

Case Officer: E Casper  
Committee Date: 1st July 2019

Application No: CHE/18/00602/FUL  
Plot No: 2/6294, 2/142

### **ITEM 3**

## **PROPOSED TEMPORARY WORKS SECURITY COMPOUND FOR THE USE OF THE CHESTERFIELD CANAL TRUST VOLUNTEER WORK PARTY (ADDITIONAL INFORMATION PROVIDED REGARDING NOISE MITIGATION AND REVISED SITE PLAN 03.04.2019) AT LAND ADJACENT TO 21 BELLHOUSE LANE, STAVELEY, S43 3UA FOR CHESTERFIELD CANAL TRUST**

Local Plan: Green Belt, Chesterfield - Staveley Regeneration Route  
Ward: Lowgates and Woodthorpe

### **1.0 CONSULTATIONS**

DCC Highways	Comments received – see report
Ward Members	No comments received
Strategy Planning Team	Comments received – see report
Environmental Health	Objection received – see report
Neighbours and Site notice	Representations received – see report

### **2.0 THE SITE**

2.1 The site subject of this application is situated to the north west of the terminus of Bellhouse Lane highway and to the north of No 21 Bellhouse Lane. The site is within the green belt and to the south of the Chesterfield – Staveley Regeneration Route.

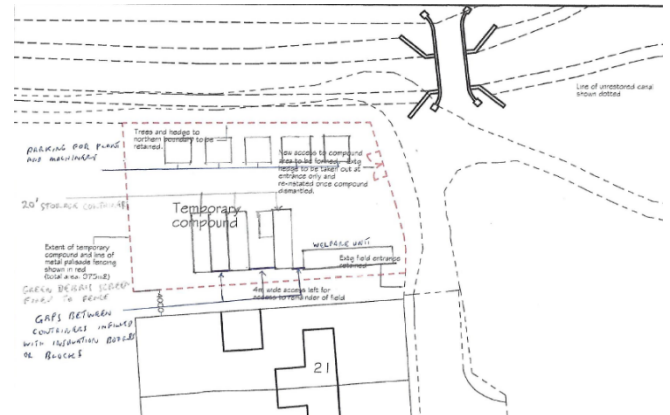


## 2.2

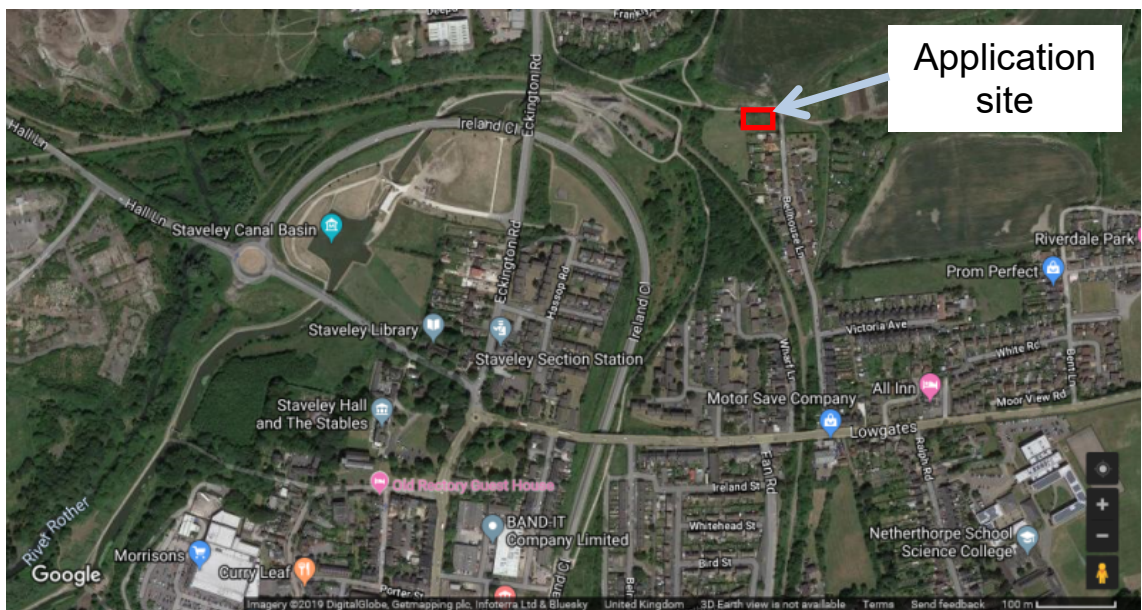
The site is bound by the former Chesterfield Canal to the north and east and a public footpath is located to the north of the site. To the west of the site is an area of open space and the site is separated from No 21 Bellhouse Lane by an existing access track (see site location plan and revised site plan below).



Site Location Plan  
(site outlined in red)



Revised site plan  
(received 03.04.2019)



Aerial photograph showing the proposed site compound in relation to the Staveley Canal Basin (approximate outline of site shown in red for illustrative purposes only)

## 3.0

### **APPLICATION SITE PLANNING HISTORY**

### 3.1

CHE/1184/0681 - In respect of proposed construction of the Staveley By - Pass (A619) from the termination of the proposed Brimington By - Pass at Middlecroft to the boundary between

Chesterfield Borough and Bolsover District to the east of Renishaw Road Mastin Moor – **Conditional Permission (27.02.1985)**

3.2 CHE/0995/0459 - Construction of 2 lane highway between Tapton roundabout and M1 motorway junction 30 A619 Brimington Staveley bypass – **No objection to DCC application with comments (20.11.1995)**

#### **4.0 THE PROPOSAL**

4.1 The application seeks the retention of the use of the land as a temporary storage compound by the Chesterfield Canal Trust for the next major phase of the restoration of the canal. Works commenced on site in August 2018, including the removal of a section of hedgerow for access. The application form states that the hedgerow will be re-instated once the compound is removed. The application seeks temporary consent for 5 years.

4.2 The application proposes the erection of a 2.4m high palisade fence around the perimeter of the site to create a secure enclosure. The compound will be used for the storage of plant/machinery and materials including 5 storage containers (each 20ft/6m in length) and a 'welfare unit'.

4.3 The application form states that proposed working hours are anticipated to be 'Sundays and Thursdays 10am to 6pm plus occasional other days'. It is therefore necessary to note that standard working hours would not usually include Sunday working. The Canal Trust are seeking to extend the working days to enable restoration works to be undertaken with volunteer work parties which operate on a Sunday.

4.4 The applicant has provided additional supporting information which is summarised below;

- The Chesterfield Canal Trust will be working to restore the canal to the North West and North East of Bellhouse Lane.
- One of the first intentions for working will be to improve the Public Right of Way to the North East along the Puddlebank as this is very overgrown, undefined and inaccessible.
- Work within the compound will be confined to the storing and movement of plant and materials.
- Access to the work site will be to the north east of the compound and not along Bellhouse Lane. No plant will be taken along

Bellhouse Lane. Existing plant owned by the Chesterfield Canal Trust will be transported to the Bellhouse compound along the line of the Canal from Staveley Town Basin.

- It is anticipated that there will be a maximum of 7 deliveries to the site per week, this will involve vans or lorries utilising Bellhouse Lane highway.
- There are usually two work parties per week (Thursday and Sunday) From 10:00 to dark or 18:00
- There are usually three to twelve vehicles for these work parties, they may use Bellhouse Lane for access (sometimes parking will be at Staveley Town Basin as now). The volunteer workforce may use Bellhouse Lane for access but will park as directed and there will be no parking on Bellhouse Lane is room for them to park opposite the compound entrance (clear of farm, allotments access track)
- To mitigate any noise from the machinery they will be parked along the side of the compound furthest away from the neighbours on Bellhouse Lane.
- The storage containers will have the gaps between them infilled with insulated boards or blocks to limit sound travel.
- The site is served by mains electricity so a generator is not required.

- 4.5 The application is supported by the following plans/documents;
- 'Site Location Plan' (02.09.2018)
  - 'Plan as Proposed', drawing number CCT/WP/001 (dated 02.09.2018)
  - Revised plan as proposed (dated 03.04.2019)

- 4.6 The Canal Trust intend on submitting a planning application for the restoration scheme from the Eckington Road bridge through to the north borough boundary in the near future. This will reinstate a navigable canal where currently the canal route has been infilled and which involves construction of locks, bridges and major engineering works.

## **5.0 CONSIDERATIONS**

### **5.1 Planning Policy**

- 5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that, 'applications for planning permission must be

determined in accordance with the development plan unless material considerations indicate otherwise'. The relevant Development Plan for the area comprises of the saved policies of the Replacement Chesterfield Local Plan adopted June 2006 (RCLP) and the adopted Chesterfield Borough Local Plan: Core Strategy (2011-2031).

## 5.2 **Chesterfield Local Plan: Core Strategy 2011 - 2031 ('Core Strategy')**

- Strategic Objective S12 'Restore the Chesterfield Canal to a navigable state along all its length within the borough.' (p32)
  - CS1 Spatial Strategy
  - CS2 Principles for Location of Development
  - CS3 Presumption in Favour of Sustainable Development
  - CS9 Green Infrastructure and Biodiversity
  - CS14 Tourism and the Visitor Economy
  - CS18 Design
  - CS19 Historic Environment
  - CS21 Major Transport Infrastructure
  - PS4 Markham Vale

## 5.3 **Other Relevant Policy and Documents**

- National Planning Policy Framework (NPPF)

## 5.4 **Key Issues**

- Principle of development and appearance of the proposal;
- Impact on neighbouring residential amenity;
- Highway safety;

## 5.5 **Principle of Development and Appearance of the Proposal;**

5.5.1 Having regard to the nature of the application and proposal for a temporary consent the following policies are considered relevant to the development CS1, CS2, CS9, CS14, CS18 and CS19.

5.5.2 Core Strategy Policy CS1 Spatial Strategy states that the existing Green Belt will be maintained and enhanced and also seeks to connect areas of green infrastructure and access to countryside and recreation.

- 5.5.3 Core Strategy Policy CS2 Principles for Location of Development requires development to meet the following requirements c) are not on the best and most versatile agricultural land; d) deliver wider regeneration and sustainability benefits to the area; f) maximise opportunities for walking and cycling and the use of public transport and to i) needs to be in a specific location in order to serve a defined local catchment or need, to access specific resources or facilities (including transport connections) or to make functional links to other, existing uses;
- 5.5.4 Core Strategy Policy CS9 Green Infrastructure and Biodiversity states that development proposals are required to a) not harm the character or function of the Green Belt ... b) enhance connectivity between and public access to green infrastructure c) increase the opportunities for cycling, walking and horse riding e) conserve or enhance the local distinctiveness and character of the landscape
- 5.5.5 Core Strategy Policy CS14 Tourism and the Visitor Economy states that the Council will promote and enhance tourism development in the borough including ii) the restoration and enhancement of Chesterfield Canal.
- 5.5.6 Core Strategy Policy CS18 Design states that all development should identify, respond to and integrate with the character of the site and surroundings and respect the local distinctiveness of its context.
- 5.5.7 Core Strategy Policy CS19 Historic Environment states that the Council will protect the historic environment and heritage assets throughout the borough and seek to enhance them wherever possible and f) enhance the character and setting of ... Chesterfield Canal
- 5.5.8 The NPPF states that the Local Planning Authorities should regard the construction of new buildings in the Green Belt as inappropriate with the exception of b) the provision of appropriate facilities (in connection with the existing use of land or change of use) for outdoor sport, outdoor recreation..... as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it (paragraph 145, p42)

- 5.5.9 The Strategy Planning Team were consulted on the proposal and they provided the following comments; *'This site falls within land identified as Green Belt on the adopted Local Plan policies map. However the temporary use of the site for a compound in connection with the restoration of Chesterfield Canal (which itself is not inappropriate development in the green belt as an appropriate facility for outdoor recreation) would not harm the purpose of including this land in the green belt, provided it is subject to appropriate conditions limiting the use to a temporary period and ensuring the land's re-instatement once the use has ceased. It would also support objective S12 of the adopted Core Strategy "Restore the Chesterfield Canal to a navigable state along all its length within the borough" and be in accordance with policy CS14 (Tourism and The Visitor Economy) which encourages development that is related to 'the restoration and enhancement of Chesterfield Canal' and policy CS19 (Historic Environment) which seeks to enhance the character and setting of the canal.'*
- 5.5.10 It is acknowledged that the development will introduce large structures and 2.4m high fencing to the Green Belt, albeit on a temporary basis. Taking into account the temporary nature of the proposal and rationale for the development as part of wider restoration work to the Canal the principle of the development is considered to be acceptable.
- 5.5.11 It is recommended that a condition be attached to the decision requiring the submission of a remediation plan to ensure that the site is returned to an acceptable state after the compound is removed.
- 5.5.12 Having regard to the observations above and taking into the account the temporary nature of the proposal and the rationale for the development to restore the Canal which accords with wider policies and strategic objective. On balance, the proposal will therefore accord with the provisions of policies CS1, CS2, CS9, CS14, CS18 and CS19 of the Core Strategy.

## **5.6 Impact on Neighbouring Residential Amenity**

- 5.6.1 Core Strategy Policy CS18 states that all development will be expected to have an acceptable impact on the amenity of users and neighbours. Core Strategy Policy CS2 states that all developments will be required to have an acceptable impact on the amenity of



users or adjoining occupiers, taking into account things such as noise, odour, air quality, traffic, appearance, overlooking, shading or other environmental, social or economic impacts.

- 5.6.2 The application site is situated to the north of No 21 Bellhouse Lane and the site is separated by an access track leading to open space to the west of the site. The occupiers of No 21 have raised objections to the proposal, see section 6.0 of the report.
- 5.6.3 The Environmental Health Officer was consulted on the proposal and raised concerns about the proposal due to the impact on the adjoining residential property, particularly noise and disturbance arising as a result of the proposed working hours (including Sunday working), see comments below;
- 5.6.4 *‘With a construction site compound we would still recommend no movement of plant/machinery on a Sunday or Public Holiday. I understand from the Council’s perspective there is a desire to enable the Canal Trust to carry out improvement works to the canal. I also understand that this proposed compound would be accessed on a Sunday as the majority of the work will be carried out by volunteers. I’ll need to chat with Steve [Environmental Health Officer]. I would expect the applicant to submit an application under Control of Pollution Act this would detail what noise is likely and how it will be mitigated.’*
- 5.6.5 *‘I’ve had a chat with Steve [Environmental Health Officer] and the proposed location (adjacent to No. 21) is not ideal. Is this the only location that the temporary compound can be located? Is there the availability of land further north of Bellhouse Lane? If the applicant does wish to use this as a more permanent location for the compound, the applicant will need to submit a Sec.60 COPA application. This is an application under Section 60 of the Control of Pollution Act and sets out what plant will be used, the noise emitted from that plant and measures to mitigate. There may be a charge for this application.’*
- 5.6.6 The application proposes extending the standard working hours to include work on a Sunday between 10am and 6pm to enable volunteer work parties to assist in the restoration works. To undertake the necessary works to the canal, plant and machinery will be moved out of the compound and then returned to the compound for storage, therefore restricting potential disturbance.



The applicant has provided a revised site plan with measures to limit noise disturbance to the adjacent property including siting machinery to the north of the site and in-filling spaces between containers with insulation boards or blocks to reduce noise transference. The revised plan also includes further screening to the southern boundary in the form of a 'green debris screen' fixed to the fence. On balance, due to the nature of the proposal it is considered that the proposed hours of operation are acceptable.

5.6.7 It is necessary to note that the Section 60 Control of Pollution Act Application referenced by the Environmental Health Officer is separate to the Planning Process and would not be a material consideration in the determination of this application.

5.6.8 Having consideration for the observations above, the proposal is not considered to cause significant adverse impacts on residential amenity of the adjoining neighbours. The proposal will therefore accord with the provisions of policies CS2 and CS18 of the Core Strategy.

## **5.7 Highways Safety and Parking Provision**

5.7.1 The Local Highways Authority Derbyshire County Council (DCC) Highways Team were consulted on the proposal and they provided the following comments; *'The above retrospective application has been forwarded to this Authority for highway considerations and I have the following comments to make :- it should be noted that the adopted limits of Bellhouse Lane fall short of the site in question. The limit of adoption is basically the northern boundary or No.21. The application form indicates that access to the work site will be to the north east only and not along Bellhouse Lane and that no plant will be taken along Bellhouse Lane. It is considered that prior to provided formal comments additional clarification/detail is required regarding access to the site from the publically maintainable highway. It should be noted that this is a Public Right of Way to the north of the site. Full details of the layout of the site should be provided which include parking and manoeuvring for volunteers etc. upon receipt of further details, the Highway Authority will be happy to provide comments on this application'*

5.7.2 The applicant liaised directly with DCC Highways to further explain the nature of the scheme and works taking place on site. Revised comments were received from DCC Highways on 06.03.2019 (see below).

5.7.3 *'Following correspondence regarding the above application, I have received e-mail communication from the Chesterfield Canal Trust confirming a telephone conversation which states that the existing plant owned by the Chesterfield Canal Trust will be transported to the Bellhouse Lane compound along the line of the canal from Staveley Town Basin, future deliveries of materials will be along Bellhouse Lane using vans or lorries and the volunteer workforce may use Bellhouse Lane for access but will park as directed and there will be no parking on Bellhouse Lane. On the basis of the above, there are no objections to the proposal and it is recommended that the following conditions are included in any consent.*

*1. Plant will only be transported to the compound along the line of the canal from the Staveley Town Basin*

*2. Parking for the volunteer workforce will not take place on Bellhouse Lane or cause obstruction at any location and will be directed by a member of the Chesterfield Canal Trust.*

*3. Before any other operations are commenced, the temporary site compound shall be established for the storage of plant and any facilities provided for the volunteer workforce. Once implemented the facilities shall be retained free from any impediment to their designated use throughout the construction period.*

*4. Before any other operations are commenced a new access shall be formed to the temporary site compound in accordance with the application drawing, laid out, constructed and provided with visibility sightlines extending from a point 2.4m from the 'carriageway' edge, measured along the centre line of the access, to the extremities of the site frontage abutting the 'highway' in each direction. The land in advance of the sightlines shall be maintained for the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to the adjoining nearside 'carriageway' channel level.'*

- 5.7.4 *'In addition, the following notes shall be included for the benefit of the applicant.*
- 1. Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.*
  - 2. The applicant should be aware that the site is within 200m of the proposed line of HS2. Further information can be obtained via the contact information below.'*

- 5.7.5 The recommendations provided by the Highways Officer have been noted, however further consideration is required of the recommended conditions.
- Condition 1 requires plant to be transported along the Staveley Town Basin and Condition 2 aims to prevent volunteers parking on Bellhouse Lane and causing an obstruction. The requirements of Condition 1 and 2 are considered to be outside of the control of the Local Planning Authority, and whilst this may be the applicants intention which they may well follow, it is not recommended that the 2 conditions can be imposed, particularly as Bellhouse Lane is an adopted public highway and any members of the public can access and park with no restrictions (as long as no obstructions occur which would be a matter for the Police or Derbyshire County Council Highways).
- Condition 3 requires the construction of the temporary site compound and Condition 4 requires the creation of a visibility sightline. Works commenced on site in August 2018 and the access point to the site is beyond the adopted highway limits therefore it is not considered reasonable to impose these conditions. The access is provided with an appropriate visibility splay. The recommended informatives should be attached to the decision notice.

## **6.0 REPRESENTATIONS**

- 6.1 The application has been publicised by neighbour notification letters and site notice. Neighbour letters were sent on 25.09.2018, deadline for responses 16.10.2018. A site notice was also displayed on the telegraph pole outside of Nos 21 and 19 Bellhouse Lane on 11.10.2018, deadline for responses 01.11.2018. As a result of the

notification process 2 representations have been received from one neighbouring property.

## 6.2 No 21 Bellhouse Lane (received 12.10.2018 and 28.02.2019)

- *Concerns raised regarding Noise, Traffic or highways. Off-street Parking arrangements and hours of work especially weekends*
- *We would like to make it clear that we fully support the canal restoration and commend the volunteers who put so much time and effort into the project.*
- *We are the owners and residents of 21 Bellhouse Lane, Staveley, which is adjacent to the compound. Contrary to the planning application, we are in no way associated with the land or project. The land is owned by Mr Henry Day who resides at 11 Bellhouse Lane.*
- *During the planning process we did not receive any notification of the compound plans, nor did any members of the Canal Trust or Mr Day approach us to ask our opinion on the matter. We feel that as the only residents on the street to be directly affected by this compound we have been completely overlooked. We therefore feel that the only way to get across our concerns is to lodge an objection. The concerns we have are as follows:*
- *As stated in one of the planning application documents the working hours are "Thursdays and Sundays, 10am till dark or 6pm". However, the work party are arriving sometimes a couple of hours before 10am, starting up noisy machinery and generally being quite loud and inconsiderate to residents. Ourselves and our neighbours at numbers 19 and 17 have small children and do not wish for them to be woken early by the noisy machinery. Just during the last week there have been 3 incidents of such occurrences, Sunday 24th Feb, the machinery was up and running before 9am. There were members of the work party present on site Wednesday 27th Feb, which according to the planning application is not a working day. Also on 28th Feb the machinery was up and running before 8am. There was also another occasion when a machine was left running for almost 3 hours and never moved. We do have photographic and video evidence of some of this should it be required.*
- *The vehicles which are attending the site, seem to come up and down Bellhouse Lane at quite a speed. This has always been a quiet street due to it being a dead end and is mostly just residents which use it. It has always been safe for our children to*

*play safely. We now personally don't let our children play out there due to the volume and speed of the vehicles coming up and down.*

- From a security point of view, we also feel that it is drawing unwanted attention to our property. We are worried that the site could become a target for thieves, which in turn exposes our property to the same risks.*
- When we purchased the property we did so because of the beautiful setting, surrounded by field and trees and also the peace and quiet which goes with it. We now have a view of old machinery, cabins and building materials, of which I am sure there will be more to come, and although the application states that it is a "temporary" compound, I feel that 5 years plus is far from temporary.*
- As previously stated we do support the restoration project. However, we cant help feeling that we have been completely overlooked and our thoughts and feelings on the matter discounted, especially as there are various other locations for the compound which wouldn't have affected any properties at all.*
- We feel that if they are already breaking the terms of the planning outlined by themselves before permission has been granted, the chances of it being even worse should planning be granted is very high.*

### **6.3**

#### **Officer comments;**

- The application was advertised by site notice which was displayed on a telegraph pole outside of No 21.**
- Noise and disturbance before 10am on a Sunday and activity taking place on other days during the week - It is recommended that a condition be imposed restricting the hours of operations, preventing activity before 10am on a Sunday and imposing standard restrictions on weekdays and on a Saturday.**
- The concerns raised regarding machinery being left running on site have been highlighted to the Canal Trust and they are aware of the proposed hours restrictions which, if approved they would be required to operate within.**
- Speed of vehicles on Bellhouse Lane – as an adopted public highway this is outside of the control of Local Planning Authority**
- Site security – the application proposes the erection of 2.4m high fence to create a secure compound.**

- **View of site – whilst loss of view is not a material planning consideration, the revised site plan proposes installing green debris screen to the southern boundary to screen the site.**
- **The application form stated that work commenced on site in August 2018 and any works undertaken on site without the benefit of planning permission are done so at the applicants own risk.**

## **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 July 2018 National Planning Policy Framework (NPPF).
- 8.2 Given that the proposed development does not conflict with the NPPF or with 'up-to-date' Development Plan policies, it is considered to be 'sustainable development' and there is a

presumption on the LPA to seek to approve the application. The LPA has used conditions to deal with outstanding issues with the development and has been sufficiently proactive and positive in proportion to the nature and scale of the development applied for. The applicant took advantage of the opportunity to discuss matters at a pre application stage.

- 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 On balance the temporary nature of the proposal and rationale for the development accords within wider policies and strategic objectives and which will assist in progressing the restoration of Chesterfield Canal through the borough and which is a strategic objective. Therefore, the proposal complies with CS1, CS2, CS9, CS14, CS18 and CS19 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 and the wider National Planning Policy Framework.

## **10.0 RECOMMENDATION**

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

### **Conditions**

#### Temporary consent

1. The compound hereby permitted is granted for a limited period of five years only, expiring on 01.07.2024. On or before this date the hereby permitted use shall cease, all materials, equipment and structures brought onto the site in connection with the use shall be removed and the land restored to its former condition in accordance with a scheme of work submitted to and approved in writing by the Local Planning Authority.

***Reason - The use hereby approved is not considered suitable as a permanent form of development within the Green Belt and in accordance with the provisions of policies CS9 and CS18 of the Core Strategy***



In accordance with submitted plans

2. All external dimensions and elevational treatments shall be as shown on the approved plan/s 'Revised plan as proposed' (dated 03.04.2019), with the exception of any approved non material amendment.

***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.***

Hours of operation

3. Unless otherwise agreed by the Local Planning work shall only be carried out on site between 8:00am to 6:00pm Monday to Friday, 9:00am to 6:00pm on a Saturday and between the hours of 10:00am to 6:00pm on a Sunday or public holiday. The term 'work' shall include the operation of mobile and fixed plant/machinery and equipment, (e.g. generators) radios and the delivery of construction materials.

***Reason – in the interests of the amenity of the surrounding residential dwellings to accord with the provisions of policies CS2 and CS18 of the Core Strategy***

**Notes**

1. Pursuant to Sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
2. The applicant should be aware that the site is within 200m of the proposed line of HS2. Further information can be obtained via the contact information below.'