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Ctte Date: 22<sup>nd</sup> July 2019

File No: CHE/19/00166/COU  
Plot No: 2/1637

### ITEM 3

## CHANGE OF USE FROM ENGINEERING UNIT TO PLACE OF WORSHIP AT BRITISH TELECOM TELEPHONE EXCHANGE, HOLBECK CLOSE CHESTERFIELD FOR IKON CHURCH.

Local Plan: Area of Major Change  
Ward: St Helens

### 1.0 CONSULTATIONS

<b>Local Highways Authority</b>	Comments received 01/05/2019 – see report
<b>Design Services</b>	Comments received 16/04/2019 – further detail required
<b>Environmental Services</b>	Comments received 11/04/2019 – no adverse comments to make
<b>Economic Development Unit</b>	Objects to application – see report
<b>Crime Prevention Design Advisor</b>	Comments received 23/04/2019 – see report
<b>Coal Authority</b>	No comments received
<b>Yorkshire Water Services</b>	No comments received
<b>Environment Agency</b>	Comments received 18/04/2019 – no objection
<b>Lead Local Flood Authority</b>	Comments received 18/04/2019 – No comment to make
<b>DCC Strategic Planning</b>	No comments received
<b>C/Field Cycle Campaign</b>	Comments received 12/04/2019 - see report
<b>Ward Members</b>	No comments received
<b>Site Notice / Neighbours</b>	1 objection received

### 2.0 THE SITE

2.1 The application site is a part of the wider Chesterfield Waterside Regeneration area of major change which is located between

Brimington Road to the east, the A61 bypass to the west and which stretches from the Brewery Street roundabout close to the railway station to the south through to the DCC depot site to the north.

## 2.2

The site which extends to approximately 1490 square metres is currently occupied by Multiplex Engineering, a distributor and stockist of valves and instrumentation. The River Rother bounds the east side of the site and is defined by a green corridor of semi-wooded land, with the Cuckoo Way footpath route running alongside between the river and the site boundary fence. The riverside footpath along the east side of the site runs along the complete length of the site and which links to Brimington Road to the east and Canal Wharf to the west just south of the new housing phase agreed for Avant Homes. To the north the route continues to connect to Lockoford Lane at Tapton Lock and which also doubles back up to Brimington Road at Tapton Hill Bridge. The western boundary is formed by the A61 Chesterfield bypass. To the south is Chesterfield Motor Cross Store within a warehouse building alongside the entrance to the site and further to the south and south west are temporary surface car park areas. To the north is vacant cleared land between the site boundary and the A61 footbridge and which was last occupied as part of the Arnold Laver Timber Yard site. The site is accessed from Brimington Road via Holbeck Close which and which provides vehicular access to the south east corner of the site.



## 2.3

The overall Waterside site is largely vacant however a number of businesses remain on the west of Brimington Road at Peel House,

the former Telephone Exchange and Chesterfield Motorcross store on Holbeck Close and industrial buildings to west Brimington Road. The application site itself comprises of 3 no buildings arranged in an L shape with associated hardsurfaced parking areas on the south east side. The 3.7 acre site is advertised for sale by Commercial Property Partners.

### 3.0 **RELEVANT SITE HISTORY**

3.1 CHE/0284/0066 – 3 metre high palisade security fence – Approved 5<sup>th</sup> April 1984

3.2 CHE/0986/0557 – Permission for use of land as vehicle store area at Chesterfield TEC – Approved 17<sup>th</sup> November 1986.

3.3 CHE/0788/0550 – Conversion of storage area into classroom/training areas with new windows – Approved 12<sup>th</sup> September 1988.

3.4 CHE/08/00243/FUL – Construction of canal basin – Approved 10<sup>th</sup> June 2008.

3.5 CHE/09/00662/OUT – Outline for Mixed Use Regeneration scheme comprising residential (1560), retail (A1, A2, A3, A4, A5), Offices (B1), Doctors Surgery and Creche (D1), 2 hotels (C1), Health and Fitness (D2), Nursing Home (C2), ancillary creative uses including possible arts centre, canal link, open space and eco and linear parks, new public realm and car parking including a MSCP. – Approved with Conditions 9<sup>th</sup> March 2011 (Associated s106 legal agreement).

3.6 CHE/09/00706/ADV – Boards to advertise 6 character areas of the scheme – Approved 2<sup>nd</sup> March 2010.

3.7 CHE/13/00464/REM – Approval of Reserved Matters for 19 dwellings, access, parking and landscaping - Approved with Conditions 8<sup>th</sup> November 2013.

3.8 CHE/13/00817/REM1 – Variation of Conditions of outline CHE/09/00662/OUT – 5 (phasing plan); 6 (A61 footbridge Improvement); 8 (public realm strategy); 27 (fish passage around

weir); 37 (northern access to Brimington Road); 38 (Toucan crossing on Brimington Road). – Approved 26<sup>th</sup> February 2014.

- 3.9 CHE/13/00833/EIA – Screening request associated with variation of conditions 5, 6, 8, 27, 37 and 38 of outline CHE/09/00662/OUT – Determined 24<sup>th</sup> December 2013.
- 3.10 CHE/15/00119/FUL – New road bridge and access road off Brimington Road – Approved 1<sup>st</sup> July 2015.
- 3.11 CHE/15/00520/NMA – None Material Amendment to add condition to outline CHE/09/00662/OUT specifying approved plans and minor changes to conditions 5 (phasing plan), 34 (limit on other accesses), 35 (Highways and access infrastructure staging plan), 38 (Toucan crossing on Brimington Road), 39 (timing for provision of Holbeck Close signalisation), 40 (multi user link to station from Brimington Road) and 45 (streets to base course level) – Approved 4<sup>th</sup> January 2016.
- 3.12 CHE/16/00183/REM1 – Variation of Conditions 3 (Tie to Design & Access Statement and masterplan), 10 (Code for Sustainable Homes), 11 (BREEAM very good), 12 (10% renewable energy), 13 (bird and bat opportunities), 14 (household recycling), 39 (timing for provision of Holbeck Close signalisation) and 47 (approved plans) of outline CHE/09/00662/OUT – Approved 12<sup>th</sup> May 2017.
- 3.13 CHE/16/00186/DOC – Discharge of conditions 4 (links to screening opinion and EIA), 10 (Code for Sustainable Homes), 11 (BREEAM very good), 12 (10% renewable energy), 13 (bird and bat opportunities), 14 (household recycling), 17 (split between comparison and convenience retail) and 21 (levels for Station Place area) of outline CHE/09/00662/OUT – Approved 15<sup>th</sup> December 2016.
- 3.14 CHE/16/00187/REM – Approval of Reserved Matters for layout, scale and access for Basin Square area (increasing storey heights) – Approved 16<sup>th</sup> December 2016.
- 3.15 CHE/16/00188/FUL – temporary surface car park and enabling earthworks to create development platforms in Basin Square area – Approved 14<sup>th</sup> June 2016.

- 3.16 CHE/16/00189/EIA – Screening Request for temporary car park and enabling works – Determined 1<sup>st</sup> April 2016.
- 3.17 CHE/16/00190/REM – Approval of Reserved Matters for Acoustic Bund and Enabling Earthworks – Approved 29<sup>th</sup> June 2016.
- 3.18 CHE/16/00191/DOC – Discharge of Conditions 4 (links to screening opinion and EIA), 10 (Code for Sustainable Homes), 11 (BREEAM very good), 12 (10% renewable energy), 13 (bird and bat opportunities), 14 (household recycling), 15 (ecological survey to Park and Island areas) and 21 (levels for Station Place area) of outline CHE/09/00662/OUT – Approved 15<sup>th</sup> June 2016.
- 3.19 CHE/16/00192/EIA – Screening Request for enabling development platforms – Determined 1<sup>st</sup> April 2016.
- 3.20 CHE/16/00404/DOC – Discharge of Conditions 5 (phasing plan for infrastructure across site), 8 (public realm strategy) and 9 (Ecological Management Strategy) of outline CHE/09/00662/OUT – Approved 9<sup>th</sup> August 2016.
- 3.21 CHE/16/00423/DOC – Discharge of Conditions 16 (building recording strategy) and 23 (contamination risks strategy) of outline CHE/09/00662/OUT – Approved 5<sup>th</sup> September 2016.
- 3.22 CHE/16/00475/EIA – Screening Request for dredging works to river – Determined 1<sup>st</sup> August 2016.
- 3.23 CHE/16/00528/DOC - Discharge of Conditions 3 (phasing programme for bund construction) of CHE/16/00190/REM – Approved 26<sup>th</sup> September 2016.
- 3.24 CHE/16/00529/FUL – Dredging River to make navigable with associated works – Approved 10<sup>th</sup> October 2016.
- 3.25 CHE/16/00531/DOC – Discharge of Condition 14 (phasing programme for bund construction) of CHE/16/00188/FUL – Approved 26<sup>th</sup> September 2016.
- 3.26 CHE/16/00762/DOC – Discharge of Condition 13 (barrier between site and Holbeck Close) of CHE/16/00188/FUL – Approved 1<sup>st</sup> February 2017.

- 3.27 CHE/17/00028/DOC – Temporary car park and enabling earthworks to create development platform and discharge of condition 9 (lighting strategy) of CHE/16/00188/FUL – Approved 27<sup>th</sup> June 2017.
- 3.28 CHE/17/00300/DOC – Discharge of Condition 12 (screen barrier between site and A61) of CHE/16/00188/FUL – Approved 20<sup>th</sup> June 2017.
- 3.29 CHE/17/00741/NMA – None Material Amendment of CHE/15/00119/FUL to change bridge from skew design to straight and alterations to retaining walls – Approved 31<sup>st</sup> October 2017.
- 3.30 CHE/17/00752/DOC – Discharge of Conditions 2 (bridge parapets), 3 (abutment modelling), 4 (Coal Mining Risk Assessment), 5 (soft landscaping), 10 (water vole and otter survey) and 12 (himalayan balsam) of CHE/15/00119/FUL – Approved 11<sup>th</sup> December 2017.
- 3.31 CHE/18/00083/REM1 – Variation of Conditions 3 (tie to Design & Access Statement and Masterplan), 5 (phasing plan), 8 (public realm strategy), 14 (archaeological recording and WSI), 18 (tie to FRA), 24 (Water Vole management strategy), 25 (fish passage around weir), 33 (highway and access staging plan) and 45 (approved plans) of CHE/16/00183/REM1 to omit canal arm – Approved 24<sup>th</sup> April 2018.
- 3.32 CHE/18/00599/FUL – New road bridge and access road off Brimington Road – Approved 25<sup>th</sup> October 2018.
- 3.33 CHE/18/00626/REM1 – Variation of Conditions 31 (highways improvements), 37 (junction improvements at Holbeck Close/Brimington Road), 39 (junction improvements at Brewery Street/Brimington Road), 41 (pedestrian crossing) and 45 (approved plans) of CHE/16/00183/REM1 – Approved 17<sup>th</sup> December 2018.
- 3.34 CHE/19/00069/DOC – Discharge of Condition 6 (A61 footbridge improvement) of CHE/18/00626/REM1 – Discharged 17<sup>th</sup> April 2019

- 3.35 CHE/19/00116/REM – Approval of Reserved Matters of CHE/18/00626/REM1 for office building in Basin Square area – Undetermined.
- 3.36 CHE/19/00205/DOC – Discharge of Condition 5 (Ecology mitigation concerning bridge construction) of CHE/18/00599/FUL – Approved 17<sup>th</sup> May 2019

#### 4.0 **THE PROPOSAL**

- 4.1 The IKON Church began in Chesterfield in 1987. In 2012 it moved into its first permanent building in Chesterfield on Britannia Road. In 2014, the Church launched its second location in Derby and in 2016 a third location in Sheffield. In November 2017, the Church changed its name from Christian Life Church to IKON Church. The Church wishes to expand its community services programme which currently includes a parent/carer and toddler group reaching over 100 families, children's clubs that run in all the major school holidays, weekly youth services reaching 150 teenagers, weekly volunteering opportunities for almost 200 people in a variety of roles and a large number of small groups addressing various needs that meet across the area. The church holds 3 services each Sunday in its Chesterfield location which attract several hundred people.
- 4.2 As part of the continued growth of the Ikon Church they now seek a new location within Chesterfield that will facilitate an increase in their offering to the local community and to expand their capacity. This application represents the first stage in the strategy for the IKON Church. The applicant considers that the building is suitable for operation as a Church in its current format without need for external alterations or major internal alterations and as such IKON Church intend to purchase the property and use it as a Church immediately.
- 4.3 The application form refers to no existing parking spaces on site however this is clearly incorrect. The proposal will provide an 80 space car park.
- 4.4 The applicant is eager to work within the broad parameters of the masterplan for the site and considers the operation of the Church, which will largely be undertaken outside of office hours, to

complement the current identification of the site as an office use. They consider the inclusion of the church in this area will add to the vibrancy of the immediate area which connects the residential area to the north with the main shopping area to the south. The applicant accepts that the change of use of an existing building does not form part of the overall vision for the wider Chesterfield Waterside Project. Nonetheless, the proposals would not preclude these wider regeneration objectives and the proposed use falls within the range of uses granted approval under outline planning permission CHE/09/0062/OUT.

4.5 The application is supported by the following list of plans / documents:

- Site Plan – 20/782-03A
- Concept 3D View – 20/782-04
- Concept Plan – 20/782-01A
- The Ikon Centre Brochure
- Planning Statement dated June 2019 by DLP Planning Ltd.

## 5.0 **CONSIDERATIONS**

### **Planning Background / Principle of Development**

5.1 The site has a significant planning history relating to the wider Waterside Regeneration Area. The site the subject of this application benefits from a live outline planning permission CHE/09/00662/OUT for a mixed use Regeneration scheme comprising residential (1560), retail (A1, A2, A3, A4, A5), Offices (B1), Doctors Surgery and Creche (D1), 2 hotels (C1), Health and Fitness (D2), Nursing Home (C2), ancillary creative uses including possible arts centre, canal link, open space and eco and linear parks, new public realm and car parking including a MSCP and which was approved in 2011 subject to a number of planning conditions and a unilateral undertaking (s106 agreement) covering the provision of public art, cctv, affordable housing, an education contribution, employment and training scheme, management of green space and suds infrastructure and on and off site highways work.

5.2 The site is therefore accepted for redevelopment and the policy position confirms that a regeneration scheme is a priority for the



Council. Policy PS3 of the adopted Chesterfield Core Strategy 2011 - 2031 - Chesterfield Waterside and the Potteries specifically refers to the site and which states:

*“Within Chesterfield Waterside and the A61 Corridor area as defined in diagram 10, planning permission will only be granted for development that contributes towards:*

- *Creating jobs in office, industry, retail, tourism and education*
- *Restoring Chesterfield Canal and the River Rother to navigation and creating a new canal terminus*
- *Achieving a mix of uses including residential, office, employment and leisure*
- *Improving access to the site including enhancing the footpath and cycle network*
- *A high quality urban environment including eco-park and green infrastructure corridor*
- *Managing flood risk*

*Land within the Chesterfield Waterside area will be comprehensively redeveloped in accordance with an approved masterplan, including provision of a new Local Centre.*

*Outside of the Chesterfield Waterside site, other proposals will be considered on the basis of their contribution to the overall objectives of an approved masterplan and the Core Strategy.*

*Retail, food and drink and leisure uses ancillary to the main form of development will be permitted, other proposals will be considered against policy CS16 of this Core Strategy.”*

5.3

Due consideration is also required to be given to:

- National Planning Policy Framework (NPPF) – Core Planning Principles & Requiring Good Design.
- National Planning Practice Guidance (NPPG).
- Waterside Design and Access Statement and Masterplan.
- Waterside Public Realm Strategy (2016).

5.4

Paragraph 10 of the NPPF identifies that, at the heart of the Framework is a presumption in favour of sustainable development and this is also reflected within policy CS3 of the adopted Core Strategy. Paragraph 11 of the Framework provides a definition of sustainable development stating:

*Plans and decisions should apply a presumption in favour of sustainable development...*

*For decision-taking this means:*

- a) *approving development proposals that accord with an up-to-date development plan without delay; or*
- b) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
  - i. *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
  - ii. *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

5.5 Paragraph 8 of the Framework also establishes economic, social and environmental objectives as a way of achieving sustainable development.

- a) ***an economic objective*** – *to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*
- b) ***a social objective*** – *to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and*
- c) ***an environmental objective*** – *to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.*

5.6 Chapter 8 of the Framework provides guidance on promoting healthy and safe communities by ensuring that planning policies and decisions aim to achieve healthy, inclusive and safe places which promote social interaction, through design features such as mixed developments, shared spaces, pedestrian access and active frontages. Paragraph 92 of the Framework states;

*“To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:*

*a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;*

*b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;*

*c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;*

*d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and*

*e) ensure an integrated approach to considering the location of housing, economic uses and community facilities and services*

5.7 Policy CS17 directs that new development of social infrastructure facilities will be permitted in and on the edge of the town, district and local service centres where they are accessible by public transport, cycling and walking, unless they are meeting a specific local need. Opportunities to deliver new or enhanced provision as part of new developments will be maximised, depending on the capacity and suitability of existing services.

The co-location and multi-use of facilities will be encouraged. Where proposals involve the provision of new or expanded social infrastructure facilities, they should be well related to existing centres and settlements and public transport infrastructure and should provide high standards of accessibility for all sectors of the community.

5.8 The development plan in this case is the 2013 Chesterfield Core Strategy which is considered to be up to date in so far as policies concerning Waterside are concerned and it is considered therefore that paragraph 11c of the Framework is engaged. It is the case that the Council's new emerging local plan has been submitted to PINS for an Examination in Public and which has been arranged for 14<sup>th</sup> to 26<sup>th</sup> October 2019. The new emerging Local Plan includes policy SS3 which relates to the Waterside area and which states:

*Within the Chesterfield Waterside area as set out on the policies map, planning permission will only be granted for development that contributes towards:*

- Creating jobs in office, industry, retail, tourism and education;

- *Restoring Chesterfield Canal and the River Rother to navigation and creating a new canal terminus;*
- *Achieving a mix of uses including residential, office, employment and leisure;*
- *Improving access to the site including enhancing the footpath and cycle network;*
- *A high quality urban environment including eco-park and green infrastructure corridor;*
- *Managing flood risk.*

*Land within the Chesterfield Waterside area will be comprehensively redeveloped in accordance with an approved masterplan, including provision of a new Local Centre located adjacent to the existing canal basin.*

*Planning applications submitted for development outside of the existing outline planning permission, but which otherwise deliver the objectives of the approved masterplan, will be expected to contribute towards the overall delivery of the infrastructure required for comprehensive development, secured through a section 106 agreement.*

The emerging policy reflects generally the existing local plan policy PS3 however at this stage less weight can be afforded to the emerging policy.

- 5.9 The site is identified in the agreed masterplan as the Waterfront character area and is considered to be the main employment / office area within the scheme, providing an area of high-quality riverside business accommodation (B1). Buildings are identified as being 4 to 5 storey and the masterplan features a terraced riverside public realm which is intended to enhance the schemes relationship with the river/waterside area.
- 5.10 The overall masterplan for the Chesterfield Waterside development seeks to provide a mixture of land uses including uses in class D1 and it is accepted that a place of worship would fall within use class D1. An additional paragraph has been included in the emerging Waterside policy SS3 for supporting development that is outside of the existing outline planning permission, but which otherwise delivers the objectives of the approved masterplan is provided. This is to allow some flexibility but which would still support the overall principles of supporting the regeneration of the

site. The applicant considers the proposed use of the building as a Church fits neatly within the D1 use class and that an interim use of the existing building as a Church would not jeopardise the delivery of the wider Waterside scheme and that the applicant is willing to work with developers to ensure that the vision for the area is delivered.

- 5.11 It is the case that the Waterside scheme is progressing with reserved matters submissions agreed for components of the site and works underway on site, however, the site subject to this application has not been included within any of the submitted schemes so far. The Council previously agreed to the opportunity to secure sites through the CPO process should they be required for the comprehensive redevelopment of the site however it is accepted that this has not been progressed to date and there are no clear or definitive timescales for submission of a reserved matters application on the application site.
- 5.12 The spatial strategy set out in Local Plan policy CS1 and CS2 seeks to concentrate new development within walking and cycling distance of centres and in locations in need of regeneration. The site is allocated for comprehensive redevelopment as part of Place Making policy PS3 and the site is Previously Developed Land not of high Environmental Value. The principle of development of this land is therefore well established. However policy PS3 clearly sets out that “*Land within the Chesterfield Waterside area will be comprehensively redeveloped in accordance with an approved masterplan*”. This masterplan is set out in the relation to the outline planning approval in place for the Chesterfield Waterside Development CHE/09/00662/OUT and subsequent amendments, including the associated Design and Access Statement. The policy also requires development to contribute towards a range of objectives:
- Creating jobs in office, industry, retail, tourism and education
  - Restoring Chesterfield Canal and the River Rother to navigation and creating a new canal terminus
  - Achieving a mix of uses including residential, office, employment and leisure
  - Improving access to the site including enhancing the footpath and cycle network
  - A high quality urban environment including eco-park and green infrastructure corridor
  - Managing flood risk

5.13 The principles set out for the development of this area are for office development of approximately 4-5 stories and a shared surface Riverside promenade running north south alongside the River Rother as part of the walking and cycling 'spine' throughout the wider Waterside Development. A landscape and acoustic bund is also to be created alongside the A61 and this character area would be expected to provide the largest proportion of new employment development within the Waterside Scheme (up to 32,000 sqm of B1 office floorspace).

DETAIL PLAN & CORE DESIGN PRINCIPLES



Extract from Masterplan for the site

5.14 The proposed change of use would deliver none of the requirements of the approved masterplan. The use is at odds with the use proposed for the site in the masterplan, it does not make any provision for the shared surface that would be necessary to improve walking and cycling provision through the site, which in the long term will be required to connect proposed development in the Basin Square Character Area to the south (which is subject to a current application for a new office building, and pre-application discussion for 300 plus apartments) and the Park and Island

Character Areas to the north (currently subject to planning approval for 173 houses by Avant Homes). Failure to secure such improvements would significantly harm the ability to deliver the comprehensive improvements to the environment and accessibility required to link these sites and ensure a sustainable form of development. Amongst the key objectives of policy PS3 is creating jobs in office use. The proposed use would generate just 4 jobs, in comparison with the masterplan proposal that this site should be the main office element of the Waterside site.

- 5.15 The Economic Development Unit (EDU) has confirmed that they do not support the proposals on the basis that the Chesterfield Waterside development is an important regeneration scheme for Chesterfield which has long been identified as a key priority for regeneration through the delivery of a high-quality, mixed-use development. Chesterfield Waterside is a major site, fundamental to the regeneration of Chesterfield town and Chesterfield Canal, and also a key housing site, providing a large part of the borough's new homes, alongside a mixture of other uses including office space. The EDU considers the proposed development would impede the delivery of large-scale employment led development on the Waterfront Character Area, which will prevent much needed job creation for local people. The development would also have implications for the delivery of the wider Chesterfield Waterside redevelopment. The proposed development would prevent the delivery of the vision for the area. The proposed use would generate 4 jobs, in comparison with the masterplan proposal that this site should be the main office element of the Waterside site, the main site for employment generating uses that will contribute to the wider economy. The EDU considers the redevelopment of the application site for a place of worship would be contrary to both adopted and emerging planning policy and the application if approved, could prevent the development of the Waterfront Character Area and delivery of vital employment generating uses, including B1 office space and a nursing home. This could result in the prevention of large-scale job creation within Chesterfield Waterside.
- 5.16 The current building is not particularly attractive and its retention would not be in accordance with the objective of creating a 'high quality urban environment ... and green infrastructure corridor'. Policy PS3 also seeks to enhance the footpath and cycle network within this area and no proposals are included for such

improvements and the proposed development would sever the proposed shared surface link through the site.

- 5.17 Turning to the proposed use, policy CS17 applies. This requires that new Social Infrastructure (which would include religious buildings), should be “*permitted in and on the edge of town, district and Local Service Centres where they are accessible by public transport, cycling and walking, unless they are meeting a specific local need*”. Although the wider masterplan proposals do include provision for a Local Centre as part of the Basin Square development, this would not meet this criteria and there is a risk that approving this proposal would make the Local Centre more difficult to deliver due to the lower density of working and living population that it would be serving in the long term due to loss of the office elements of the scheme. No evidence has been provided with the application that the proposed development would be meeting a ‘specific local need’ that could not be served from a more sequentially preferable site that is in accordance with the policy.
- 5.18 The outline planning permission is subject to a detailed S106 agreement that sets out planning obligations relating to highways and transport improvements, affordable housing, open space, public art, education provision and site management. These were put in place to oversee the comprehensive provision of suitable infrastructure to support the wider regeneration scheme and ongoing maintenance and management of public spaces and infrastructure. If the current scheme is approved, it is likely that the proportion of contribution to the wider pot will not be realised and a section 106 agreement requiring proportionate contributions to the relevant elements including the travel plan requirements, public art, open space, and management arrangements is unlikely to be agreed.
- 5.19 In summary therefore the principle of the proposed development is considered to be contrary to Local Plan policies PS3 and CS17. It would not achieve the objectives of policy in terms of a comprehensive regeneration of the Waterside site or the required improvements in terms of jobs, walking and cycling provision and quality of urban environment. In the absence of evidence of a specific local need for the proposed use to be in this location it would also be contrary to policy CS17.



5.20 Notwithstanding the clear concerns and objections to the scheme as referred to above and what would be considered to be a clear and convincing reason for refusal of the proposal the NPPF requires at para 54 that local planning authorities consider whether otherwise unacceptable development could be made acceptable through the use of conditions. Whereas the applicant has not sought a temporary permission in this case, section 72 of the Town and Country Planning Act 1990 allows the local planning authority to grant a planning permission for a specified temporary period and in this case it is necessary therefore to consider whether say a temporary 3 year consent would be appropriate. The applicant has indicated that they would welcome the opportunity to work with developers to deliver the overall vision and objectives of Chesterfield Waterside as a regeneration area albeit this is not subject of the current change of use application. Furthermore the applicant has indicated that the existing building is suitable for use as a church in its current format without the need for external alterations or major internal alterations and the Church intend to use the building immediately on purchase. It is also the case that Chesterfield Waterside would need to work with the owners of the property or proceed along the route of Compulsory Purchase and this has not happened so far. It is considered unlikely that a 3 year temporary permission would cause a problem in so far as bringing forwards of this site as part of the comprehensive redevelopment of the site in line with the masterplan. After 3 years the permission would be lost unless a further permission is granted to continue with the use and such an arrangement would safeguard the opportunity to CPO the site and proceed with the desired redevelopment scheme. The alternative would be that the building remains unused and continues falling into disrepair.

5.21 The circumstances where a temporary permission may be appropriate include for example where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period. A temporary planning permission may also be appropriate on vacant land/buildings to enable use for a temporary period prior to any longer term regeneration plans coming forward (a meanwhile use) or more generally to encourage empty property to be brought back into use. This can benefit an area by increasing activity. The NPPF indicates that it will rarely be justifiable to grant a second temporary permission and further permissions should normally be granted permanently or refused if there is clear justification for doing so.

There is no presumption that a temporary grant of planning of planning permission should be granted permanently. It is considered appropriate in this case to issue a temporary 3 year consent.

### **Design and Appearance Considerations**

- 5.22 In design and appearance terms the scheme involves retention of the existing engineering building which contributes poorly to the local area and which does not reflect the architectural and quality aspirations for the development of the waterside site. This context and design approach is set out clearly in the Design and Access Statement and accompanying Masterplan which was agreed as part of the outline planning permission. It could not be argued therefore that the proposed scheme is in compliance with the Waterside Design and Access Statement which was approved as part of the original outline planning permission and provides the design framework which underpins the design approach to all parts of the wider regeneration area. Condition 03 of the outline permission requires a statement of design compliance to demonstrate how the scheme accords with the Masterplan and this has not been provided in this case.
- 5.23 The Crime Prevention Design Advisor has commented however that there are no objections to the change of use to a place of worship in principle. There is no detail regarding changes to the site, so it is assumed that security provision, such as boundary fencing would be retained, which is necessary bearing in mind the relative isolation of the site, passing footpath, and form of proposed use meaning that it would be unoccupied for extended periods of time. Consequently the CPDA recommends that permission for this change of use should be conditional upon the setting out of a risk commensurate security management plan for the site.
- 5.24 On the basis of the assessment above it is considered that the scheme is considered to be contrary to the aspirations of the Masterplan for the wider site and is not acceptable as a permanent permission. On this basis the scheme would not therefore reflect the requirement of policy CS18 of the Core Strategy and the wider NPPF.

## **Highways Matters**

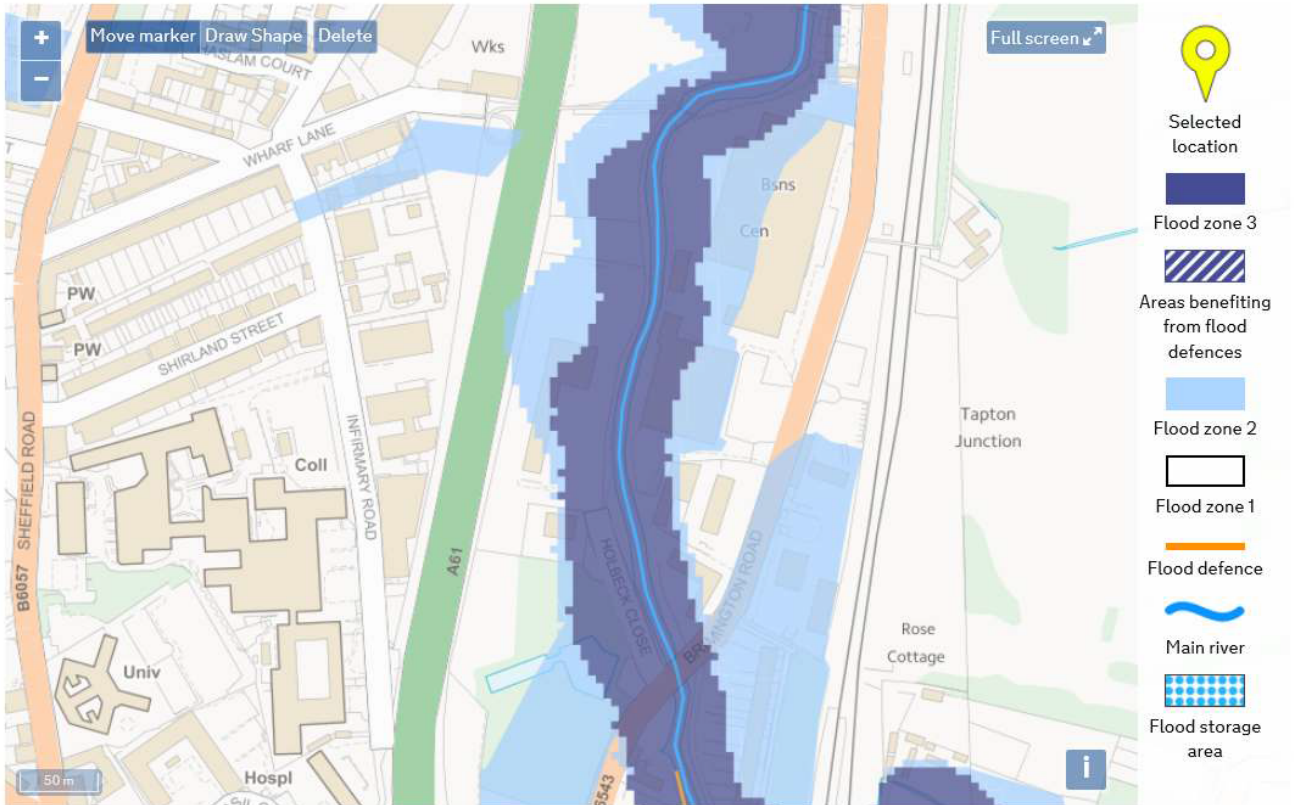
- 5.25 Policy CS20 requires development to prioritise pedestrian and cycle access to and within the site, and to protect and improve the strategic pedestrian and cycle network. As submitted, the application includes no measures to achieve this and, as set out above under 'Principle of Development', would harm the ability to deliver strategic improvements as part of the wider regeneration scheme. The proposal is therefore contrary to policy CS20 in this respect.
- 5.26 The site relies on access via Holbeck Close which is not an adopted highway and is understood to be controlled by Chesterfield Waterside.
- 5.27 The Highway Authority confirm that Holbeck Close is an unadopted road however they confirm that subject to the off street parking on the site being adequate to satisfy the Council then it is considered unlikely that the proposals would result in severe harm to operation of the public highway and on this basis they have raised no objection.
- 5.28 The application form indicates that there are no parking spaces on site and that the intention is to deliver 80 new spaces as part of the scheme. Clearly there are existing parking spaces on the site and which were used in connection with the engineering use of the site. The site is also of sufficient size to be able to provide space for the parking of 80 vehicles and in the event that permission was being recommended this issue could be detailed and required by condition.
- 5.29 The Chesterfield Waterside development secured a number of highway mitigation improvements to the surrounding highway network, in order to offset the transport impact of development. These identified the broad form of mitigation and trigger points for implementation of such works and was governed by proposals within certain 'character' areas within the development. Conditions also required details of a highway and access infrastructure staging plan highlighting the phasing of highway infrastructure to support the specific 'character' areas. This application is not bound by the terms set out in the signed s106 agreement and the obligations contained within are therefore unlikely to be achieved.

- 5.30 The Chesterfield Cycle Campaign (CCC) notes that there are 80 proposed new parking bays but no mention is made of cycle parking in the application. CBC's own standards are a minimum 5% bicycle parking to car parking. Therefore we expect that a minimum of 4 bicycle parking spaces are provided as near to the entrance as possible. The CCC comment that CBC planning officers should be enforcing cycle parking standards for this application. They comment that because this application falls within the Waterside development area they question whether the building will remain? They also suggest that Holbeck Close will presumably need to be extended past this site to serve other potential commercial areas to the north and the Campaign is very keen that the Waterside master plan is adhered to and a high quality cycle path is provided alongside the river.
- 5.31 In the event that a planning permission were being recommended it is the case that a condition could require an appropriate percentage of cycle parking facilities for those attending the building.

### **Technical Considerations**

#### Flood Risk

- 5.32 The site involves significant areas of land identified on the Environment Agency's Flood Map for Planning as being within flood zones 2 and 3 (see below), including a significant proportion of the building to be retained and the proposed car parking area. A flood risk assessment is therefore required under guidance set out in the National Planning Practice Guidance and the NPPF. Whilst a FRA was submitted and agreed in connection with the outline permission for the Waterside development, this was based on a different set of proposals and a comprehensive approach to managing flood risk and mitigation throughout the site. In the absence of a suitable FRA the proposed development does not meet the requirement of national planning policy set out in the NPPF or Core Strategy Policy CS7.



Extract from Environment Agency Flood Risk Map

5.33 The Environment Agency and Lead Local Flood Authority have not raised an objection to the scheme and Design Services suggest that a use for worship purposes may well be less vulnerable and therefore compatible with the flood areas. Furthermore no additional impermeable areas of the site are proposed as the site is already largely surfaced and there is unlikely to be any increase in flood risk downstream. It is considered therefore that a change of use of the existing building as proposed could not be resisted on the basis of a change of use submission.

#### Ground Conditions

5.34 The EHO notes that the submitted application form states that the site is not known to be contaminated and that no contamination is suspected for all or part of the site. Notwithstanding the previous use of the site, including external storage of unused industrial equipment, the EHO and this therefore satisfies the requirements of Core Strategy policy CS8.

## 6.0 **REPRESENTATIONS**

6.1 The application has been publicised by site notice on 11<sup>th</sup> April and by advertisement in the local press on 18<sup>th</sup> April 2019.

6.2 As a result of the publicity representations have been received from Avison Young on behalf of Chesterfield Waterside as follows:

- The Chesterfield Waterside Development is an important regeneration scheme for Chesterfield which has long been earmarked as a key priority for regeneration through the delivery of a high-quality, mixed-use development. Outline planning permission CHE/09/00662/OUT was granted in March 2011 for circa 58,800sqm of mixed-use development plus 1,550 residential units set out in six distinct character areas.
- There have been three subsequent Section 73 planning applications which have followed the original 2011 planning permission. A Reserved Matters application for Phase 1 Basin Square to approve the layout, scale and access for a mixed-use development including a hotel, multi storey car park, office accommodation and apartments together with ground floor retail uses was approved on 16 December 2016. A Reserved Matters planning application pursuant to the outline approval was submitted in February 2019 for an office development within the southern portion of the Basin Square Character Area.
- Within the above document, the relevant Development Plan for the site comprises the Local Plan Core Strategy (2013) and the saved policies of the Replacement Chesterfield Borough Local Plan (2006). Policy PS3 (Chesterfield Waterside and the Potteries) offers specific policy context in relation to the Chesterfield Waterside site. The policy states that within the Chesterfield Waterside and the A61 Corridor area, planning permission will only be granted for development that contributes towards:
  - Creating jobs in office, industry, retail, tourism and education
  - Restoring Chesterfield Canal and the River Rother to navigation and creating a new canal terminus
  - Achieving a mix of uses including residential, office, employment and leisure
  - Improving access to the site including enhancing the footpath and cycle network

- A high-quality urban environment including eco-park and green infrastructure corridor
  - Managing flood risk
- The policy also clearly states that land within the Chesterfield Waterside area will be comprehensively redeveloped in accordance with an approved masterplan, including provision of a new Local Centre. Outside of the Chesterfield Waterside site, other proposals will be considered on the basis of their contribution to the overall objectives of an approved masterplan and the Core Strategy.
- CBC are currently preparing a new Local Plan that will replace the current Development Plan. The emerging Local Plan retains the Council's commitment to the delivery of the Chesterfield Waterside site for a high-quality, mixed-use development. Draft policy SS3 of the Chesterfield Borough Local Plan Submission Version (December 2018) essentially mirrors Policy PS3 and states that within the Chesterfield Waterside area, planning permission will only be granted for development that contributes towards:
  - a) Creating jobs in office, industry, retail, tourism and education
  - b) Restoring Chesterfield Canal and the River Rother to navigation and creating a new canal terminus
  - c) Achieving a mix of uses including residential, office, employment and leisure
  - d) Improving access to the site including enhancing the footpath and cycle network through the site and making links to the wider Trans Pennine Trail and Chesterfield Railway Station
  - e) A high-quality urban environment including eco-park and green infrastructure corridor
  - f) Managing flood risk
- The draft policy states that land within the Chesterfield Waterside area will be comprehensively redeveloped in accordance with an approved masterplan, including provision of a new Local Centre located adjacent to the existing canal basin. The draft policy also states that planning applications submitted for development outside of the existing outline planning permission, but which otherwise deliver the objectives of the approved masterplan, will be expected to contribute towards the overall delivery of the infrastructure

required for comprehensive development, secured through a section 106 agreement.

- Very limited information has been submitted in support of the planning application. No justification for the development or assessment of the proposal against the planning policy framework has been undertaken and no consideration has been given to the site's position within the consented masterplan site for Chesterfield Waterside.
- The site is allocated within the adopted and emerging Development Plan for mixed-use development. The associated policies require the site to be comprehensively redeveloped in accordance with an approved masterplan. In addition, the Chesterfield Waterside site benefits from an existing outline approval (CHE/09/00662/OUT) and a number of subsequent S73 approvals. Parts of the wider site have already come forward for development or will be developed in the near future through subsequent Reserved Matters applications, which accord with the parameters and Character Areas established through the outline permission.
- The application site is located within the Waterfront Character Area which identifies office accommodation of 4-5 storeys. The redevelopment of the application site for a place of worship would be contrary to both adopted and emerging planning policy and the existing outline permission on the site and could preclude the delivery of economic development. When considering the proposed development this would prevent the Council's commitment to the delivery of Chesterfield Waterside for the following reasons:
  - Firstly, the planning application if approved, could prevent the development of the Waterfront Character Area and delivery of vital employment generating uses, including B1 office space and a nursing home. This could result in the prevention of large-scale job creation within Chesterfield Waterside
  - Secondly, this development prevents Chesterfield Waterside from achieving the appropriate mixture of uses on the site. Adopted Policy PS3 states that planning permission will only be granted for development that contributes to a mix of uses including residential, office, employment and leisure;
  - Thirdly, the loss of the redevelopment of this area could prevent further redevelopment of the Chesterfield Waterside



site, as approval of the planning application could result in a substantial loss of financial cross subsidy for the wider site;

- Fourthly, the adopted policy (PS3) states that land within the Chesterfield Waterside will be comprehensively redeveloped in accordance with the approved Masterplan. It should be noted that draft Policy SS3 also makes reference to this. The proposed development in this case does not form part of the approved Masterplan.
- Finally, draft Policy SS3 states that the proposed development submitted outside of the existing outline planning permission but would otherwise deliver the objectives of the approved masterplan, will be expected to contribute towards the overall delivery of the infrastructure required for comprehensive development, secured through S106. The proposed development neither contributes to delivering the objectives of the approved masterplan or the infrastructure required for comprehensive development.
- Chesterfield Waterside is a major site, fundamental to the regeneration of Chesterfield town and Chesterfield Canal, and also a key housing site, providing a large part of the borough's new homes, alongside a mixture of other uses including office space. The proposed development would impede the delivery of large-scale employment led development on the Waterfront Character Area, which will prevent much needed job creation for local people. The development would also have implications for the delivery of the wider Chesterfield Waterside redevelopment. In addition, the proposed development is contrary to adopted planning Policy PS3 and emerging Policy SS3 for the reasons set out above. The proposed development is not in line with the approved masterplan for Chesterfield Waterside, would prevent the delivery of CBC's vision for the area and does not contribute to achieving the following as set out in Policy PS3:

## 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 temporary permission is considered to be no more than necessary to control the development in the interests of the delivery of the wider regeneration scheme and which interferes as little as possible with the rights of the applicant.

7.4 Whilst, in the opinion of the objectors, the proposal raises issues of concern, it is not considered that this is harmful in planning terms, such that any additional control to satisfy those concerns would go beyond that necessary to accomplish satisfactory planning control

## 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 The proposed development conflicts with the masterplan approach to the comprehensive redevelopment of the site and the principles of the relevant Development Plan policies for the reasons given in the report above however it is not inappropriate to grant a temporary 3 year permission pending a comprehensive redevelopment of the site.

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 report identifies clear concerns and objections to the proposal and why a permanent planning permission should not be granted however the local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. The applicant has indicated that the use could operate at the building with little alteration suggesting that they could just move in and operate a church from the building. Whilst the applicant indicates an intention to purchase the property the alternative may be to lease. In the circumstances it would not be inappropriate in planning terms to allow a temporary 3 year consent for the use pending the comprehensive redevelopment of the site in line with the masterplan and which will provide appropriate time for the applicant to work with developers to deliver the overall vision and objectives of Chesterfield Waterside.

9.2 Whereas the use is contrary to policy PS3 and CS17 of the Core Strategy and emerging Policy SS3 this would on balance be less of a conflict in the event that a temporary permission were to be given in the intervening period prior to the site being comprehensively redeveloped. The NPPF clearly states that a temporary planning permission may be appropriate on vacant land/buildings to enable use for a temporary period prior to any longer term regeneration plans coming forward. It is accepted that ongoing conversations need to take place between Chesterfield Waterside and the site owner to progress the comprehensive development of the site. As such, the proposal accords with the requirements of 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:

1 The change of use hereby permitted is granted for a limited period of three years only, expiring on 22.07.2022. 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.

*Reason*

*The use hereby approved is not considered suitable as a permanent form of development having regard to the comprehensive redevelopment of the Chesterfield Waterside site and in accordance with the provisions of policies PS3 of the Core Strategy*

2. The use hereby approved shall not be commenced until details of an 80 space car park and 4 cycle racks has been submitted to the local planning authority for consideration. The details subsequently agreed in writing by the local planning authority shall be provided on site and be available for use prior to the use commencing and which shall be retained thereafter for the life of the planning permission.

*Reason*

*In the interests of highway safety and provision of appropriate parking facilities on the site.*