5. Consultations Cont'd**

---

must advise that as the relevant survey work has not been completed there is insufficient information available at this time. Planning policy does not ordinarily allow for bat surveys to be conditioned and the surveys recommended in the preliminary bat survey report will need to be carried out prior to determining the application.

In relation to other ecological issues, I concur with the ecologist's assessment that adhering to standard good practice measures for pollution prevention would avoid the risk of contamination entering the River Derwent during the construction phase. As noted in the ecology report, the lighting design will need to avoid illumination of the river corridor to maintain its value to foraging bats and otter but the proposals are not anticipated to present impacts on any other local wildlife sites.

#### **Conclusion and Recommendations.**

As the proposals are contained within the footprint of existing built development it is likely that the development could be done without resulting in a net loss for biodiversity, although the site status in relation to roosting bats needs to be confirmed prior to determining the application to ensure that appropriate mitigation can be secured where relevant.

This type of project provides limited opportunity to achieve a net gain for biodiversity, but the addition of bird nest boxes / cups could achieve some measure of ecological enhancement for species such as house martin or swift.

#### **5.8. Derwent Valley Mills World Heritage Site Partnership:**

*The Partnership have confirmed that their comments (below) are unchanged by amendments to the proposals which now include the retention of external staircases to the riverside elevation of the building;*

The proposed development lies within the Derwent Valley Mills World Heritage Site (DVMWHS) Buffer Zone. The Derwent Valley Mills were inscribed on the World Heritage List by UNESCO in 2001. The Derwent Valley Mills Partnership, on behalf of HM Government is pledged to conserve the unique and important cultural landscape of the Derwent Valley Mills World Heritage Site; to protect its outstanding universal value (OUV), to interpret and promote its assets; and to enhance its character, appearance and economic well-being in a sustainable manner.

The retrospective Statement of Outstanding Universal Value (SOUV) for the Derwent Valley Mills was adopted by the World Heritage Committee in 2010. The SOUV refers to the following UNESCO criteria, which the World Heritage Committee agreed were met at the time of inscription. They are:

- C(ii) That the site exhibits "an important interchange of human values, over a span of time or within a cultural area of the world, on developments in architecture or technology, monumental arts, town planning or landscape design";
- C(iv) That the site is "an outstanding example of a type of building or architectural or technological ensemble or landscape, which illustrates a significant stage in human history".

The SOUV records that these criteria were met for the following reasons:

## **Committee Report Item No: 2**

**Application No: 19/00723/FUL**

**Type: Full Planning Application**

### **5. Consultations Cont'd**

---

C(ii) The Derwent Valley saw the birth of the factory system, when new types of building were erected to house the new technology for spinning cotton developed by Richard Arkwright in the late 18th century.

C(iv) In the Derwent Valley for the first time there was large-scale industrial production in a hitherto rural landscape. The need to provide housing and other facilities for workers and managers resulted in the creation of the first modern industrial settlements.

A Management Plan for the World Heritage Site was created in 2002, and updated in 2014. It has as the first of its nine aims to: "protect, conserve and enhance the Outstanding Universal Value of the DVMWHS." In accordance with this aim, and with reference to Section 12.1 of the Management Plan, I have consulted with Derbyshire County Council's Conservation, Heritage and Design Service (which advises the World Heritage Site Partnership in planning matters) and have received the following advice:

There appears to be no significant change to the proposals for which the DVMWHS Partnership responded in July 2019. We therefore have no further comments to add, but reiterate the comments made at that time:

The proposed development site is the former Waterside Inn public house which sits wholly within the DVMWHS Buffer Zone. The site abuts the boundary to the WHS and the existing building sits prominently on the corner of Mansfield Road overlooking the River Derwent and St Mary's Bridge, a Grade II\* Listed Building. As a former inn and public house, the building is considered to be an attribute of the WHS for its contribution to the social infrastructure related value; as defined in Section 2.6 of the current DVMWHS Management Plan (2014-19).

Comments were provided previously to the Partnership in January 2019 for a similar scheme albeit solely for the conversion to residential use. Concerns were expressed over the proposed development due to the design quality of a relatively prominent two-storey extension which overlooked the river and had the potential to have a negative visual impact on nearby attributes of the WHS.

It is pleasing to see that the current scheme has been substantially reduced in size and it is contained within the existing building volume. The current scheme will also require the demolition of a number of existing features which clutter the riverside elevation, including an unsightly metal escape stair and an external masonry stairwell which currently obscures part of the rear elevation.

Whilst there will be a loss of the ability to interpret the buildings historic function as a public house within the WHS it is considered that the positive changes proposed through the conversion of the building will mitigate this adverse impact. It is therefore to this end the DVMWHS Partnership does not object to the proposed development as no harm should be done under the current NPPF and there should be no harm done to the OUV of the DVMWHS.

## **Committee Report Item No: 2**

**Application No: 19/00723/FUL**

**Type: Full Planning Application**

### **5. Consultations Cont'd**

---

#### **5.9. Historic England:**

Thank you for your letter of 7 November 2019 regarding further information on the above application for planning permission. On the basis of this information, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

#### **5.10. Police Liaison Officer:**

Access to open space at the rear and back of the site I think still needs enclosing and securing against incursion from the surrounding car park and riverside, to be accessible for residents/occupiers only as previously mentioned.

Residential mail delivery requires attention, which would look to be achievable through wall into secure mail boxes to the right of the residential entrance.

Residential cycle and refuse storage now looks to be in some form of enclosure (to be confirmed/conditioned?) but office cycle racks are not, and again as mentioned before, the flood defence wall does not form a secure boundary to the rear.

It's appreciated that you may not have progressed much beyond conservation matters for the withdrawn application, but once these are resolved I recommend that the matters above are tackled, particularly for the amenity of apartment residents.

#### **Further comments received following receipt of revised plans are as follows:**

I don't consider a 1m high wooden picket fence to be secure. In my previous responses I've not indicated height or form, conscious of the setting, but realistically anything under 1.5m in height is no more than a demarcation, with 1.8m in height considered a starting point for secure fencing.

This provision to enclose the private rear grounds, cycle and bin store would obviously cost considerably more than the short section of picket fencing suggested, but if acceptable for the setting would be advisable.

The relocation of residential access to Mansfield Road is also noted, as is the addition of mail boxes within the lobby. This would require general unsecured access into the building lobby unless Royal Mail is prepared to enter into an access agreement. Failing this I revert back to initial thoughts of through wall delivery into secure internal boxes, involving more structural work I understand, but reducing the risk if mail theft significantly.

## **Committee Report Item No: 2**

**Application No: 19/00723/FUL**

**Type: Full Planning Application**

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### **6. Relevant Policies:**

The Derby City Local Plan Part 1 - Core Strategy was adopted by the Council on Wednesday 25 January 2017. The Local Plan Part 1 now forms the statutory development plan for the City, alongside the remaining 'saved' policies of the City of Derby Local Plan Review (2006). It provides both the development strategy for the City up to 2028 and the policies which will be used in determining planning applications.

#### **Derby City Local Plan Part 1 - Core Strategy (2017)**

CPI(a)	Presumption in favour of Sustainable Development
CP2	Responding to Climate Change
CP3	Placemaking Principles
CP4	Character and Context
CP6	Housing Delivery
CP11	Office Development
CP19	Biodiversity
CP20	Historic Environment
CP21	Community Facilities
CP23	Delivering a Sustainable Transport Network
AC1	City Centre Strategy
AC2	Delivering a City Centre Renaissance
AC7	The River Derwent Corridor
AC8	Our City Our River
AC9	Derwent Valley Mills World Heritage Site
MH1	Making it Happen

#### **Saved CDLPR Policies**

GD5	Amenity
H13	Residential Development – General Criteria
H14	Re-Use of Underused Buildings
E12	Pollution
E13	Contaminated Land
E17	Landscaping Schemes
E19	Listed Buildings and Buildings of Local Importance
E20	Uses within Buildings of Architectural Importance
E24	Community Safety
E25	Building Security Measures

The above is a list of the main policies that are relevant. The policies of the Derby City Local Plan Part 1 – Core Strategy can be viewed via the following web link:

[http://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/policiesandguidance/planning/Core%20Strategy\\_ADOPTED\\_DEC%202016\\_V3\\_WEB.pdf](http://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/policiesandguidance/planning/Core%20Strategy_ADOPTED_DEC%202016_V3_WEB.pdf)

Members should also refer to their copy of the CDLPR for the full version or access the web-link:

[http://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/policiesandguidance/planning/CDLPR\\_2017.pdf](http://www.derby.gov.uk/media/derbycitycouncil/contentassets/documents/policiesandguidance/planning/CDLPR_2017.pdf)

## **Committee Report Item No: 2**

**Application No: 19/00723/FUL**

**Type: Full Planning Application**

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An interactive Policies Map illustrating how the policies in the Local Plan Part 1 and the City of Derby Local Plan Review affect different parts of the City is also available at – <http://maps.derby.gov.uk/localplan>

*Over-arching central government guidance in the NPPF is a material consideration and supersedes earlier guidance outlined in various planning policy guidance notes and planning policy statements.*

### **7. Officer Opinion:**

#### **Key Issues:**

In this case the following issues are considered to be the main material considerations which are dealt with in detail in this section.

#### **7.1. Policy context**

#### **7.2. Community facilities**

#### **7.3. Heritage impacts**

#### **7.4. Design, layout and residential amenity**

#### **7.5. Access, parking and highway implications**

#### **7.6. Flood risk**

#### **7.7. Ecology**

#### **7.8. Noise and Air Quality**

#### **7.9. Conclusion**

### **7.1. Policy Context**

In the Derby Housing Market Area (HMA), Derby City is unable to meet its housing need within its administrative boundaries and under the Duty to Co-operate the three Local Planning Authorities have agreed that some 5,388 dwellings will need to be met in South Derbyshire and Amber Valley in the plan period to 2028. This approach was found 'sound' by the Inspectors examining the Derby City and South Derbyshire local plans and Amber Valley made no representations that this approach was unsound. Amber Valley's contribution to this unmet need, agreed through a signed statement of ongoing co-operation, is 2,375 and was taken into account in terms of the housing 'requirement' in the emerging local plan that Amber Valley had submitted for examination.

However, Amber Valley has recently withdrawn its emerging local plan, published an updated 5 year supply calculation claiming a 5.41 year supply based on the governments new 'standard method' which takes no account of the unmet need in Derby which it had agreed to meet by 2028. Derby City Council has made representations to Amber Valley that the unmet need in Derby is a material consideration to which significant weight should be given when determining housing planning applications in Amber Valley.

However, given that meeting this unmet need is now unlikely to feature in an adopted local plan for some time, it does not have the benefit of being 'plan led'. There may well be a delay in meeting this need in Amber Valley. This is a material consideration

## **Committee Report Item No: 2**

**Application No: 19/00723/FUL**

**Type: Full Planning Application**

### **7. Officer Opinion Cont'd**

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to take into account in determining planning applications in Derby for housing. In accordance with the presumption outlined in the NPPF, additional weight should be given to the benefit of boosting the supply of housing in Derby.

Local Plan Policy CP6 sets out the Council's aspiration to deliver a minimum of 11,000 new homes over the plan period and, in criterion (e), encourages the re-use of underutilised or vacant properties. While the upper floors of this building are already in residential use, the proposal would alter the configuration, with a single unit of accommodation served by 5 bedrooms, changed to four individual flats thereby providing a net increase of three residential units within the building.

The application site lies partially within the Central Business District. Policy AC1 sets out the Council's strategy to reinforce the role of the City Centre while Policy AC2 focusses on delivering on a City Centre Renaissance. Local Plan Policy AC2 defines the extent of the Central Business District which is the preferred location for new office development and the proposed office use on the ground floor would accord with this aim.

Whilst it can be considered that this application accords with the Council's strategy for housing delivery and a City Centre Renaissance, the requirements of the Local Plan must be read as a whole and compliance with other policies will also need to be satisfied and they are considered further in this report.

#### **7.2. Community facilities**

Policy CP21 recognises the important role community facilities play in promoting healthy, vibrant communities. Paragraph 5.21.1 lists the various uses which the Council considers to be a community facility and one of those uses is a public house.

Criterion (a) of Policy CP21 sets out the Council's position by stating that it will support the retention of existing facilities unless it can be demonstrated that there is no longer a need to retain the use, alternative provision is made or where we can assist strategic partners to renew or restructure their provision.

CDLPR Policy E20 also states that for a change of use affecting a listed or locally listed building the applicant should demonstrate that the original use is not viable or no longer appropriate.

The applicant has submitted a Community Facilities Statement in support of the application which aims to demonstrate that the current public house use is no longer suitable or viable. It outlines the steps taken by Greene King, the previous owners, to find a new tenant and the subsequent marketing exercise undertaken over an 11 month period. The Statement indicates that neither exercises resulted in any interested parties coming forward giving rise to the conclusion in the Statement that the public house was no longer a viable business.

The Community Facilities Statement goes on to consider if there is a need for a public house in this location. Section 6 of the document sets out the parameters used in the process and indicates, in paragraph 6.8, that 'there are at least 25 alternative public houses within an 800 metre walk of the application site' and that many of those offered a similar range of facilities. Given the number of alternative, comparable and operational public house venues within walking distance of the



## **Committee Report Item No: 2**

**Application No: 19/00723/FUL**

**Type: Full Planning Application**

### **7. Officer Opinion Cont'd**

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application site, the Statement suggests that the change of use of the building would not be detrimental to local service provision nor would it significantly compromise the community's ability to meet its day to day needs.

In the Community Facilities Statement, the applicant does discuss the requirements of Policy E20. The policy seeks to secure the retention, restoration and long-term viability of historic buildings with the last sentence of the policy stating that the applicant will need to demonstrate '*that the original use is not viable or no longer appropriate, alternative uses that are compatible with the building will be considered*'. The applicant's statement comments that the building was originally a private dwelling and that its conversion to a public house also had an element of residential on the upper floors. The Statement asserts that the proposal is consistent with the original use of the building through the provision of the flats and carries on to state that the offices will be a valuable community facility.

The Applicants Community Facilities Statement concludes that a public house in this location is neither needed or is viable and, as such, meets the requirements of Policies CP21 and E20.

This position is clearly at odds with the views expressed by residents and Ward Members who have objected to this application on the basis of the loss of the public house use. It is clear that they consider that the public house remains a necessary community use and that its loss would negatively impact on the character of the wider area. Objectors to the application consider that the pub remains commercially viable and that there are companies who would be prepared to take the business on. It is only possible to note that we have no evidence of that available to us.

It is accepted that the applicants Community Facilities Statement provides sufficient information to indicate that there are need and viability issues that have impacted on its ability to secure, new operators / occupiers. It is also accepted that there are other establishments offering a similar service within walking distance and it would be difficult to argue that the public house use is a vital community facility for the community that surrounds it. The wording of Policy CP21 does allow for the loss of community facilities provided it is justified in the ways outlined in the policy. On this basis it is concluded that the applicant has provided adequate justification to support the principle of the loss of the community use and the assessment undertaken to support this application satisfies the requirements of Policy CP21.

#### **7.3. Heritage impacts**

The application site abuts St Mary's Bridge which is both a Scheduled Ancient Monument and a Grade II\* Listed Building. In addition, the site is situated within the DVMWHS buffer zone. Listed buildings stand adjacent to St Mary's bridge and 3 Mansfield Road stands as a heritage asset alongside this group. They are significant historic features in this part of the City. The impact of the proposals for these heritage assets and their setting are an important consideration in the determination of this application and the heritage impact of the proposal is a concern raised by Ward Members and residents who have objected to this application. It is noted that the site stands outside the Little Chester Conservation Area whose boundary is to the north, beyond City Road.

## **Committee Report Item No: 2**

**Application No: 19/00723/FUL**

**Type: Full Planning Application**

### **7. Officer Opinion Cont'd**

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In considering this application Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires the authority to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Harm to the significance of a designated heritage asset is a matter to which considerable importance and weight should be given in any planning balance.

Policy CP20 (Historic Environment) seeks the protection and enhancement of the city's historic environment, including listed buildings, Conservation Area's, the World Heritage Site, Scheduled monuments and Archaeological Alert Areas. CP20 c) requires development proposals which impact on heritage assets to be of the highest design quality to preserve and enhance their special character and significance through appropriate siting, alignment, use of materials, mass and scale.

Policy AC9 recognises the Outstanding Universal Value (OUV) of the Derwent Valley Mills World Heritage Site and indicates that the Council will seek to preserve, protect and enhance its special character, appearance and distinctiveness. Proposals within the Buffer Zone will only be approved if they do not adversely affect the Outstanding Universal Value (OUV) of the World Heritage Site or its setting.

Saved policy E19 of the CDLPR, seeks to preserve and enhance the character and appearance of historic listed and locally listed buildings and protect them from development which is harmful to their significance. Saved policy E20 seeks to secure the retention, restoration and long-term viability of historic buildings.

When considering the impact of a proposed development on the significance of a designated heritage asset (such as the World Heritage Site, listed buildings or Conservation Areas) paragraph 192 of the NPPF advises that in determining applications:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

Guidance in the NPPF provides that proposed developments involving substantial harm to or loss of designated heritage assets should be exceptional and in the case of heritage assets of the highest significance such as World Heritage Sites should be wholly exceptional. In the case of other designated heritage assets such should only be permitted if either the loss or harm is necessary to achieve substantial public benefit that outweigh the loss or harm caused by the development or if the specific tests set out in paragraph 195 are met.

In cases where the harm to the designated asset is considered to be less than substantial the NPPF provides that the "harm should be weighed against the public benefits of the proposal, including "securing its optimum viable use".

## **Committee Report Item No: 2**

**Application No: 19/00723/FUL**

**Type: Full Planning Application**

### **7. Officer Opinion Cont'd**

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In relation to non-designated heritage assets including locally listed buildings, the NPPF requires that effects on significance of the asset should be weighed in the balance and a balanced judgement will be required having regard for the scale of the harm or loss of the asset and its significance.

To assist in the consideration of heritage impacts, the comments provided by Historic England, our Conservation Officer and the World Heritage Site Partnership have been considered in detail. A Heritage Impact Assessment has been submitted by the applicant in accordance with paragraph 189 of the NPPF and Policy CP20. This has been updated during the lifetime of the application to take into account amendments that have been made to the proposals. It gives some consideration to how the proposal may affect heritage assets including the DVMWHS, St Mary's Bridge and the locally listed building. It also considers the impact of the proposal on the Grade I listed St Mary's Bridge Chapel and the Grade II listed St Mary's Bridge House that stand on the opposite side of St Mary's Bridge.

The impact of the proposals on the setting of the WHS is an important consideration and it is afforded the highest degree of significance due to its international and national importance. The physical works that are proposed to the building to accommodate the change of use have not resulted in any objections to the application from our Conservation Officer, the World Heritage Site Partnership or Historic England based on their resulting impact for the DVMWHS.

This site stands within part of the buffer zone of the DVMWHS where character is defined by built form, standing close to the river's edge. This proposal would retain the building and would not compromise its built form. The building would remain a historic asset and part of the historic group of buildings that are clustered in this part of the WHS buffer.

Saved CDLPR policy E20 indicates that the original use should be considered as the first option for uses within historic buildings. The policy does however indicate that if the first use is not viable or no longer appropriate, alternative uses that are compatible with the building will be considered. This application does demonstrate how the building's use could be changed to accommodate the office and residential uses without its physical form being extended or compromised.

It is clear that local residents and Ward Councillors who have objected to this application consider the loss of the public house use within the building to be detrimental to the setting of the DVMWHS and the setting of the historic assets that stand within this part of its buffer zone. They have indicated that the loss of the public house use will be a negative change for the WHS and for people who choose to visit the area who would no longer have access to the building and the views it affords.

The applicants Heritage Impact Assessment indicates that bringing an unused community building back into use will enhance the setting of the WHS by ensuring that the building does not deteriorate in the long term. Our Conservation Officer also notes that a public house use is clearly the best use of this building but concludes that if this use is no longer possible, a historic building in use is better than a vacant one. The World Heritage Site Partnership also note that whilst there will be a loss of the ability to interpret the buildings historic function as a public house within the

## **Committee Report Item No: 2**

**Application No: 19/00723/FUL**

**Type: Full Planning Application**

### **7. Officer Opinion Cont'd**

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WHS, they conclude that the positive changes proposed through the conversion of the building will mitigate this adverse impact.

Maintaining the established and historic use of the building as a public house would be preferred in heritage terms, but the building has stood vacant for over a year and a half. Bringing the historic asset back into use would encourage the physical and economic revitalisation of the area as promoted by Policy AC9 and bringing the building back into use clearly provides significant weight in favour of allowing the change of use of the building.

In weighing up the impact of the proposals on the WHS and taking into account the ICOMOS guidance of 2011, it is considered that the impacts on its Universal Value and overall setting would be neutral. In reaching this conclusion I have considered the lack of substantial objections to the application from our specialist Conservation Advisors and the conclusions of the World Heritage Site Partnership who indicate that that no detriment would arise for the OUV of the WHS.

The applicants Heritage Impact Assessment indicates that the proposal would not have an adverse impact upon the setting of any of the nearby designated heritage assets commenting that the proposals will not adversely impact on views of it particularly from St Mary's Bridge. It goes on to suggest that the current derelict state of the building detracts from the setting of the adjacent heritage assets and will ensure its future viability and preservation thereby enhancing their setting.

The external alterations proposed to the building are limited. The proposal retains the building and it is considered that its physical relationship to those nearby listed buildings, including St Mary's Bridge, would not be changed enough to result in harm to their setting or value as a group. In reaching this conclusion, it is noted that specialist consultees have not identified any harm as arising for those assets as a result of the proposals.

In respect of non-designated heritage assets, the impact of the works on the locally listed building itself requires consideration. It is noted that internal works to the building would need to be undertaken to mitigate for impacts associated with noise and flood risk and those works are identified in other sections of this report. This includes provision of an additional brick skin to the ground floor of the building, the raising of services on the ground floor and glazing and ventilation solutions that are to be agreed.

The applicants Heritage Impact Assessment notes that internally, the layout of the building will be altered with the erection of internal partition walls and alterations to staircases. It indicates that those works will not have any adverse impact on the heritage asset as the internal layout is modern and not of any significant heritage value.

The County Archaeologist has advised that the applicants should commission an historic building appraisal which should include a desk based study of the site. It is indicated that this should assess the significance of the heritage asset and the impact of the proposed works upon it. The County Archaeologist advises that any works to the building should be informed by this assessment to conserve any extant significance or to mitigate the loss of any significance.

## **Committee Report Item No: 2**

**Application No: 19/00723/FUL**

**Type: Full Planning Application**

### **7. Officer Opinion Cont'd**

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Paragraph 189 of the NPPF advises that the level of detail required to be provided by applicants should be *'proportionate to the assets importance and no more than is sufficient to understand the potential impact of the proposal on their significance'*. As the building is locally listed, internal works have not been subject to control by the Local Planning Authority. Internal and external alterations are shown in the submitted plans and they have not generated objections from our Conservation Officer or Historic England. Their views are essential to determine if the submitted assessment information is satisfactory and based on their comments, the level of information supporting the application is considered to be sufficient to enable its impacts for the locally listed building to be understood. The building has been subject to modern internal works and alterations through its use as a public house and internal alterations can continue to be undertaken now without formal consent being required. Whilst the County Archaeologists views are noted, it is considered that the application can be determined in the absence of a detailed historic building appraisal.

Saved policy E21 seeks to protect the archaeological interest of sites. No significant ground works are proposed as part of this application and it is considered that the works offer no conflict with the aims of policy E21.

In reaching conclusions on the overall impact of the development for the significance and setting of the designated and non-designated heritage assets in the area, as required by the NPPF, the impact is considered to be neutral with no harm arising noting that the application has not generated objections from the Conservation Officer, Historic England or the DVMWHS Partnership. Whilst concerns relating to the loss of the historic use of the building as a public house use can be appreciated, this is weighed against the benefits of bringing this heritage asset back into use. Overall, it is considered that the proposal would not result in detriment to the significance of any of the heritage assets in this area including the locally listed building itself. Accordingly the proposals satisfy the requirements of Policy CP20 and saved CDLPR policies E19 and E20.

It is considered that, with regard to heritage considerations and the issue of impact / harm, the application has been supported by sufficient information and has been properly assessed in line with the local planning authority's statutory duty and the framework of local and national planning policy.

#### **7.4. Design, layout and residential amenity**

The application proposes alterations to the existing building with no new floorspace proposed. The alteration of the first floor glazed elevations to render is acceptable and is considered an improvement to the buildings external appearance.

The proposed new window openings are reasonable in terms of their siting and scale relative to other fenestration already within the building. It is noted that no new openings are proposed in the Mansfield Road elevation of the building which is its principle elevation although the existing ground floor doorway would be reinstated as an access to serve the upper floor flats.

Overall, the physical works shown in the planning application are reasonable and they meet with the general design principles of Policy CP3 and CP4. In assessing the heritage impacts of the works, the Conservation Officer has recommended that

## **Committee Report Item No: 2**

**Application No: 19/00723/FUL**

**Type: Full Planning Application**

### **7. Officer Opinion Cont'd**

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design details should be controlled by conditions of planning permission and this would include external materials, joinery details and the colour and finish of the proposed render. These conditions would ensure that a suitable external finish is secured as part of the works.

To address issues raised by the Police, the applicant has proposed to include a section of fencing that would divide the resulting private area at the rear of the building from unrestricted access from the car park. The Police clearly consider the 1m high picket fence that the applicant has proposed to provide an inadequate level of security. However, conditions of planning permission can be used to secure a design for the fence that improves security and is considered a reasonable addition within the grounds of the locally listed building.

The plans submitted with the application demonstrate that all four flats proposed within the development would accommodate a reasonable amount of floorspace and good outlook. Each would also have access to the outdoor space on the first floor roof terrace. Overall, it is considered that the proposed layout shows that future occupiers would be afforded a good standard of residential amenity. Subject to suitable measures to address noise impacts outlined in section 7.8 of this report, it is considered that the proposal offers no conflict with the aims of saved CDLPR policy GD5.

Given the separation distances between the existing building and neighbouring properties, commercial or residential, there are no adverse impacts considered to arise for any neighbouring occupiers as a result of this change of use application. Overall, it is considered that the proposal meets with the residential amenity requirements of CDLPR policies GD5 and H13.

#### **7.5. Access, parking and highway implications**

The car park that stands to the north of the site serves adjacent businesses and has also historically served the application site and its use as a public house. It would continue to utilise the existing access off Mansfield Road and the application identifies 12 spaces within it as being dedicated to the development.

A Transport Statement has been submitted with the application. While it considers a more intensive form of residential development that was subject of a previous application for this site that was subsequently withdrawn, it considers in detail, the sustainable location of the application site and the various means of public transport that are available to serve it.

Policy CP23 seeks to ensure that everyone has a range of viable, sustainable transport options and supports proposals which are located in accessible locations that are well-served bus services and which help to facilitate walking and cycling. Objectors to this application have suggested that the proposed uses would lead to increased congestion and parking problems in the local area.

Colleagues in Highways Development Control have raised no concerns in respect of the likely impacts of the proposals on the local highway network and the parking arrangement is considered to be acceptable. Whilst the information supporting the application does not indicate how the parking spaces are to be marked out / delineated from the adjacent parking spaces within the existing car park, this detail

## **Committee Report Item No: 2**

**Application No: 19/00723/FUL**

**Type: Full Planning Application**

### **7. Officer Opinion Cont'd**

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can be secured through conditions of planning permission along with delivery of the cycle parking provision. Overall, the proposal is considered to be acceptable in highway safety terms and is in accordance with the aims of Policy CP23.

#### **7.6. Flood risk**

As this application is for a change of use, there is no requirement, under the NPPF for the Sequential or Exception Test to be undertaken. However, detailed consideration needs to be given to the suitability of the uses that are proposed given that the site is identified in the Council's Level 1 Strategic Flood Risk Assessment (SFRA) as being located within Flood Zones 2 and 3a.

At the present time the SFRA shows the areas of the City vulnerable to flooding based on its historic flood defences. The Our City Our River (OCOR) programme is delivering new defences along the River Derwent and this includes new flood walls that stand directly alongside the application site. The new flood defences provide a higher level of protection for properties and land on the dry side of the defences including the application site. It has to be noted that the SFRA does not take into account the new flood defences that have been delivered by the OCOR project and the protection they afford the site.

The planning application is supported by a Flood Risk Assessment (FRA) and it considers all flood risks to the application site. As required by the NPPF, it considers the flood risk to the site in a design flood event, taking into account climate change. The FRA advises that the site would be subject to partial flooding in a 1 in 100 year event + 30% climate change scenario. Climate change levels have increased since the OCOR defences were designed and granted planning permission so in this scenario, water levels would overtop the defences and flooding would occur against the south western building corner. The FRA notes that the peak water levels would be higher than the ground floor level of 3 Mansfield Road. It therefore identifies that the ground floor of the building is susceptible to flooding.

As part of the assessment of the effects of the flood risk to the building, a structural condition survey has been undertaken by the applicant and it assessed the capacity of the building to withstand the pressure of flood waters generated by a 1 in 100 + 30% climate change breach scenario. The assessment concludes that currently the building is not able to withstand the forces likely to occur from such a scenario.

In reaching conclusions on the assessment of flood risk to this building, the views of the Environment Agency, the Council's Land Drainage Team and the Emergency Planner have been considered in detail. Based on the advice that they have provided, it is clear that the submitted FRA is suitably robust. In reaching conclusions, it is important to consider that identified risks exist for the building already given that new built development is not proposed and the application is seeking a change of use. However, Planning Practice Guidance advises that a change of use may involve an increase in flood risk if the vulnerability classification of the development is changed.

The ground floor use proposed in this application is for commercial purposes and in accordance with Planning Practice Guidance the proposal involves occupation of the ground floor by a use deemed to be 'less vulnerable', noting that the current public

## **Committee Report Item No: 2**

**Application No: 19/00723/FUL**

**Type: Full Planning  
Application**

### **7. Officer Opinion Cont'd**

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house use is classified as 'more vulnerable'. The vulnerability of the ground floor use that would be susceptible to flooding in such an event would therefore be reduced by allowing the change of use of the ground floor and is therefore preferable in flood risk terms.

The flats proposed on the upper floors of the building are classified as 'more vulnerable' uses and this would be unchanged given that the upper floors are already in residential use and so already are 'more vulnerable'. The building does however only accommodate one flat at present and the change of use to four flats would provide a net increase of three residential units. The applicants FRA indicates that the proposal will not worsen the position relative to the upper floors given that they are already used to serve residential accommodation with five bedrooms and as a result of the change of use, the building would continue to accommodate five bedrooms.

The NPPF indicates that wherever possible, more vulnerable uses such as the additional flats proposed on the first floor of the building should be located in areas at the lowest risk of flooding. Colleagues in Land Drainage object to the application on the basis of three additional separate residential units being proposed on a site that is at risk of flood. The Emergency Planner also notes the unsuitability of residential premises in this location and some objectors to the application have raised flood risk as a concern.

During extreme flood events, the FRA indicates that the building will need to be evacuated following receipt of a flood warning. It is anticipated that the commercial (ground floor) will be operated during normal office hours and thus will have emergency procedures in place and would be required to evacuate the building prior to the peak of a flood event. The proposed office use is likely to involve the evacuation of fewer people than if the ground and mezzanine floors of the building remained in use as a public house.

Residents living on the upper floors of the building would need to evacuate via the eastern side of the building, along Mansfield Road and the submitted plans show how the residential units would be served by the reinstatement of an entrance already on the Mansfield Road elevation of the building. The current evacuation route for occupiers of the residential accommodation on the upper floors is via exits on the northern, western and southern elevations which the FRA demonstrates are less safe than the route proposed via Mansfield Road.

The evacuation routes identified in the applicant's FRA show's that during the defended 100 year with 30% climate change scenario, a vehicular access and egress route to / from the site is possible via Mansfield Road, Phoenix Street and onto St Alkmund's Way. Land Drainage colleagues object to the application on the basis that the mode of escape for occupiers of the building would be onto a high speed road that has not been designed for safe pedestrian movement and this concern is shared by the Emergency Planner.

Whilst concerns relating to the evacuation route can be fully appreciated, it has to be recognised that the route through to St Alkmunds Way offers the only dry means of escape for 3 Mansfield Road in such a scenario anyway, whether this change of use application is allowed or not. That is the route that users of the existing public house



## **Committee Report Item No: 2**

**Application No: 19/00723/FUL**

**Type: Full Planning Application**

### **7. Officer Opinion Cont'd**

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and flat would have to take in any such flooding scenario, if the building were currently still in use.

It is noted that the Environment Agency (EA) have not raised objections to the application subject to conditions being imposed which require the implementation of the mitigation measures outlined in the FRA for the lifetime of the development. The measures outlined in the FRA include provision of an additional leaf of brickwork to the inside of some ground floor walls of the building, flood protection measures to door and window openings and measures to protect the dray drop to the basement. This would be necessary to provide the required level of resistance to deal with the forces of flood water generated by a breach scenario. Flood resilience measures also proposed include the fitting of electrical fittings, switches and wiring at a higher level on the ground floor, the raising of kitchen units and appliances and use of internal materials that are resilient to water. The FRA also recommends that all occupiers are signed up to the Environment Agencies' Flood Warning Service.

The advice provided by the EA is clear that it is not within their remit to comment on flood emergency response procedures and evacuation plans. It is colleagues in Land Drainage and the Emergency Planner who provide advice on these matters and they both raise concern with regards to the evacuation of future occupiers onto St Alkmunds Way. As they are our specialist consultees with regards to flood risk, weight has to be given to their concerns with regards to an increase in residential units on the site with reliance on a means of evacuation that would take pedestrians onto a busy road.

In reaching conclusions on flood risk the opportunities that granting the application would provide to a building that is already at the level of flood risk outlined in the FRA, require consideration. They are benefits that would arise from the scheme. Conditions of planning permission could be used to secure the implementation of the mitigation measures outlined in the FRA which would include the additional brick skin to ground floor walls thereby providing a more resilient building that would be able to withhold the pressure of water in a breach scenario. Signing up future occupiers to flood warnings and the provision of detailed evacuation plans can also be secured through appropriately worded conditions. Whilst alternative options are not available to address the means of escape route onto St Alkmunds Way, this is the route that is available for the building now which could include evacuation of more people with a less coordinated evacuation procedure in place.

There are therefore some flood risk benefits in allowing the change of use. It would deliver resilience measures and in accordance with the overarching guidance in the NPPF, the application demonstrates how residual risks to the site could be managed. Securing suitable evacuation plans would contribute towards a coordinated response to the evacuation of this building in a flood event. This is alongside a less vulnerable use being proposed on the ground floor of the building which would see its use / occupation, by fewer people.

Following detailed consideration of these matters, it is considered that this change of use application can be supported on flood risk grounds provided detailed conditions are imposed which secure the delivery of the identified mitigation measures.

## **Committee Report Item No: 2**

**Application No: 19/00723/FUL**

**Type: Full Planning Application**

### **7. Officer Opinion Cont'd**

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#### **7.7. Ecology**

The application site stands adjacent to the River Derwent which is a designated wildlife site. A wildlife corridor also encroaches into the site.

Policy CP19 requires that where proposals have the potential to impact on a natural heritage asset, a supporting ecological site assessment will be required to be submitted. The applicants have provided such an assessment along with a preliminary bat roost assessment.

The applicants Ecological Survey identifies the key ecological features on or surrounding the site. It identifies the use of the river corridor by foraging and commuting bats and otters and the potential for the building on site to support roosting bats or nesting birds. It makes recommendations for adherence to Environment Agency Pollution Guidelines throughout the works to avoid indirect impacts on the river and careful design of any new lighting, to minimise potential disturbance and fragmentation on sensitive receptors such as bats and otters. The survey notes the potential of the building to support nesting birds such as house sparrow and starling and indicates that roof works should take place outside the nesting bird season.

Derbyshire Wildlife Trust (DWT) has been consulted on the application and they concur with the submitted assessment and the need for measures for pollution prevention and a lighting design that avoids illumination of the river.

The applicants Ecological Survey also notes that the existing pub building is considered to support features suitable for roosting bats noting that the building has loft areas and missing, lifted and broken roof tiles and gaps in brickwork. The Survey recommended that a Preliminary Bat Roost Assessment should be undertaken on the building and such an assessment has been submitted to support the application. It classifies the building as having high potential to support roosting bats noting it has features that provide the potential for bat roosts to be present and noting the buildings location, adjacent to the wildlife corridor. Given this conclusion, dusk emergence and or dawn re-entry surveys are recommended in the Assessment.

DWT have commented on the submitted survey information and note that all the relevant survey information does not support the application at the present time as the applicant cannot provide the dusk emergence / dawn re-entry surveys which have to be undertaken during the bat activity season which extends between May and September. This information is required prior to determination of this application to ensure that the extent of impact of the development for bats is fully considered and that appropriate mitigation is secured. This is necessary to ensure that the development also conforms with the Conservation of Habitats and Species Regulations 2017.

DWT advise that because the proposals outlined in this application are to be undertaken within the footprint of existing built development, it is likely that it can be undertaken without a resulting net loss in biodiversity and it provides limited opportunity for a net gain in biodiversity. However, the status of the site in relation to roosting bats has to be confirmed prior to determination to ensure the impact of the works on this protected species is fully assessed and to ensure compliance with Policies CP16 and CP19.

## **Committee Report Item No: 2**

**Application No: 19/00723/FUL**

**Type: Full Planning Application**

### **7. Officer Opinion Cont'd**

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The applicant has agreed to extend the determination date of this application to the end of May to allow the necessary bat surveys to be undertaken within the appropriate season. In consultation with DWT, this will allow full consideration of the impact of the proposals for bats. The need for the completion and full consideration of this survey work is reflected in the recommendation put forward in this report for the future determination of the application.

#### **7.8. Noise and Air Quality**

The application has been supported by a Noise Assessment given that the site stands adjacent to a busy transport corridor and in close proximity to the Inner Ring Road. The submitted assessment considers noise impacts on the site from road traffic noise on Mansfield Road, Sowter Road and the Ring Road. Identified criteria for noise levels are shown to be exceeded for most rooms during daytime and nighttime through partially opened window. Sound insulation is therefore considered, with windows closed and with provision for extract ventilation. The survey goes on to provide glazing and ventilation specifications for each window to ensure acceptable internal noise levels within the development.

Colleagues in Environmental Health have advised that the submitted Noise Assessment provides sufficient evidence that significant adverse noise impacts could be avoided on occupants of the proposed dwellings and offices. Considering the high standard of noise insulation required they advise that measures to achieve the noise insulation and ventilation requirements will need to be carefully considered, designed and installed. Such a scheme can be secured through a suitably worded planning condition and this would ensure adequate reductions in noise impacts on the amenities of future residents and occupiers.

The site lies within an Air Quality Management Area (AQMA) but our Environmental Health Officer notes that given the history of the use of the site as a public house, the proposed use is not expected to make any notable contributions to local emissions from any traffic associated with the scheme, in comparison to the previous use.

An Air Quality Assessment has been provided in support of the application. The Environmental Health Officer notes that air quality at the development would be below the objective levels and that the modelling in the Assessment is suitably detailed and robust. The Officer concludes that air quality mitigation is not deemed necessary but construction related emissions should be controlled through a construction management plan and this can be secured through an appropriate condition. Based on this specialist advice, it is accepted that there would be no significant air quality issues arising for future occupants of the building.

Overall it is considered that subject to compliance with conditions recommended by colleagues in Environmental Health the proposals offer no conflict with the requirements of saved CDLPR policies GD5 and E12. Air quality and noise do not therefore offer a basis on which the uses proposed in this application should be resisted.

## **Committee Report Item No: 2**

**Application No: 19/00723/FUL**

**Type: Full Planning Application**

### **7. Officer Opinion Cont'd**

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#### **7.9. Conclusion**

This change of use application would result in the creation of three flats which will provide a small contribution to the Council's current housing need. The creation of the ground floor office space also assists with the aims of improving the City Centre, the site being located in the area defined as being the preferred location for new office development. The proposed uses can therefore be supported generally as they would deliver housing and office space in a sustainable area of the City.

Despite the proposed uses being acceptable in general policy terms, there is some local opposition to the loss of the buildings established use as a public house. However, the assessment undertaken to support the application provides adequate justification to support the principle of the loss of this community facility, satisfying the requirements of Policy CP21.

The Heritage impacts of the proposals have been assessed and the change of use and physical works to the building associated with it are not considered to result in harm to the setting of any nearby heritage assets or to the locally listed building itself. Whilst regrettable, the loss of the public house use is weighed against the benefits of bringing the building back into use and the benefits this will afford the setting of the surrounding designated heritage assets including the DVMWHS.

There is some conflict with the type of development proposed in this application and the sites' susceptibility to flooding with objections to the application maintained by colleagues in Land Drainage. However, the change of use application offers a reduction in vulnerability to the ground floor use of the building. It also offers measures to improve the resilience of the building and flood evacuation procedures for a heritage asset already at flood risk. Whilst evacuation routes are not ideal, they are unchanged by the application. Subject to compliance with the conditions outlined, it is considered that measures can be put in place to protect future occupiers in the event of a flood defence breach scenario.

In terms of other material considerations, impacts relating to residential amenity, noise, air quality and highway safety are all considered to be satisfactorily addressed subject to compliance with the recommended conditions.

The applicant has submitted information to determine the impact of the proposal on the designated wildlife site and wildlife corridor. Outstanding information relating to bats cannot be secured at this time but the survey information, provided at the appropriate time, will allow full consideration of the developments potential to impact upon bats. If no substantive issues arise as a result of this survey work, it is considered that the ecological impacts of the proposals do not provide a basis on which this application could be resisted and this is reflected in the recommendation outlined in this report.

In reaching a balanced judgement on the outcome of this application it is considered that there are clear benefits to bringing this historic asset back into use and this should be afforded significant weight. The application can also bring benefits to the building in the long term by improving its flood resilience. On that basis it is concluded that there are not substantive grounds on which a refusal of this application could be defended.

## **Committee Report Item No: 2**

**Application No: 19/00723/FUL**

**Type: Full Planning Application**

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### **8. Recommended decision and summary of reasons:**

#### **8.1. Recommendation:**

- A. To consider the results of the bat dusk emergence / dawn re-entry surveys following their submission (post May 2020), in consultation with Derbyshire Wildlife Trust and **to grant planning permission with conditions** if no substantive issues arise from that survey information and it conforms with the Conservation of Habitats and Species Regulations 2017.
- B. To consider the results of the bat dusk emergence / dawn re-entry surveys following their submission (post May 2020), in consultation with Derbyshire Wildlife Trust and **to report the application back to Planning Control Committee for determination** should substantive issues arise from that survey information.

#### **8.2. Summary of reasons:**

The design, residential amenity and highway safety implications of the proposed uses are considered acceptable in this case. Impacts relative to noise and air quality have been suitably assessed and appropriate mitigation can be secured through conditions of planning permission. It is considered that sufficient information has been submitted in support of this application for the impacts of the proposals to be fully considered in respect of heritage assets with no harm deemed to be arising. In flood risk terms, alternative means of escape cannot be secured for the building but the proposals offer the opportunity to improve the buildings resilience in scenarios' involving a breach of the flood defences. Detailed evacuation procedures can be secured through the conditions of planning permission.

#### **8.3. Conditions:**

1. 3 year time limit condition  
**Reason:** Standard time limit reason
2. Approved plans condition  
**Reason:** Standard approved plans reason

#### **Pre-commencement Conditions:**

3. Submission of and adherence to a construction management plan  
**Reason:** In the interests of the amenities of the area.
4. Precise design details for noise insulation and ventilation measures  
**Reason:** In the interests of the amenities of future occupiers
5. Details of all external materials (to include joinery details, finish and colour of all new rendering and design details for new windows)  
**Reason:** To ensure a satisfactory form of development and to protect the special character of the historic environment.
6. Submission of and adherence to pollution prevention measures for the River Derwent  
**Reason:** To protect the adjacent wildlife site during the course of the works.

## **Committee Report Item No: 2**

**Application No: 19/00723/FUL**

**Type: Full Planning Application**

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### Pre-occupation Conditions:

7. Delivery of works in accordance with mitigation measures outlined in the FRA  
**Reason:** To deliver the identified resilience measures in the interests of minimising flood risk and safeguarding future occupiers.
8. Submission of a detailed flood warning and evacuation  
**Reason:** To safeguard future occupiers from flood risk.
9. Submission of precise design details for boundary fence  
**Reason:** In the interests of visual amenity.
10. Submission of precise design details for any external lighting  
**Reason:** To ensure that impacts for the local wildlife site are minimised.
11. Implementation of cycle parking  
**Reason:** To encourage alternative sustainable means of transport to the site.
12. The marking out / delineation details for parking spaces  
**Reason:** In the interests of highway safety.

### **8.4. Informative Notes:**

The consent granted will result in alterations to an existing building which needs naming and numbering. To ensure that any new addresses are allocated in plenty of time, it is important that the developer or owner should contact [traffic.management@derby.gov.uk](mailto:traffic.management@derby.gov.uk) with the number of the approved planning application and plans clearly showing plot numbers, location in relation to existing land and property, and the placement of front doors or primary access on each plot.

### **8.5. S106 requirements where appropriate:**

None.

### **8.6. Application timescale:**

The target date for the application has been extended into the bat survey season to allow the necessary bat surveys to be undertaken at the appropriate time of year and to allow the survey information to be considered, in consultation with DWT, prior to the determination of the application.

**Committee Report Item No: 2**

**Application No: 19/00723/FUL**

**Type: Full Planning Application**

