

Item 1**PLACEMENT OF A CONTAINER TO BE USED AS A BAR ON MATCH DAYS AND PERIMETER FENCING AT SMH GROUP STADIUM, 1866 SHEFFIELD ROAD, WHITTINGTON MOOR, CHESTERFIELD, DERBYSHIRE, S41 8NZ FOR MR SANTIAGO GARCIA-PEREZ.**

Local Plan: no allocation

Ward: Whittington Moor

Planning Committee Date: 23rd October 2023**1.0 CONSULTATIONS**

Ward Members	Cllr Leslie Thompson confirms he has no objection to the principle of the proposal.
Local Highway Authority	No objection.
Derbyshire Constabulary	No objection.
Strategic Planning	Concerns raised – see report.
Environmental Health	No objection.
Urban Design Officer	Objection, refusal recommended, see report.
Representations	1 objection has been received by a member of the public who has objected on noise, residential amenity, highways and visual grounds. See report.

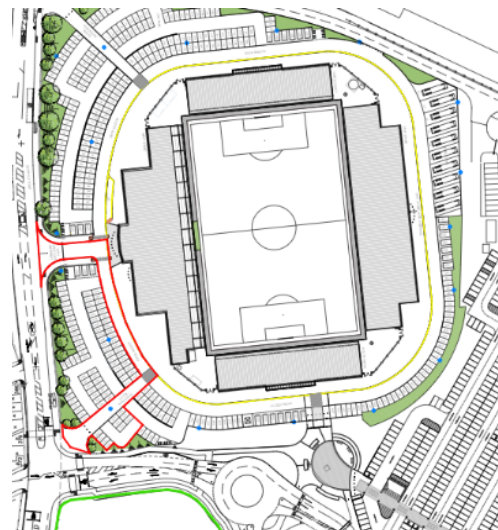
2.0 THE SITE

2.1 The site subject of the application is situated at the south west corner of the car park which fronts the Chesterfield Football Club SMH Group stadium, sited at the junction of Sheffield Road and Ernie Moss Way.

- 2.2 The site currently provides 10 no. parking spaces for the football club and the red line boundary includes a pedestrian entrance to the ground which enters the stadium site from the corner of Sheffield Road and Ernie Moss Way.
- 2.3 Vehicular access to the site is via the main vehicle access to the stadium which is taken from Sheffield Road. The site slopes from south west to north east towards the stadium building.
- 2.4 The main part of the application site (excluding the pedestrian and vehicular access captured within the application red line boundary) is approximately 250sqm (0.025ha). This includes the 15sqm footprint of the proposed container.
- 2.5 Sheffield Road is mixed in character at this location, featuring a wide range of uses including the Aldi and Tesco stores to the south and south east, commercial uses to the north, commercial uses to the west and north west, Glass Yard development which provides a mix of uses including retail, showroom and food and beverage, and residential uses to the south west along Nelson Street and Sanforth Street. The application site is within close proximity to the Whittington Moor District Centre, the boundary of which is immediately to the north of the stadium site.



Aerial photograph © Google Maps



Site Location Plan ©



Application site, looking east



Application site, looking north west

3.0 SITE HISTORY

- 3.1 The stadium site has been subject to a number of planning applications. Those listed below are those considered to be most relevant to the application under consideration.
- 3.2 CHE/08/00230/FUL – Redevelopment of former Dema Glass Site, New Football Stadium (incorporating conference and banqueting facilities) (D2) Food Store (A1) (including ancillary retail units), Petrol Filling Station, a mix of office (B1) and/or Hotel (C1), and/or Restaurant (A3), and/or Car Showroom with associated access, parking (including park and ride spaces) and landscaping – in association with the revised plans received including (drawing no's 6418_P02 REV D, EA/5122/004 rev L, EA/5122/002 rev L, EA/5122/001 rev L, EA/5122/003 rev L, 25041_PL02A, 25041_PL03A and revised plans WBP/305/1000 Rev P2, WBP/305/900 Rev P2, WBP/305/600 Rev P3 contained within the Transport Assessment Addendum.

CONDITIONAL PERMISSION: 30/07/2008

- 3.3 CHE/09/00129/FUL – Amendments to approved drawings of CHE/08/00230/FUL relating to the redevelopment of former Dema Glass site, new football stadium, food store, petrol filling station, a mix of office and/or hotel, and/or restaurant, and/or car showroom with associated access, parking and landscaping.

CONDITIONAL PERMISSION: 21/04/2009

3.4 CHE/09/00300/FUL – Amendment to CHE/08/00230/FUL specifically relates to the car park - revised application form received 24th June 2009

CONDITIONAL PERMISSION: 20/07/2009

3.5 CHE/13/00040/REM1 - Variation of Condition 17 to CHE/08/00230/FUL to allow up to two non-football events to take place within the football stadium each year, with associated activity taking place within the boundaries of the curtilage of the stadium

CONDITIONAL PERMISSION: 04/06/2013

3.6 CHE/12/00414/FUL - Transfer of the existing car boot sale from Holywell Cross to the B2 Net stadium on Sundays from 6am to 1pm

CONDITIONAL PERMISSION: 25/09/2012

3.7 CHE/13/00228/REM1 - Variation of condition 2 (to increase trading and free parking areas - as per Plan A) and condition 3 (to allow stall set up at 07:45, remove reference in condition to 'public' and exclude approved catering vans from condition restrictions) of CHE/12/00414/FUL

CONDITIONAL PERMISSION: 04/06/2013

3.8 CHE/20/00114/REM1- Variation of condition 17 of CHE/08/00230 to allow outdoor cinema screenings on the pitch twice per year

FOUND TO BE PERMITTED DEVELOPMENT: 02/03/2020

3.9 CHE/21/00789/FUL – Single storey detached sports bar set in the car park of the Technique Stadium

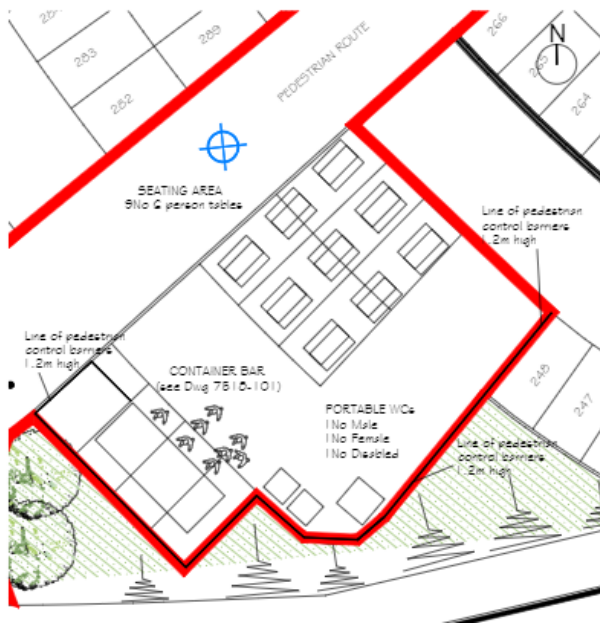
CONDITIONAL PERMISSION: 11/10/2022

3.10 CHE/23/00497/FUL – Erection of a substation for 12 ultra rapid electric vehicle charge points and associated electrical equipment

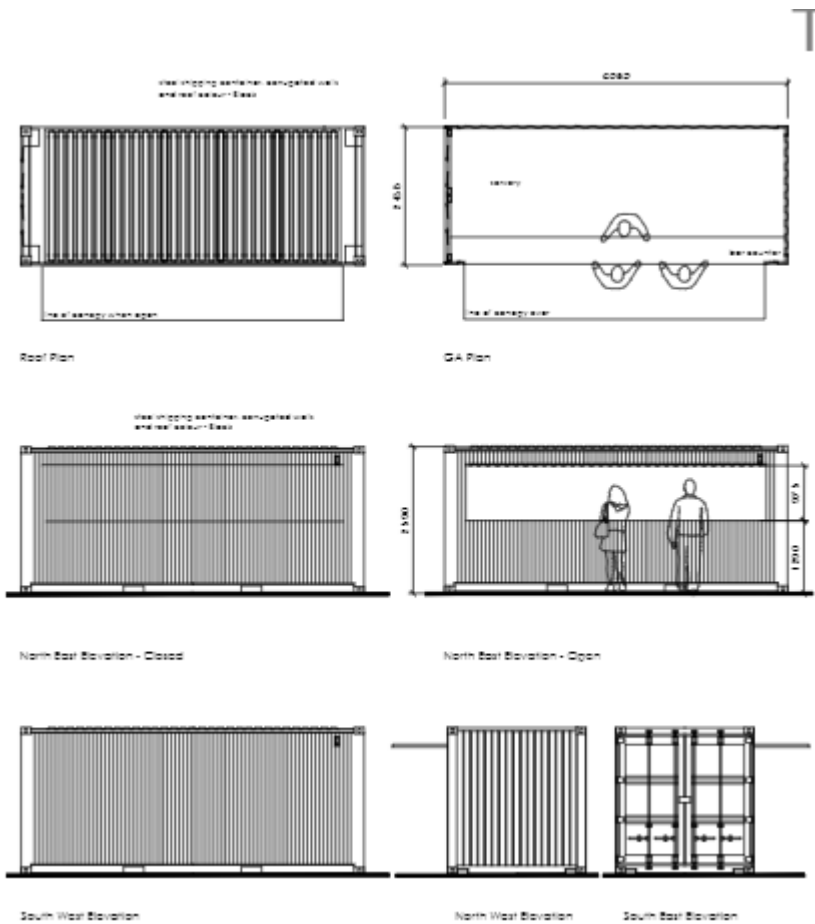
PENDING CONSIDERATION

4.0 THE PROPOSAL

- 4.1 This application seeks planning permission for the placement of a shipping container to be used as a bar within the grounds of the Chesterfield Football Club SMH Group Stadium, including the erection of perimeter fencing.
- 4.2 The container is proposed to measure 6m x 2.5m, at 2.59m tall and is proposed to be set at an angle to run parallel with the boundary of the existing hardscape at this part of the site, with an opening for the bar to the north-east elevation, with retractable canopy. The elevations state that the colour of the container is to be black.
- 4.3 A line of 1.2m pedestrian control barriers is proposed to run around the south east and south west boundaries of the site (those boundaries that are adjacent to the public highway). No elevational or other details have been provided relating to the barrier provision. The application form states that boundary treatments are to be “temporary when operational”.
- 4.4 1 no. male, 1 no. female and 1 no. disabled temporary WCs / ‘portaloos’ are to be located within the perimeter fencing. The application form states that 1100 litre bins are to be provided within the site however no details of the bin storage or collection arrangements have been provided.
- 4.5 The proposed site plan shows that 9 no. 6-person tables are to be provided within the site to provide seating for customers.
- 4.6 Power is to be provided through the use of a generator.
- 4.7 The application confirms that the hours of opening are to be from 12 – 8 (assumed 12pm to 8pm) on Saturdays. There is an error on the application form (Section 18), which should refer to the fact that the proposal includes the gain of 15sqm non-residential floor space within the (now revoked) A4 use class “Drinking Establishments”.
- 4.8 The pedestrian access at the junction of Sheffield Road and Ernie Moss Way is to be retained. The application form (Section 10) is erroneous in that it does not reflect the 10 no. parking spaces that would be lost through the implementation of the scheme.
- 4.9 The applicant is not seeking a temporary permission and did not seek advice prior to submission of the application.



Proposed site plan ©



Proposed elevations ©

5.0 PLANNING POLICY

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

5.2 Chesterfield Borough Local Plan 2018 – 2035

- CLP1 Spatial Strategy (Strategic Policy)
- CLP2 Principles for Location of Development (Strategic Policy)
- CLP9 Retail
- CLP14 A Healthy Environment
- CLP16 Biodiversity, Geodiversity and the Ecological Network
- CLP20 Design
- CLP22 Influencing the demand for travel

5.3 National Planning Policy Framework 2023

- Part 2. Achieving sustainable development
- Part 4. Decision-making
- Part 8. Promoting healthy and safe communities
- Part 12. Achieving well-designed places
- Part 14. Meeting the challenge of climate change, flooding and coastal change
- Part 15. Conserving and enhancing the natural environment

5.4 National Design Guide (2021)

6.0 CONSIDERATION

6.1 Principle of Development

6.1.1 The site is not allocated for a particular use within the Local Plan. The principle of development should therefore primarily be assessed through Policies CLP1, CLP2 and CLP9 of the Chesterfield Local Plan.

6.1.2 Policy CLP1 directs growth in the Borough towards areas that are within walking distance of a range of Key Services as set out in Policy CLP2 and policy CLP2 identifies a range of considerations for proposals on non-allocated sites. The proposal is within walking distance to Whittington Moor District Centre which provides a range of Key Services and sits along a key public transport corridor which runs along Sheffield Road.

- 6.1.3 The proposal can be considered to accord with the Council's Spatial Strategy as set out by policy CLP1 and is on an existing area of hardstanding which is not of high environmental value, satisfying criteria a) and b) of policy CLP2. It is not considered that there are any specific regeneration or sustainability benefits to the area that would arise from the proposal. The proposal sits on the edge of Whittington Moor District Centre which provides a range of Key Services and is sited along a corridor for public transport which runs along Sheffield Road and is within range of existing cycling routes, therefore is in accordance with criteria d) and e) of policy CLP2. The proposal will have no impact on existing social infrastructure provision, satisfying criteria f) of CLP2. The proposal is not considered to compromise the safeguarding of Minerals Related Infrastructure and is not located on agricultural land, satisfying criteria g) and h) of CLP2.
- 6.1.4 On this basis, it is considered that the proposal accords with the Council's spatial strategy as established by CLP1 and CLP2 of the Chesterfield Local Plan.

Proposed Use

- 6.1.5 The proposal is for a sui generis Main Town Centre use as defined by the NPPF and is not within a defined Local Centre on the Local Plan policies map. Under the requirements of the NPPF (para 87) and Policy CLP9 the Council must therefore apply the sequential test. In addition, para 90 of the NPPF also necessitates the provision of an impact assessment, subject to any locally set thresholds. Policy CLP9 of the Local Plan requires an impact assessment to be undertaken for proposals over 280sqm within 500m of a District Centre so the requirement for an impact assessment to be provided does not apply in this case.
- 6.1.6 The applicant has provided a sequential assessment (Rev 01 – 04.09.2023) which states that it is considered that the site area as a whole should be subject to the sequential test, owing to the interrelated nature of the proposed container bar and the outdoor seating area. The sequential test is therefore undertaken on the basis of 250sqm of 'floorspace', as, in the view of the applicant, 'Any assessment of alternative sites needs to consider the operation of the proposed bar and the space required to meet the operational needs of the proposal.' It is therefore the view of the applicant that the 250sqm of outdoor space is required to support an independent freestanding proposed bar.

- 6.1.7 The sequential assessment considers a survey of use classes within Whittington Moor District Centre, a review of local planning applications and a review of local commercial listings. The Strategic Planning Team are generally satisfied that the parameters of the assessment are reasonable, and that a range of appropriate sources of information have been used.
- 6.1.8 The applicant has set the following requirements when considering the suitability, availability and viability of potential sites:
- The scale of the development (250sqm)
 - Suitable and safe customer access points
 - Parking with the vicinity
 - Level pedestrian access
 - Room to accommodate customer space and toilet units
 - A site that is easily accessible by a variety of means of transport
 - Linked to the stadium site on match days
 - Site that can be suitably serviced
- 6.1.9 The sequential assessment considers that there are no suitable sites within the Whittington Moor District Centre, on the edge of Whittington Moor District Centre along Sheffield Road (including with the Glass Yard development). Newbold Moor and Brimington Road/East Side Road Industrial Estate are considered to be unsuitable owing to their being predominantly residential and industrial in nature respectively.
- 6.1.10 Within Whittington Moor, the site of the former Travellers Rest Public House has been considered and could physically accommodate the proposed development. However, the additional cost of site purchase would, in the applicant's view, render the development financially unviable. The distance of the site from the stadium and the links to the identified customer footfall (fans visiting the football club on match days) make the site unsuitable.
- 6.1.11 Along Sheffield Road, the sequential test considers that there are no suitable units that are available within the former Dema glass site, nor within the recently completed Glass Yard development. The former Pure Gym site directly opposite the football stadium was considered, however the site is not currently on the market and has recently been sold. Planning permission was granted in 2022 for the redevelopment of the site for a self-storage facility and business units under application reference CHE/22/00680/FUL.

- 6.1.12 On that basis the sequential assessment concludes that there are no sequentially preferable alternative locations to accommodate the proposed development in either Whittington Moor Centre or other edge of centre locations.
- 6.1.13 The Strategic Planning Team has commented that the assessment provided should include more information regarding its conclusions, which includes the details of the units considered and the reasons why units were considered to be unavailable or unsuitable. Their comments state that if such information could be provided, and that information supports the conclusions within the sequential assessment, that the requirement for a sequential approach will have been met.
- 6.1.14 It is noted that some details of sites have been provided in section 5 however it is unclear whether these are considered within those mentioned at section 4.4 or are additional. Nevertheless, the Strategic Planning Team are satisfied that the overall methodology used is acceptable, subject to the provision of further information.
- 6.1.15 On this basis, it is considered that the proposed development satisfies the sequential test as defined within the NPPF. The principle of development can therefore be considered acceptable in this case.

6.2 Design and Appearance of the Proposal

- 6.2.1 Local Plan policy CLP20 states in part;
- “All development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context... b) respect the character, form and setting of the site and surrounding area by virtue of its function, appearance and architectural style, landscaping, scale, massing, detailing, height and materials.”*
- 6.2.2 The NPPF places a strong emphasis on good design and sets a clear expectation that ‘development that is not well designed should be refused’ (NPPF para 134). The National Design Guide advocates the need for development to reflect on local context, identity and built form to achieve beautiful, enduring and successful places.
- 6.2.3 This part of Sheffield Road has a mixed character, though is dominated by commercial buildings of varying scales and types.

Within the immediate vicinity, there are large-format supermarkets, pubs, commercial uses at the Glass Yard development, and the stadium building.

6.2.4 The stadium site is dominated by the large-scale stadium building, which is built in a mix of materials, predominantly a cladded structure above a red brick plinth. The site frontage is purposefully open in character, with the stadium building set back away and at a lower ground level from the Sheffield Road frontage which mitigates against the scale of the building. The site frontage to Sheffield Road is bounded by a pleasant landscaping scheme behind a stone boundary wall which help to shield the stadium building and provide a pleasant visual appearance to the site, despite its use and scale. A similar approach has been applied to other large format development schemes in the vicinity such as the Glass Yard site, Tesco and the former Simply Gym site.

6.2.5 The application site is located at a visually prominent corner of the wider stadium site, adjacent to the main pedestrian entrance into the site, which features a totem sign which provides information relating to upcoming fixtures. To the Ernie Moss Way frontage there is a grassed verge boundary which separates the stadium car park from the highway edge and again has an open character. The position is a key visible landmark corner which is seen in the round but especially when approaching along Sheffield Road and Ernie Moss Way.

6.2.6 The Urban Design officer and Strategic Planning Team have raised significant concerns regarding the poor quality design of the proposal, i.e. the placement of an 'off-the-shelf' shipping-style container. The Strategic Planning Team comments state the following:

'I am concerned that the current proposal is of significantly poorer design quality [than the previous proposal for a sports bar] and that it would conflict with the aims of policy CLP20.'

6.2.7 The Urban Design officer raises the following issues:

- Lack of detail provided regarding the seating arrangements (materiality, colour)
- Siting and orientation, which fails to take account of the relationship between vehicles, pedestrians and other users, raising concerns relating to safety and security

- The proposed operation of the bar (as a 'fan zone' on match days) and its relationship to the surrounding neighbourhood
- Lack of sense of place
- The temporary nature of the proposals and long term management (i.e. refuse)
- Visual appearance, weak sense of enclosure and poor edge treatments, which are detrimental to the function of the space and its relationship to the surrounding area
- Overall poor quality and unsympathetic design

6.2.8 The applicant has stated that the container will be painted in club colours (blue and white?), however the proposed drawings state the colour to be black. No RAL code has been provided. Reference is provided within the application material to temporary fencing however no details have been provided, or any confirmation given on how this will be managed, or how the site will be left on non-operational dates. It is understood that the proposal is to create a 'fan zone' on match days, however no detail is given on the proposed operations of the 'zone'.

6.2.9 Whilst it is recognised that the proposal would serve a commercial function for the stadium and provide a space for supporters to congregate and drink on match days in appropriate weather, this is on a sporadic and inconsistent basis. It is noted that there are multiple drinking establishments within the immediate vicinity of the stadium site which provide the opportunity for supporters to meet on match days, as well as food and beverage outlets within the stadium itself.

6.2.10 It is considered that the siting of the proposed container at such a prominent part of the stadium site is inappropriate and would be incongruous within the street scene. It would detract from the overall character of the site and its open character to the frontage and would therefore be harmful to the visual amenity of the site.

6.2.11 The orientation of the proposal is considered to be inappropriate, since it turns its back on the prominent corner of Ernie Moss Way and Sheffield Road and faces inwards into the site, which will shield the activity and vibrancy that it purports to bring away from the road frontage and which creates an insular nature and does not provide a welcome to supporters when operational. From the street frontage the development will appear as an industrial, bland container unit.

- 6.2.12 The proposal fails to contribute positively to the local character, it lacks visual interest and appeal, and does not provide a standout / prominent feature within the streetscape which this prominent part of the stadium site would warrant. This is considered to be especially the case when the bar is not in use (which will be the majority of the time), which will leave an array of seating without any purpose and a locked, bland storage container, which is inappropriate for this location.
- 6.2.13 The applicant has submitted a retort to the Urban Design Officers' comments which state that the proposal is considered to be a 'box park' style feature, however this is not considered to be the case, nor does it provide a worthwhile comparison. Boxpark is known for being a vibrant mix of food, drink, and events to bring activity and vibrancy to locations. The application proposal will be an isolated, single, container within the wider stadium site that bears no relationship to its wider setting and sells drinks to supporters on match days.
- 6.2.14 It is considered that the proposal lacks character, any architectural interest, and fails to positively contribute to the setting of the stadium or the surrounding area. It is considered to be detrimental to the visual amenity of the stadium site.
- 6.2.15 As noted by the Strategic Planning Team, a previous proposal for a bar use at this part of the stadium site was subject to substantial revision owing to its poor design quality. In this instance, it is not considered that any revisions can be made which would make the proposal acceptable. This is due to the fact that it is not considered appropriate for a container to be placed and used for this purpose at such a prominent part of the site, and the only way to overcome this would be to propose a permanent building, as per the previous permission on the site.
- 6.2.16 On that basis, it is not considered that the proposal meets the requirements of Policy CLP20 of the Chesterfield Local Plan, para 130 of the NPPF or guidance within the National Design Guide. As per the NPPF guidance, it is not considered that the proposal is well-designed and should therefore be refused.

6.3 Local Amenity

- 6.3.1 Local Plan policy CLP14 states that development will be expected to have an acceptable impact on the amenity of users and adjoining occupiers, taking into account noise and disturbance, dust, odour, air

quality, traffic, outlook, overlooking, shading, daylight and sunlight and glare, and other environmental impacts.

6.3.2 The Council's Environmental Health Team has been consulted and have raised no objections regarding noise or other impacts arising from the scheme.

6.3.3 The lack of information regarding the operational management of the site, including site set up and closedown, with respect to the proposed pedestrian barriers, refuse storage and collection, WC management and cleaning, and security, mean that there are amenity concerns regarding the management of the site.

6.3.4 Concerns have also been raised by local a local resident regarding the potential harmful amenity affects of the proposal, as follows:

- Noise: arising from customer use and generators used to power the site
- Risk of anti-social behaviour relating to the seating and WCs when the bar is not in use

6.3.5 There is insufficient information within the application proposal relating to the site operations and management which would be required to satisfy the requirements of Policy CLP14 of the Local Plan with regarding to managing the impact on local amenity.

6.4 Highways Safety

6.4.1 Local Plan policies CLP20 and CLP22 require consideration of parking provision and highway safety.

6.4.2 A local resident has raised concerns regarding highway safety as a result of people congregating close to the signalised junction.

6.4.3 The Local Highway Authority has commented that:

“The proposal includes 1.2m high fencing around the perimeter of the bar area which would go some way to preventing overspill of patrons of the facility on to the adjoining footway and carriageway. This does occur at match times when spectators arrive at and leave the ground and cross roads surrounding the site when gaps in traffic are perceived to be available; the presence of the proposed bar is not considered to alter, or worsen what is usual practice by spectators arriving and leaving the ground on match days.”

Based on the above comments, there are no highway objections to the application.”

- 6.4.2 The proposal would result in the loss of 10 no. parking spaces from the stadium site, with parking provision on match days being a point of concern. No information has been provided by the applicant regarding the mitigation of this loss of parking. Previous applications on this part of the site have included information that suggests that the lost parking could be suitably accommodated elsewhere, and whilst this information has not been submitted, the loss of the parking spaces is not considered to constitute a reason for refusal in this instance.
- 6.4.3 On this basis the proposal is considered to accord with the provisions of policies CLP20 and CLP22 of the Local Plan.

6.5 Biodiversity and trees

- 6.5.1 Local Plan policy CLP16 states that all development will “protect, enhance, and contribute to the management of the borough’s ecological network of habitats, protected and priority species ... and avoid or minimise adverse impacts on biodiversity and geodiversity and provide a net measurable gain in biodiversity.” The NPPF in paragraph 170 requires decisions to protect and enhance sites of biodiversity and paragraph 174 also requires plans to “pursue opportunities for securing measurable net gains for biodiversity”.
- 6.5.2 No additional information in relation to biodiversity measures on site has been provided as part of the application. The proposed development is considered to be a minor development and does not result in the loss of an existing species rich habitat area. Some level of biodiversity net gain is considered to be necessary to accord with policy CLP16 of the Local Plan and the NPPF, therefore a planning condition would have been attached to any positive decision issued to ensure the application provided the agreed biodiversity net gain measures, as a result of the proposed development. On this basis the proposal is considered to accord with the provisions of policy CLP16 of the Local Plan.

7.0 REPRESENTATIONS

- 7.1 1 objection has been received from a local resident raising concerns as follows:
- Noise

- Traffic and highway safety
- Visual impact
- Risk of anti-social behaviour
- Risk of additional lighting being required
- Management of fans

7.2 Officer response: The comments raised have been addressed within Section 6 of the report.

8.0 HUMAN RIGHTS ACT 1998

8.1 Under the Human Rights Act 1998, which came into force on 2nd October 2000, an Authority must be in a position to show:

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

8.2 The action in considering the application is in accordance with clearly established Planning law and the Council's Delegation scheme. It is considered that the recommendation accords with the above requirements in all respects.

9.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT

9.1 The Local Planning Authority has considered the merits of the submitted application and judged that there was no prospect of resolving the fundamental planning problems with it through negotiation, due to the significant changes that would be required to the design of the proposal. On this basis, the requirement to engage in a positive and proactive manner is considered to be best served by the Local Planning Authority issuing a decision on the application at the earliest opportunity, thereby allowing the applicant to exercise their right to appeal or amend the scheme through pre-application discussion and the submission of a new planning application.

10.0 CONCLUSION

10.1 The proposal is not considered to be of an acceptable design and therefore fails to accord with policy CLP20 of the Chesterfield Local

Plan and the requirements of the NPPF to promote good design and the National Design Guide in creating beautiful, enduring and successful places. Insufficient information has been provided relating to the management of the site which would address the amenity issues identified, which fails to accord with Policy CLP14 of the Chesterfield Local Plan.

11.0 RECOMMENDATION

- 11.1 It is therefore recommended that the application be **REFUSED** on the basis of the following:
1. The proposal is of a poor design in terms of its siting, orientation, layout, and visual appearance not taking account of the context, identity and built form of the locality and therefore failing to satisfy the requirements of Policy CLP20 of the Chesterfield Local Plan, the requirements of the National Planning Policy Framework paragraph 134 and the National Design Guide.
 2. Insufficient information has been provided with regard to the management and operation of the site in respect of proposed pedestrian barriers, refuse storage and collection, WC management and cleaning, and security resulting in outstanding amenity concerns regarding the site at odds with Policy CLP14 of the Chesterfield Local Plan.