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Ctte Date: 20<sup>th</sup> May 2019

File No: CHE/19/00115/FUL  
Plot No: 2/1975

## ITEM 1

### TRANSFER OF EXISTING CAR BOOT SALE FROM THE PROACT STADIUM, SHEFFIELD ROAD TO CAR PARK TO THE REAR OF THE TOWN HALL, ROSE HILL ON SUNDAYS FROM 07:00 HRS TO 13:30 HRS AT CAR PARK TO REAR OF TOWN HALL, ROSE HILL, CHESTERFIELD. S40 1LP - CHESTERFIELD BOROUGH COUNCIL

Local Plan: Town Centre  
Ward: Brockwell

#### 1.0 CONSULTATIONS

<b>Local Highways Authority</b>	Comments received 21/03/2019 – no objection
<b>CBC Strategic Planning Team</b>	No Comments received
<b>CBC Environmental Services</b>	Comments received 03/04/2019 and 30.04.2019 – see report
<b>CBC Design Services</b>	Comments received 02/04/2019 – see report
<b>CBC Conservation Officer</b>	Comments received 07/05/2019 – see report
<b>Economic Development Team</b>	No comments received
<b>Crime Prevention Design Advisor</b>	Comments received 11/04/2019 – see report
<b>CBC Urban Design Officer</b>	Comments received 07/05/2019 – see report
<b>Chesterfield Civic Society</b>	No comments received
<b>Chesterfield Cycle Campaign</b>	Comments received 12/04/2019 – see report
<b>Derbyshire CC</b>	No comments received
<b>Ward Members</b>	No comments received
<b>Site Notice / Neighbours</b>	No representations received

## 2.0 **THE SITE**

2.1 The site the subject of the application comprises of the tarmac-surfaced car-park to the Town Hall, which fronts on to Saltergate, but is known as Rose Hill Car Park and has 242 spaces.

The car-park has an access and egress on to Rose Hill East and Rose Hill West, both being barrier controlled, and the car-park is roughly rectangular in form.

Photos showing existing car park and barrier entrances



2.2 The car-park provides public pay-on-exit and staff parking and is in regular use.

2.3 The adjacent Town Hall is a Grade II listed building and the site is a prominent one in the Conservation Area. A purple Maple in the S.W corner is covered by a Preservation Order. In addition there are a number of trees bordering the east and west verges of the car park and centrally aligning the car park bays which are protected by means of the overarching Conservation Area designation.

### 3.0 **RELEVANT SITE HISTORY**

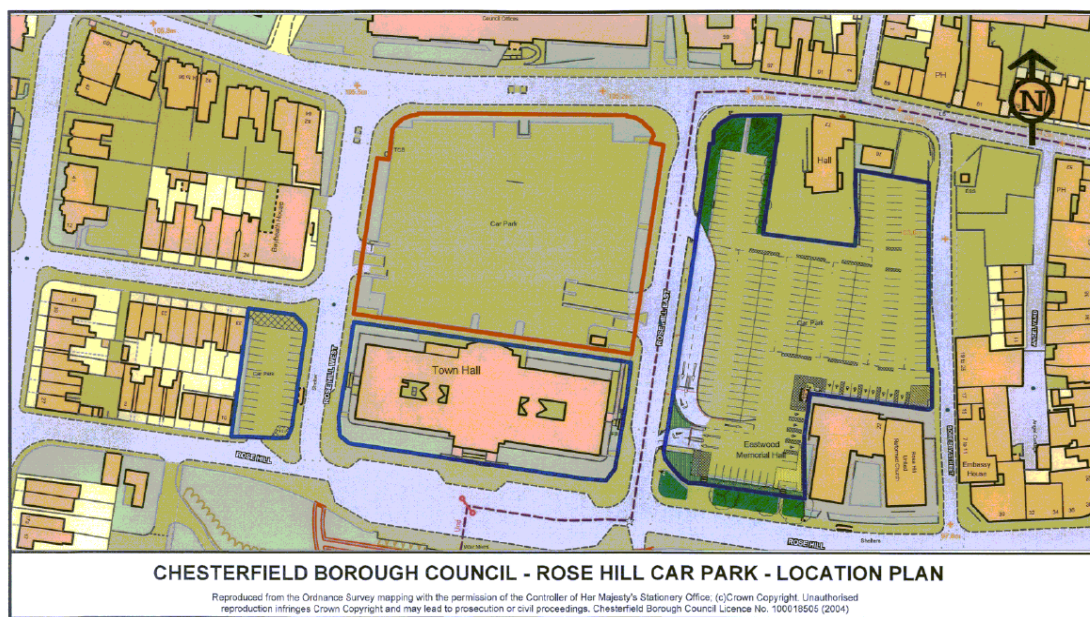
3.1 There is no relevant Planning History.

### 4.0 **THE PROPOSAL**

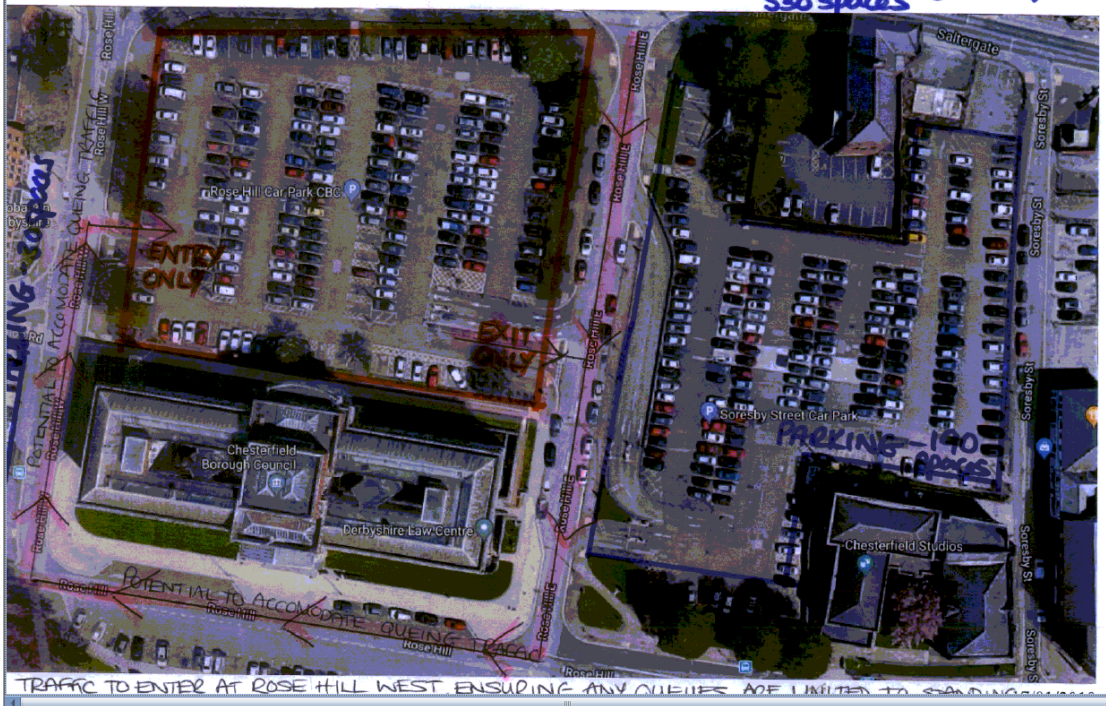
4.1 The application submitted seeks full planning permission for the use of the Town Hall Car Park as a Sunday Car-boot sale, which currently operates from The Proact Stadium, Sheffield Road.

4.2 The development will be served by the existing access point onto Rose Hill West (with egress on to Rose Hill East) in order to avoid cars queuing on Saltergate - see layout below - and the car-boot sale will allow for up to 150 stall-holders.

4.3 Site Layout and traffic management shown below







#### 4.4 The application submission is supported by a Site Management Plan which states:-

- The car-boot sale will operate every Sunday from 08.00-13.00, with traders having access from 07.00 to set-up and will leave by 13.30 when the car-park will re-open
- The site will be controlled by barriers
- There will be 3 caterers on site
- There will be 3 Council employees present for stewarding and clean-up purposes
- There will be 3 'porta-loos' provided
- The Rose Hill West access is to be used to prevent queuing on Saltergate
- Car Booters arriving prior to 07:00 hours will be instructed to park away from Rose Hill West entrance, they will be held in the parking bays directly opposite the Town Hall on Rose Hill until 07:00 hours, to prevent noise to nearby residents
- Whilst parking would be lost, it is not highly used on Sundays and other car-parks exist nearby
- There will be no music/public address allowed
- It will be covered by CCTV

#### 5.0 CONSIDERATIONS

##### 5.1 Planning Policy Background

- 5.1.1 The site is situated within the defined town centre, where it is appropriate for new commercial-type development to be sited.
- 5.1.2 Being a commercial (retail) use but of a temporary nature, the proposal raises no particular concerns in relation to the quasi-retail use of the site. The site falls adjacent to but just outside of the defined retail core, but within the defined Town Centre area, and as a result, the sequential test for the siting of new retail development need not be applied, nor is a retail impact study necessary.
- 5.1.3 Whilst it is a 'legal' matter and not a material planning consideration, as the site would operate on different days from the conventional Chesterfield market, there would be no conflict with the Royal Charter that restricts other markets from operating within a defined distance of the existing market.
- 5.1.4 Having regard to the nature of the application policies CS1, CS2, CS3, CS6, CS8, CS9, CS13, CS14, CS15, CS16, CS18, CS19, CS20 and PS1 of the Core Strategy 2013 – 2031 and the National Planning Policy Framework (NPPF) apply.

## 5.2 **Principle of Development**

- 5.2.1 The site is within the Chesterfield Town Centre, and will add to the viability of the centre, with linked trip opportunities and would be a facility that will add to the attraction of the area for tourists and is an appropriate use for a temporary use as proposed and the proposal therefore is consistent with the Spatial Strategy set out in policies CS1, CS2, CS13, CS15, CS16, and PS1 of the Core Strategy.

## 5.3 **Design and Appearance and Heritage Considerations**

- 5.3.1 In respect of design, appearance and Heritage matters the application submission has been appraised by the Council's **Conservation Officer (C.O)** **Urban Design Officer (UDO)** and the **Crime Prevention Design Advisor (CPDA)** as follows:

### **C.O**

*The site is associated with, and is adjacent to, Chesterfield Town Hall, Grade II Listed. The site is located within the Chesterfield Town Centre Conservation Area*

**Comments:-**

- *I do not object to the temporary change in use of the car park during the hours stated in the application.*
- *The site is an existing car park. There would be no permanent alterations or structural additions to enable the change of use.*
- *I do not consider that the change in temporary use would result in harm to the significance of the character or setting of the Listed Building or the Conservation Area, more than the existing use as a car park.*
- *There is no additional permanent signage to be associated with the car boot sale.*
- *The event will not require any additional bins to be located permanently on the site, and they will be cleared at the end of the event.*

**UDO**

*No real urban design issues. I think the main consideration would be the impact on neighbour amenity/residents if it is proposed as a regular event starting early at the weekends, but this more of a planning consideration than urban design.*

**CPDA**

*Whilst there are no design matters related to the application which would materially affect crime, disorder or policing, I have sought the opinion of the area operational policing section, mindful that the proposal may have some impact upon their workload.*

*They have raised some concerns about the cumulative effect upon parking with the loss of this site combined with a new hotel close by, also the potential for disturbance to residents very close to the site.*

*I'm aware that these matters would be advised upon by separate consultees, so to that end our concerns don't amount to an objection, but I would ask that they are given due consideration in your determination of the application.*

- 5.3.2 The site is currently a busy car park, although it's temporary use as a 150 place car-boot sale in lieu of 242 car parking spaces, would have little visual impact and as the use is a short-term and on Sunday mornings, the visual impact will be minimal.

- 5.3.3 As the car park already exists, and no 'physical' works are proposed, the use would not have any appreciable impact on any archaeological assets.
- 5.3.4 For the same reasons, the use would not impact to any greater degree on the health of the nearby protected tree in the corner of the car-park, or indeed, any other trees around the site.
- 5.3.5 The temporary use is not considered to be harmful to the character of the Conservation Area or it's setting, nor would there be any harmful impact on the setting of the listed Buildings surrounding the site.
- 5.3.6 It is considered that the siting, design and scale of the development proposals are acceptable having regard to the provisions of policies CS2, CS18 and CS19 of the Core Strategy.

#### 5.4 **Highways Issues**

- 5.4.1 The original application submission has been reviewed by the **Local Highways Authority** (LHA) and the Chesterfield Cycle Campaign who both raise no objections.
- 5.4.2 Whilst there would be a temporary loss of parking spaces from a public car-park close to the Town Centre, the car parks are not heavily used on Sunday morning, and the applicant has stated:-

*Although 242 parking spaces will be lost from Rose Hill car park during the car boot operation, the adjacent car parks (Soresby Street and Albion Road) provide 238 spaces to accommodate visitors to the car boot.*

*Alongside this there are 530 spaces at Saltergate MSCP and 255 spaces at Holywell Cross. Free parking is available using the Residents Permit at Albion Road, Holywell Cross, St Mary's Gate, Durrant Road, Theatre Lane and Devonshire Street, as such there is sufficient parking available for existing users and additional car boot users.*

*Current utilisation is around 50% occupancy off peak and 70%*

*at peak on Sunday's. As neither Rose Hill or Soresby Street are included in the Resident Parking offer neither are utilised greatly, with users choosing the free car parking available as listed. Free parking is also available to all users on street at Rose Hill and at other town centre on street locations controlled by DCC. All aforementioned parking, both on and off street, have disabled bay designated parking available.*

5.4.3 The existing car-park is barrier controlled, and the proposal is to allow access via Rose Hill West only (so any traffic queues around the Town Hall and not back onto Saltergate), with egress only on to Rose Hill East.

5.4.4 On this basis, and having regard to the other matters considered above, the development proposals are considered to be acceptable in terms of Highway Safety and accord with the provisions of policies CS2, CS18 and CS20 of the Core Strategy in respect of highway safety matters.

## 5.5 **Flood Risk & Drainage**

5.5.1 In respect of matters of drainage and potential flood risk, there are no physical changes to the drainage of the existing car-park – which is entirely hard-surfaced - and the run-off from the site during rainy conditions will not increase, and the proposal will not impact on drainage or off-site flooding.

5.5.2 **CBC Drainage Section** have raised no objections and the development complies with the provisions of policies CS2 and CS7 of the Core Strategy.

## 5.6 **Land Condition/Noise(Inc. Neighbouring Impact / Amenity)**

5.6.1 The site the subject of the application comprises predominantly of hard surfaced / previously developed land, although as the site is effectively 'capped' by the tarmac surface, and the development is a similar use, it is not considered that the persons using the site would be at any greater 'risk' although in this regard therefore land condition and contamination need to be considered having regard to policy CS8 of the Core Strategy.

5.6.2 In respect of land condition the site lies outside of the Coal Authority's defined development referral area and therefore the site



is covered by their 'Standing Advice' which is issued to all sites with this regard. On this basis the application has, not been referred to the Coal Authority for comment as this is not required, however it is considered that the development complies with the provisions of policies CS2 and CS8 of the Core Strategy. There will be no excavations which may impact on any below ground issues.

- 5.6.3 The application submission was also referred to the Council's **Environmental Health Officer** (EHO) for review and whilst there was an initial concern that there could be potential for noise from queuing car-boot stall holders, for nearby residents (at Clarence Road, Rose Hill and Albion Road), the site management scheme has been revised to ensure that stall-holders arriving early, are held in the car-park on Rose Hill at the rear of the Town Hall.

*As a result, the EHO states:- I had agreed this approach with the applicant and therefore no objection arises.*

- 5.6.4 The submitted Site Management Plan outlines the manner in which the car-boot would operate, and in addition to the controls over early arrivals, and the restrictions to access and egress to control the traffic, the applicant also proposes – with the site management plan – additional controls over start/finish times, a lack of music or public address systems, litter, cleaning, and first-aid, in addition to the traffic management/noise limitations.

- 5.6.5 It will also be necessary, to impose a condition on any approval that the site only be developed in accordance with the submitted Site Management Plan, in order to protect the amenity of nearby neighbouring residential properties.

- 5.6.6 Subject to the above controls, the proposal would not harm the amenities of nearby residents, and the development complies with the provisions of policies CS2 of the Core Strategy.

## 5.7 **Other Considerations**

- 5.7.1 Having regard to the nature of the application proposals, it is not considered that the proposal would be harmful to either the health of the protect tree and other trees in the area, nor would any ecology or wildlife be harmed by the proposal which therefore complies and the development complies with the provisions of policies CS2 and CS9 of the Core Strategy.

5.7.2 Being a well-established public car-park, the site is already served by drop-kerbs, crossings, ramps and level-access areas that give appropriate access for the disabled.

## 6.0 **REPRESENTATIONS**

6.1 The application has been publicised by site notice posted on 23/03/2019; by advertisement placed in the local press on 21/03/2019.

6.2 As a result of the applications publicity there have been no letters of representation received.

## 7.0 **HUMAN RIGHTS ACT 1998**

7.1 Under the Human Rights Act 1998, which came into force on 2<sup>nd</sup> October 2000, an authority must be in a position to show:

- Its action is in accordance with clearly established law
- The objective is sufficiently important to justify the action taken
- The decisions taken are objective and not irrational or arbitrary
- The methods used are no more than are necessary to accomplish the legitimate objective
- The interference impairs as little as possible the right or freedom

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

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

## 8.0 **STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT**

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

line with paragraph 38 of the National Planning Policy Framework (NPPF).

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

8.3 The applicant / agent and any objector will be provided with copy of this report informing them of the application considerations and recommendation / conclusion.

## 9.0 **CONCLUSION**

9.1 The proposed development is considered to be an appropriate re-use of the Town Hall Car Park on a temporary basis, and the development has been sited, detailed and designed such that the development proposals comply with the provisions of policies CS1, CS2, CS3, CS6, CS7, CS8, CS9, CS13, CS14, CS15, CS16, CS18, CS19, CS20 and PS1 of the Chesterfield Local Plan: Core Strategy 2011 – 2031.

9.2 Planning conditions have been recommended to address any outstanding matters and ensure compliance with policies CS2, CS8, CS8, CS18 and CS20 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 and therefore the application proposals are considered acceptable.

## 10.0 **RECOMMENDATION**

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

### **Conditions**

#### **Time Limit etc**

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

*Reason - The condition is imposed in accordance with section 51 of the Planning and Compensation Act 2004.*

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

Site Location Plan – Un-numbered, dated 13.02.2019;  
Rose Hill Car Boot Operation - Amended Site Management Plan – Received on 01.05.2019;  
Site Management Plan Photo – Received on 27.02.2019

*Reason - In order to clarify the extent of the planning permission in the light of guidance set out in "Greater Flexibility for planning permissions" by CLG November 2009.*

#### Amenity/Highway Safety

03. The site shall only operate within the hours and dates specified on the application and within the Site Management Plan, and the development shall not be brought in to use until the traffic management, stewardship and other operational requirements of the submitted, Rose Hill Car Boot Operation - Amended Site Management Plan (Received on 01.05.2019) have been instigated. Thereafter, the site shall only be operated in full accordance with the approved Amended Site Management Plan.

*Reason - Reason – In the interests of residential amenity and highway safety and to comply with the provisions of Policies CS2, CS6 and CS20 of the Adopted Core Strategy 2011 – 2031.*

#### Notes

01. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.

02. This approval contains condition/s which make requirements prior to development commencing. Failure to comply with such conditions will render the development unauthorised in its entirety, liable to enforcement action and will require the submission of a further application for planning permission in full.
  
03. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is also available on the Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)