

Case Officer: Sarah Kay  
Tel. No: (01246) 345786  
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File No: CHE/19/00634/FUL  
Plot No: 2/866

### ITEM 3

## PROPOSED CHANGE OF USE AND ELEVATIONAL ALTERATIONS OF PART OF PREMISES FROM CLASS A1 TO D1 USE FOR SALVATION ARMY CHURCH (ADDITIONAL INFORMATION PROVIDED 10/12/2019) AT FORMER LIDL, FOLJAMBE ROAD, CHESTERFIELD, DERBYSHIRE, S40 1NJ FOR MR MARTIN WAY

Local Plan: Town / District / Local Centre  
Ward: Holmebrook

### 1.0 CONSULTATIONS

<b>Local Highways Authority (DCC)</b>	Comments received 31/10/2019 – no objection
<b>CBC Environmental Services</b>	Comments received 28/10/2019 – no objection
<b>Economic Development Unit</b>	No comments received
<b>Derbyshire Constabulary (Crime Prevention)</b>	Comments received 21/11/2019 – see report
<b>Chesterfield Cycle Campaign</b>	No comments received
<b>Coal Authority</b>	Comments received 31/10/2019 – no objection
<b>Ward Members</b>	No comments received
<b>Site Notice / Neighbours</b>	1 representation (signed by 10 no. residents / businesses) and 2 individual representations received

### 2.0 THE SITE

- 2.1 The site the subject of the application concerns the former Lidl food store and associated car park, located off Foljambe Road in Chesterfield, which has been vacant since Lidl relocated to a new purpose built store further up Chatsworth Road earlier in 2019.
- 2.2 The application site extends to 0.47ha in area and includes the single storey food store building, which sits in the SE corner of the site abutting the Chatsworth Road and Foljambe Road frontages,

and the surfaced car park (95 no. spaces), which is accessed from a driveway taken from Foljambe Road which is shared with Mecca Bingo and a surface car park adjacent.



### 3.0 **RELEVANT SITE HISTORY**

- 3.1 CHE/0993/0514 – Outline application for food retail store and associated parking.  
Approved conditionally 04/04/1996.
- 3.2 CHE/09/00581/FUL - Concrete render over existing brick external facade to existing frontage.  
Approved conditionally 28/10/2009.
- 3.3 CHE/10/00073/FUL - Extensions and alterations to existing food store to create a delivery pod, new shop front and new entrance/exit canopy, together with general works of refurbishment to the store and external areas.  
Approved conditionally 14/05/2010.
- 3.4 CHE/11/00456/FUL - Enclosure of delivery platform to create additional warehouse space.  
Approved conditionally 23/09/2011.

### 4.0 **THE PROPOSAL**

- 4.1 The application submitted seeks full planning permission for the proposed change of use of part of the building from A1 Retail to D1

Non-residential Institution; and associated elevational change required to accommodate the partial occupation of the building for the D1 use.

- 4.2 The application submission details that the D1 use is proposed to be operated by the Salvation Army Church for worship and community activities and the remainder of the floorspace not covered by the D1 use proposed will be retained as A1 use for operation as a charity donation centre and charity shop.
- 4.3 The floorplans submitted illustrate that the D1 use will occupy 164sqm of the overall 982sqm of floorspace, and will be concentrated in the northern third of the building adjacent to the existing delivery pod. A new entrance doorway will be created to this element of the building in the western elevation to provide independent access to the D1 use. The existing former Lidl food store entrance (located at the SW corner of the building footprint) will be retained to serve the retained A1 use and the delivery pod will also be retained to provide delivery access to the store associated with the retained A1 use.
- 4.4 The application submission is accompanied by the following plans:  
Site Location Plan – Rev A  
19-026-01 P1 – Existing Floor Plans  
19-026-02 P1 – Existing Elevations  
19-026-03 P1 – Proposed Floor Plans  
19-026-04 P1 – Proposed Elevations  
19-026-Site P1 – Proposed Site Plan  
Covering Letter dated 11<sup>th</sup> October 2019  
Additional information provided by email (3 of 3) dated 11<sup>th</sup> December 2019.

## 5.0 **CONSIDERATIONS**

### 5.1 **Planning Policy Background**

- 5.1.1 The site is situated within the built settlement of Holmebrook ward in an area predominantly commercial in nature, but with residential properties aligning the fringe of the district centre. Having regard to the associated development plan the site lies within the Chatsworth Road District Centre as defined in the Reg 22 (1) (B) Submission Policies Map and accordingly policies CS1, CS2,

CS15 and CS17 of the Core Strategy apply, alongside the wider National Planning Policy Framework (NPPF).

## 5.2 **Principle of Development**

- 5.2.1 The key policy considerations in this case are whether the loss of an A1 use to a D1 use would 'overwhelm the retail function of the centre' (CS15) and whether the proposed D1 use meets the locational aspects of policy CS17. Furthermore the development must be considered to meet the 'spatial strategy' of the Core Strategy as set out in policies CS1 and CS2.
- 5.2.2 The site lies within the Chatsworth Road District Centre and on the outskirts of the Chesterfield Town Centre and therefore locational wise the site is considered highly sustainable. The development would be within walking / cycling distance of the nearest centre and therefore the locational provisions of policies CS1 and CS2 are met.
- 5.2.3 It is highly unlikely that the loss of part of a single A1 unit in this location would harm the function of the district centre. The conversion of the floorspace would also bring the remainder of the vacant retail unit back into use as the applicant intends to operate as a charity shop / donation centre. It is therefore considered that the proposed mixed use of the building and the A1 / D1 split in the floorspace proposed meets the provisions of policy CS15 and are acceptable.
- 5.2.4 Policy CS17 states that new social infrastructure facilities "will be permitted in and on the edge of ... local service centres". The proposed use and site meet this test and therefore the principle of development also accords with the provisions of policy CS17.
- 5.2.5 Overall it is considered that the principle of the development proposals meet with the provisions of policies CS1, CS2, CS15 and CS17 and is therefore acceptable.

## 5.3 **Design and Appearance Considerations (inc. Neighbouring Impact / Amenity)**

- 5.3.1 Looking in turn at the design and appearance considerations and then the potential neighbouring / amenity impacts of the development proposals, the application can be split into two

component parts. The first being the proposed change of use (COU) of part of the building from A1 to D1 use; and the second being the impacts of the proposed external works to the building to facilitate the COU upon the surrounding area.

- 5.3.2 In respect of the proposed change of use of part of the building from A1 to D1 use, the intended mixed use operation of the building is entirely acceptable given the sustainable location of premises and the accessibility of the site to customers / visitors / staff. It is noted that the applicant / end user of the site is identified as The Salvation Army; which has raised concerns in the local community about the nature of their community support services – however the application must be considered on its merits given the use class being considered (D1), not the specifics of any end user.
- 5.3.3 A1 use can include any shop use (regardless of the nature of the items being traded – providing they meet the provisions of the Town and Country Planning (Use Classes) Order as a retail use) and similarly the proposed D1 use can include any non-residential institution (inc. for example, Places of Worship, Community Centres, Crèche / Clinic Facilities). A charity shop and a church both fall within the parameters of these two use classes and therefore despite local concerns, there is no planning reason to suggest that either use or as a collective mixed use, they are inappropriate.
- 5.3.4 In respect of the external works which are proposed to the building, these include the creation of a separate feature entrance in the western elevation of the building to serve the D1 use floorspace; and some ancillary additional window and doorway openings to the northern and eastern elevation of the building to provide light and building regulations compliance to subdivisions of the D1 floorspace. These changes are considered to be entirely appropriate. The works are relatively insignificant and will not adversely impact upon the character or appearance of the host building / streetscene; or impact upon the amenity of surrounding neighbouring properties.
- 5.3.5 As part of the applications consultation process, the proposals were reviewed by the Crime Prevention Design Advisor (CPDA) from Derbyshire Constabulary following the receipt of a number of objections raised by local businesses / residents about the

proposals and local policing matters. In the CPDA's consultation response he advised, '

*The site itself is, and has been a hot spot for inappropriate use before it was vacated by Lidl. It is just outside of the town centre street drinking exclusion zone, and this combined with its proximity to the town, with an element of isolation from wider view once Lidl closed for the day, attracted street drinking and drug abuse.*

*Now that the site is vacant the misuse is over a wider period, and seems also now to include an element of general anti-social behaviour and vandalism across the whole site, including car park, whereas before it was more limited to the back of the building, which is out of view of the council's town centre CCTV system. Worryingly there has also been some fire setting on the site*

*The concern that Salvation Army use will make this problem worse is difficult to quantify. In general my view would be that whilst a more traditional retail use with an extended occupancy time would probably be more beneficial for the vibrancy of the town centre and local businesses, any occupancy bringing ownership and some capable guardianship to the site has to be a far better option than the building remaining unoccupied.*

*There will no doubt be some element of care for the homeless on site, but again it's difficult to assess exactly how this will affect the current situation within the town without detail. It's possible, but not certain that having such a provision will lead to a greater homeless presence in town, but it could be argued that the present element would be better placed in a caring environment removed from the main retail area of the town.*

*With all of this in mind our agreed view of the application is to cautiously welcome the proposal, with some reservations about the element of D1 use until more detail is provided.*

*For matters specific to the building itself, there are aspects which are not ideal for community safety and the reduction of offending. Some situational which are out of the applicant's control, as mentioned earlier, some which I expect can be mitigated against by agreement or condition.*

*Lighting for the extended site car park is good, whilst probably in need of modernisation to bring to current environmental standards. Lighting around the building envelope is minimal, and will need to be changed/extended to suit the revised use, and also provide a level uniform of illumination around the building.*

*There is some rudimentary CCTV coverage around the loading bay of the store, more likely intended for safety monitoring of deliveries than the prevention or detection of crime.*

*An extended new CCTV system for day to day site supervision and the production of evidence for proceedings will be critical for many areas, and has been lacking in the past.*

*The building facades are primarily inactive, giving no view of the store exterior, adding no presence to the street scene or the more enclosed car park. Simply put there is no interaction between store interior and exterior, which limits supervision of the site. I realise that this would be difficult to improve on the Foljambe Road elevation, but for the car park and Chatsworth Road edges some element of an outlook would be beneficial I think. I accept also that the applicants may wish to secure with security shutters out of operational hours.*

*Details of the storage of donations, including any delivered out of hours will need to be addressed to minimise the potential for deliberate or accidental ignition of externally stored items*

*Intended hours of D1 use will be a factor. Extended evening use may help with reducing nuisance in the evening. However there is also the potential for conflict if anti-social use of the covered main entrance canopy continues after A1 use ceases and D1 use continues.*

5.3.6 Having regard to the concerns and comments made by the CPDA above, despite the fact that the majority of them concern questions about the individual operational nature of the Salvation Army (which is not a material consideration) the case officer sought clarity on the matters which were regarded to be relevant to the planning merits of the proposals.

5.3.7 The applicant provided further details in an email chain dated 10 December 2019 as follows:

- The A1 and D1 uses will operate independent to each other;

- Operating hours of the A1 use will be Mon – Fri 07:30 – 20:00; Sat 07:30 – 18:30; and Sun 10:00 – 16:00;
- Operating hours of the D1 use will only be extended beyond the hours of the A1 use on a Sunday when 08:00 – 16:00 hours are sought.

*The applicant has advised that as the church seeks to develop their missional engagement within the local community, the D1 hours may be subject to change to support said programme of engagement. Even if that occurs, they expect any evening use outside of the opening hours stated on the application form to be occasional rather than the norm.*

- The A1 use will have 4 FTE staff;
- The D1 use will have 2 FTE staff;
- There will be no goods placed outside of the retail floorspace;
- The washing machines annotation on the proposed site layout is not an indication of machines for sale, this is a self-service laundry kiosk (approx. 7.5sqm);
- The A1 use will be a larger charity shop/donation centre format which the SA currently operate in 10 locations across the country (with several more legally committed and others in the pipeline). The goods that are typically retailed are to a degree driven by what is donated but will include bulkier household items such as furniture, electrical goods and bicycles as well as those second hand and donated products that are more typically found in charity shops being clothing, books, toys, smaller household furnishings, DVD's and CD's. The use will also upcycle donated furniture and other items and the back of house area will include a dedicated space for that;
- There will be no food or drink retailed from the A1 use;
- All deliveries (essentially comprising the donations that are dropped off at the store) are made within opening hours. Where donations of clothing are made outside of opening hours, then clothing banks will be located in the car park for these donations to be safely and securely made (the location of these are yet to be determined – but they are emptied by staff on an almost daily basis). For bulkier donations, the store will operate a van collection service which can pick up donations and these would be brought into the store within opening hours;
- The D1 use proposed will be primarily a church / place of worship for the Salvation Army, with their intension to offer other ancillary community services such as coffee mornings, lunch clubs, parent and toddler groups, counselling sessions;



- The D1 use will not initially be offering any food based charity services, but such services may be introduced if the SA's programme of community engagement develops and demand is identified; and
- The operator will look to improve the illumination of the building and installation of a CCTV system around the building.

5.3.8 Having regard to the additional information which has been provided the proposed D1 use and minor external works to the building sought are considered to be entirely acceptable in planning terms. The charity / donation shop could occupy the building as it stands now without the need for planning permission and therefore the compatibility of the proposed D1 use alongside the retention of the remainder of the A1 use floorspace is considered to meet the provisions of the development plans and the provisions of policies CS2 and CS18 in relation to design and neighbouring relationships / amenity. The operating / opening hours sought for both the A1 and D1 use are considered to be acceptable and all the complementary community uses proposed alongside the predominant use of the D1 use floorspace as a place of worship, fall within use class D1 in their own right. The intension of the applicant to install a CCTV system and additional lighting is noted, and the applicant will be encouraged to liaise with the CPDA on the suitability of any such system. Neither of these measures are considered however necessary to make the application acceptable in planning terms. It is noted however of the current applicants intension to install donation banks and a washing machine kiosk, and therefore it will be necessary to require the final location and dimensions of these facilities to be agreed under the provisions of a planning condition as these details have not been provided in the current application submission.

5.3.9 Overall therefore having regard to matters of design and appearance (inc. neighbouring impact) and the wider provisions of policies CS2 and CS18 of the Core Strategy, the development proposals are considered to be acceptable.

## 5.4 **Highways Issues**

5.4.1 The proposals are served by an existing car park, which includes 95 no. spaces that used to serve the former Lidl food store. The car park and the stores former HGV delivery pod both lie within the application site boundary and are proposed to be retained for the

same purposes alongside the proposed mixed use to be operated from the site.

- 5.4.2 Alongside access to 95 no. dedicated car parking spaces, the site lies in the district centre and on the fringe of the town centre which is served by public transport links and access to a network of footpath and cycle paths.
- 5.4.3 The Local Highways Authority (LHA) has been consulted on the application proposals and has raised no objections.
- 5.4.4 Alongside the provisions of policies CS2 and CS20 of the Core Strategy the site is considered to be served by adequate highway access; furthermore in relation to the proposals potential demand for travel the development proposals will be served by sufficient on-site parking provision and access to alternative means of access (public transport and footpath/cycle links). The development accords with the provisions of policies CS2 and CS20 of the Core Strategy in respect of highway matters and are acceptable.
- 5.4.5 It is noted that the existing car park does not include any Electric Vehicle Charging (EVC) provision however despite a Borough wide aspiration for all new development to include EVC provision; the development proposals do not create any additional floorspace provision and therefore it would be unreasonable to impose a requirement to provide these facilities. An advisory note can however be imposed on any decision to encourage the applicant to consider such provision, particularly given the incentives currently available nationally, to future proof the development for a likely rise in demand.

## 6.0 **REPRESENTATIONS**

- 6.1 The application has been publicised by site notice posted on 29/10/2019 and by neighbour notification letters sent on 25/10/2019.
- 6.2 As a result of the applications publicity there have been 3 letters of representation received as follows:

### **A Local Resident SUPPORT**

I support the conversion / re-use of this vacant building that has attracted vandalism & antisocial behaviour (including drug dealing / paraphernalia & rough sleeping) since the closure of the old Lidl store.

I feel this application makes a positive use of this prominent location.

I suggest the installation of CCTV covering the car park to address the ASB / drug related issues at this site.

## **23 Foljambe Road**

### **OBJECT**

We strongly object to the planning application for the following reasons:

1. The visual effects on the area.
2. Contraction [*conflict*] of the app. in relation to CBC's vision for Chatsworth Road and the immediate surrounding areas
3. The lack of food shopping provision in the immediate vicinity of the former Lidl and its impact on the local residents.

The above list is not exhaustive but forms part of our objection.

## **Ageek, West Bars**

### **19 Foljambe Road**

### **Lambarellis' Italian Coffee and Pasta Bar**

### **Michele's Deli, 7 Chatsworth Road**

### **Utopean Store, 71 West Bars**

### **102 Hunloke Avenue**

### **2 Deerpark Crescent (x2)**

### **5 Foxbrook Close**

### **70A Brockwell Lane**

### **OBJECT**

By no longer having a major retail operation attracting footfall and reduced parking availability, local businesses have all seen a drop off in trade. To prevent this property being a retail operation in future can only be to the detriment of the area;

Over the last 10-15 years we have had repeated and distressing ASB that has cost business and jobs and created detrimental quality of life issues. Much of this is caused by 'out of town' criminals being placed by the Probation Services away from their original offending areas;

That is not to say we don't have our own home grown problems – with crime, begging and drug offences taking place without shame or fear;

Police no longer attend most instances, leaving people to deal with these matters alone;

Our fear is the drawing power of the nature of the Salvation Army's operation, as they are well known for attracting the individuals responsible for the problems we have experienced (substance abusers and criminals). In providing comfort, food and shelter (which is admirable to some) the fall out to the surrounding area could be devastating; and

Unless strict assurances and enforceable conditions are attached to the Church's use then we must object in the strongest terms to this application.

*In addition to the above a local example of a similar religious / support operation is referenced in the representation received – alongside the concerns that this operation has made an area in the town centre a 'no go' area due to fear of intimidation / undesirable behaviour. The LPA have chosen not to disclose the identity of this site.*

6.3 ***Officer Response: All material planning considerations relevant to this application are set out in section 5.1, 5.2, 5.3 and 5.4 of the report above. It is noted that some of the representations received above raise concerns about the nature of the applicants charitable operations; however these matters are neither relevant nor material to the applications consideration. It is the use class D1 that is being considered, not the end user. It is also noted that the representations received raise comments about policing matters or the conduct of individuals, neither of which are controlled through planning legislation.***

## 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.
- 7.4 Whilst, in the opinion of the objector, the development affects their amenities, 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 Given that the proposed development does not conflict with the NPPF or with 'up-to-date' Development Plan policies, it is considered to be 'sustainable development' and there is a presumption on the LPA to seek to approve the application. The LPA has used conditions to deal with outstanding issues with the development and has been sufficiently proactive and positive in proportion to the nature and scale of the development applied for.
- 8.3 The applicant / agent and any objector will be provided with copy of this report informing them of the application considerations and recommendation / conclusion.

9.0 **CONCLUSION**

- 9.1 The proposed change of use of part of the existing A1 premises to a D1 use is considered to be acceptable. As a mixed A1 / D1 use the premises, located in the Chatsworth Road District Centre, accord with the principles and provisions of policies CS15 and

CS17 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 and the spatial strategy of policies CS1 and CS2.

- 9.2 The external alterations to the existing building to facilitate the mixed use operation will not adversely impact upon the character or appearance of the existing building or the surrounding area. The development will not impose any adverse highway safety or neighbouring amenity concerns and overall the development proposals accord with the provisions of policies CS2, CS18 and CS20 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:**

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

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

02. All external dimensions and elevational treatments shall be as shown on the approved plans (listed below) with the exception of any approved non material amendment.

Site Location Plan – Rev A

19-026-01 P1 – Existing Floor Plans

19-026-02 P1 – Existing Elevations

19-026-03 P1 – Proposed Floor Plans

19-026-04 P1 – Proposed Elevations

19-026-Site P1 – Proposed Site Plan

Covering Letter dated 11<sup>th</sup> October 2019

Additional information provided by email (3 of 3) dated 11<sup>th</sup> December 2019.

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

03. Opening and delivery hours of the A1 retail use shall be restricted to between the hours of 07:30 – 20:00 Monday – Friday, 07:30 – 18:30 Saturday, and 10:00 – 16:00 Sunday.

*Reason – In the interests of residential amenity.*

04. Opening hours of the D1 use shall be restricted to between the hours of 07:30 – 20:00 Monday – Friday, 07:30 – 18:30 Saturday, and 08:00 – 16:00 Sunday.

*Reason – In the interests of residential amenity.*

05. Prior to their installation, further details of any freestanding donation banks and the machine masking kiosk shall be submitted to the Local Planning Authority for further consideration and written approval. Only those details which are subsequently approved in writing shall be installed on site.

*Reason - The condition is imposed in order to enhance the appearance of the development and in the interests of the area as a whole.*

### **Notes**

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