

PROPOSAL: INSTALLATION OF A NEW SHOPFRONT INCLUDING NEW ILLUMINATED SIGNAGE AND ENTRANCE DOORS, EXTERNAL REFRIGERATION, DOOR REPLACEMENT AND INTERNAL CHANGES,, GENERAL CAR PARK WORKS AND NEW FENCE - RESUBMISSION OF CHE/21/00091/FUL AT HOLMEBROOK VALLEY FAMILY CENTRE, PROMISES DAY NURSERY, WARDGATE WAY, HOLME HALL, CHESTERFIELD FOR HERON FOODS LTD.

Ward Loundsley Green
Local Plan District Centre

1.0 CONSULTATIONS

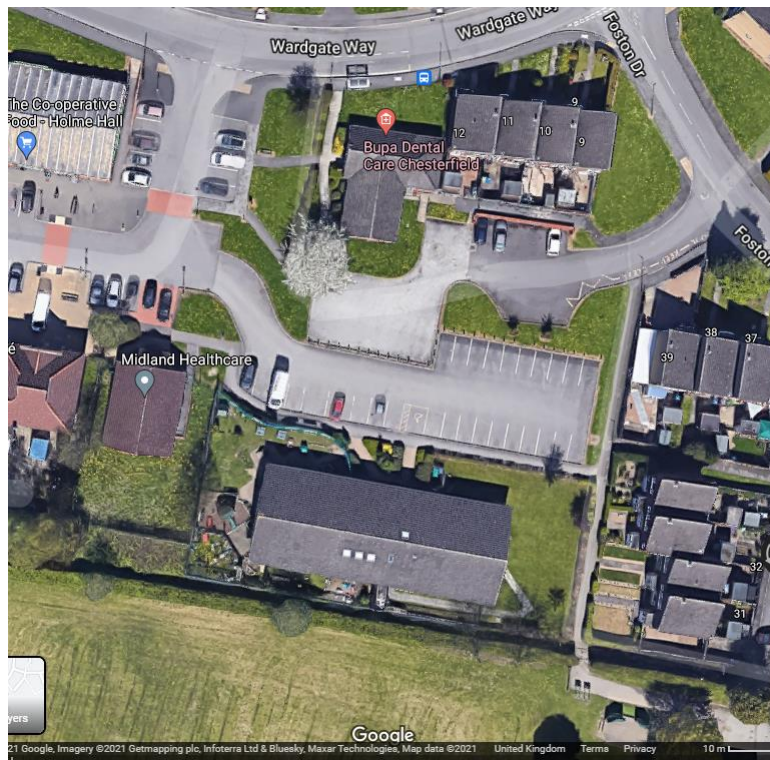
Derbyshire County Council Highways	Comments received – no objection,
Strategy/Forward Planning	No objections
Environmental Health	No objections
Neighbours and Site Notice	29 public comments received objecting to the proposal – see report
Ward Members	No representations received.

2.0 THE SITE

- 2.1 The site the subject of this application is the Holmebrook Valley Family Centre, which has been used previously as nursery, family centre, place of worship and several other community purposes. It is a single storey building which is part of a local centre in the Holme Hall area and which currently also includes a GP Surgery, dentists and 2 other convenience stores (Farm Foods and Co-op).
- 2.2 The existing site has soft landscaping to the sides and front and includes an outdoor play area to the west. The centre is set at the heart of a residential area and has housing to the east and to the north (beyond the local centre). To the south and east there is a primary school and its school fields.

2.3

To the front of the site there is a car park which appears to be utilised as parking for a mix of purposes including the school, dental surgery and other units on site.



Site included car park and access



The front elevation of the site

2.4

The building was vacant/closed on the planning officer's site visit.

3.0 APPLICATION SITE PLANNING HISTORY

- 3.1 CHE/21/00091/FUL - Installation of a new shopfront, new external refrigeration plant, new double door set to replace single door and internal alterations, general car park works and installation of new fence on eastern boundary – Withdrawn – 15/03/21
- 3.2 CHE/10/00102/FUL - Canopy extension to the rear of the building to provide protected play and educational area – Conditional Permission – 29/04/10
- 3.3 CHE/08/00443/ADV - Free standing sign – Conditional Permission – 02/09/08
- 3.4 CHE/1199/0616 - Erection of a children's day nursery with church family centre and occasional flat facilities – Conditional Permission – 23/12/99
- 3.5 CHE/1085/0714 - Permission for the erection of eight shops – Conditional Permission – 17/01/86

4.0 THE PROPOSAL

- 4.1 The application is for the installation of a new shopfront including new illuminated signage area and entrance doors, external refrigeration plant, door replacement (associated with internal changes), general car park works and a new fence.
- 4.2 The works will provide a glazed frontage to the shop covering a large area to the middle of the front elevation, 2 refrigeration units to the western side of the building, and the internal area of the building will be completely re-configured with the area opened up as a large space for the shop with a small area to the side for deliveries, storage and staff area. The outdoor area will have the fence to the front and side removed and a new area to the western side for delivery vehicles. A 2m high fence is also proposed to the eastern side.
- 4.3 This application does not concern the change of use of the building, just the external alterations to the building and area.

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 Borough Local Plan 2018 - 2035**

- CLP1 Spatial Strategy
- CLP2 Principles for Location of Development
- CLP6 Economic Growth
- CLP9 Retail
- CLP10 Social Infrastructure
- CLP13 Managing the Water Cycle
- CLP14 A Healthy Environment
- CLP16 Biodiversity, Geodiversity and the Ecological Network
- CLP20 Design
- CLP22 Influencing the Demand for Travel

5.3 **National Planning Policy Framework (2021)**

- Chapter 2 Achieving sustainable development
- Chapter 7 Ensuring the vitality of town centres
- Chapter 8 Promoting healthy and safe communities
- Chapter 9 Promoting sustainable transport
- Chapter 12 Achieving well-designed places
- Chapter 15 Conserving and enhancing the natural environment

5.4 **Key Issues**

- Principle of development;
- Design and Appearance;
- Residential Amenity;

- Highways safety, parking provision;
- Flood risk and drainage;
- Community Infrastructure Levy (CIL);

5.5 Principle of development:

- 5.5.1 The site is situated within the heart of the Holme Hall area of Chesterfield, in a commercial district centre which serves an area which is largely residential in nature.
- 5.5.2 Having regard to the nature of the application policies CLP1, CLP2, CLP6, CLP9, CLP10, CLP13, CLP14, CLP16, CLP20 and CLP22 of the Local Plan 2020 2018-2035 and the National Planning Policy Framework (NPPF) apply.
- 5.5.3 The Strategic Planning Officer has commented that based on the history of use of the building, it should be considered as a Sui Generis use, rather than a use falling into Use Class 'E'. This comment is made on the basis that the previous use of part of the building as a Church and Community Hall fall into use classes F1(e) and F1(f) respectively rather than Use Class E and which would make the current approved use Sui Generis.
The Strategic Planning Officer comments that on this current application, only the external details set out in the description can be considered. He comments that Policy CLP20 is the most relevant policy to this application and the criteria set out in it should be considered in determining whether planning permission is to be given. Whilst external changes are being considered, the opportunity to incorporate further measures to enhance the contribution of the building to biodiversity should be taken, including the provision of bat/bird/invertebrate nesting and roosting opportunities.
- 5.5.4 This application does not relate to the change of use of the building/family centre. The 1999 permission for the building of the unit was described as for a children's day nursery and church family centre and it is considered that the main use of the centre has been for this purpose, with other uses ancillary to its main purpose. This use class falls within the previous use class of D1, which is now part of Use Class E. The unit was purpose built as a community facility with a mix of uses, but as the main day time use was as a nursery this became its main stated purpose. The other uses, including as a place of worship, weight loss classes and other community functions

have operated as ancillary components to the main use of the site. There is clear evidence that over 20 years of use the building has been occupied as a mixed community facility.

5.5.5 Under the latest government Use Class Order which now places shops into the same category as Community facilities (class E) the use does not require planning permission and it is only appropriate to consider the minor external changes. The other policy matters such as the loss community facilities cannot be considered as part of this application.

5.6 Design and Appearance

5.6.1 Local Plan policy CLP20 states in part; all development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context respect the character, form and setting of the site and surrounding area by virtue of its function, appearance and architectural style, landscaping, scale, massing, detailing, height and materials.

5.6.2 The proposal does not include any significant changes to the existing building. The main changes to the building are for a glazed section to the front of the building, two refrigeration units to the side, a new fence to the side and a new hardstanding area to the side. An existing fence to the front and side will also be removed. The site is within a local centre where there are other retail buildings that have comparable signage, glazed shop frontages and other related infrastructure. It is considered that in design terms the proposal is acceptable in terms of visual amenity and policy CLP20.

5.7 Residential amenity and environmental health

5.7.1 Local Plan policy CLP14 states that development will be expected to have an acceptable impact on the amenity of users and neighbours. This includes noise, disturbance, dust, odour, air quality, traffic, outlook, overlooking, shading and other environmental impacts.

5.7.2 The only aspect of the scheme which potentially impacts surrounding residents (not regarding highways) is the potential for noise from the proposed refrigeration units on the western side of the building. The Council's Environmental Health Officer (EHO) has commented on the proposal and confirmed they do not objection to any potential noise impact from the refrigeration units due to the

distance and separation from the nearest residential properties. The EHO has requested that the delivery hours are limited to no earlier than 7am and no later than 8pm however this goes beyond the Local Planning Authorities control in this case since the application does not concern the use of the building.

5.7.3 The issue of traffic and highway safety is considered in the below highways section.

5.7.4 Having consideration for the observations above and taking into account the historic use of the site, the proposal is not considered to cause significant adverse impacts on residential amenity of the adjoining neighbours. The proposal therefore accords with the provisions of policies CLP14 and CLP20 of the Local Plan and the NPPF.

5.8 Highways Safety, Parking Provision and Cycle Storage

5.8.1 The Local Highways Authority **Derbyshire County Council (DCC)** were consulted on the proposal and no objection to the proposal has been raised.

5.8.2 The proposal seeks to make some changes to the car park area including removing a section of footpath and 6 car parking spaces and introducing a new hardstanding area for delivery vehicles to deliver goods to the store. On the basis that the site is in a local centre it is considered that there will be low traffic speeds off Wardgate Way. The proposed deliveries parking space is a spur off the car park area and will rely on vehicles reversing to or from the space since it does not include a turning opportunity. No swept path drawings have been provided to accompany the application however it is clear that sufficient space exists to manoeuvre in and out of the space using the car park area and access road. The Highways Authority have not objected to the proposal.

5.8.3 Local objectors have commented that the deliveries and increased traffic from the shop customers will impact the area. As the unit is within an existing local centre with a variety of uses including convenience stores it is considered that the proposal will bring a potential increase in traffic from outside the local area, however the centre has an adequate level of parking provision. The School drop off and pick up times are only for relatively short periods of time and

there is an existing area to the east of the school site that is a safe and suitable area for this purpose.

- 5.8.4 The scheme is considered to be acceptable in relation to CLP20 of the Local Plan subject to the inclusion of conditions in relation to the proposed car parking changes to occur prior to the opening of the store.

5.9 **Flood Risk and Drainage**

- 5.9.1 The application submission doesn't materially impact the existing situation on site and is therefore in accordance with policy CLP13 of the Local Plan.

5.10 **Biodiversity**

- 5.10.1 Local Plan policy CLP16 states that all development will "protect, enhance, and contribute to the management of the borough's ecological network of habitats, protected and priority species ... and avoid or minimise adverse impacts on biodiversity and geodiversity and provide a net measurable gain in biodiversity." The NPPF in paragraph 174 requires decisions to protect and enhance sites of biodiversity and also requires plans to "pursue opportunities for securing measurable net gains for biodiversity".
- 5.10.2 During the application the agent was asked to provide additional information in relation to biodiversity measures on site. The agent has not supplied any accompanying biodiversity information. Any additional work would be completed after construction finishes on site.
- 5.10.3 The proposed development is considered to be a minor development and does not result in the loss of an existing species rich habitat area. Some level of biodiversity net gain is considered to be necessary to accord with policy CLP16 of the Local Plan and the NPPF, therefore a planning condition will be attached to any decision issued to ensure the application provides the agreed biodiversity net gain measures, as a result of the proposed development. On this basis the proposal is considered to accord with the provisions of policy CLP16 of the Local Plan.

5.11 **Community Infrastructure Levy (CIL)**

- 5.11.1 The development comprises the external and internal alterations of the existing site, with no change of use occurring as part of this application such that the scheme will not be CIL liable. The facility has been in use within the last 3 years so it unlikely to have been subject to CIL payments if the change of use had been part of this application.

6.0 **REPRESENTATIONS**

- 6.1 The application has been publicised by neighbour notification letters. 29 objections have been received by members of the public. The following points have been raised:

- Site should remain as a community building as a hub for community services and nursery for local children
- Increase in traffic from outside local area
- Proposal should be a change of use application, as it should be defined as use class F1/F2, as it has been used as a meeting hall, place of worship and church family centre
- Traffic and unsafe manoeuvring from deliveries
- Noise from air conditioning will impact local area
- There is no need for another shop like this one
- Proposal not in accordance with local plan
- The site may also include a café, which may impact local businesses
- Residential amenity
- Pedestrian safety

6.2 **Ward members comments**

No comments received

- 6.3 ***Officer comments – The above comments have been noted. The issues of highway safety, policy issues, residential amenity, noise, loss of community facility are considered in the report. The impact of increased competition on existing businesses is not a planning issue and cannot be considered as a material consideration with regard to the increased number of convenience stores or cafes in the local centre area.***

7.0 **HUMAN RIGHTS ACT 1998**

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

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

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 February 2021 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 Having consideration for the observations above and taking into account the historic use of the site, the proposal is not considered to

cause significant adverse impacts on residential amenity of the adjoining neighbours or a significant impact to highway safety. On the basis of the submitted documents, the proposal is acceptable in relation to the provisions of policies CLP1, CLP2, CLP14, CLP16, and CLP20 of the Local Plan and the NPPF.

10.0 **RECOMMENDATION**

10.1 That the application be **GRANTED** subject to the following conditions / notes:

Conditions

1. 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 Compulsory Purchase Act 2004*

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

- Location Plan
- Existing Plan and Elevation
- Proposed Plans and Elevations
- Existing Site Plan
- Proposed Site plan

***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.*

3. The premises, the subject of the application shall not be taken into use until space has been provided, laid out and constructed in accordance with the application drawings for the parking and manoeuvring of delivery vehicles and which shall thereafter be maintained throughout the life of the development available for use and free from any impediment to its designated use.

***Reason** - In the interests of highway safety and policy CLP22*

4. Construction work shall only be carried out on site between 8:00am and 6:00pm Monday to Friday, 9:00am to 5:00pm on a

Saturday and no work on a Sunday or Public Holiday. The term "work" will also apply to the operation of plant, machinery and equipment.

Reason - *In the interests of residential amenities.*

5. Prior to occupation of the development as a shop, a scheme (including a programme of implementation and maintenance) to demonstrate a net measurable gain in biodiversity through the development, shall have been submitted to and approved in writing by the Local Planning Authority. The net measurable gain shall be implemented, retained and maintained thereafter in accordance with the scheme and programme so approved.

Reason - *In the interests of achieving a net measurable gain in biodiversity in accordance with policy CLP16 of the adopted Chesterfield Borough Local Plan and to accord with paragraph 175 of the National Planning Policy Framework.*

6. Notwithstanding the provisions of the Town and Country Planning (Uses Classes) Order 1987, and The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting these Orders with or without modifications), the premises shall be used as a convenience store only and for no other purpose, including any other activity within the same class of the schedule to that Order.

Reason - *In the interests of the amenities and highway safety of the occupants of adjoining dwellings, in relation to policies CLP14 and CLP20.*

Notes

1. 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.
2. In accordance with condition 5, appropriate ecological/biodiversity enhancement measures shall include but shall not be limited to:
 - bird/owl/bat boxes

(Locating your nestbox:

Whether fixed to a tree or a wall, the height above ground is not critical to most species of bird as long as the box is clear of inquisitive humans and prowling cats. If there is no natural shelter, it is best to mount a box facing somewhere between south-east and north to avoid strong direct sunlight and the heaviest rain. The box should be tilted slightly forwards so that the roof may deflect the rain from the entrance.

You can use nails to attach the box directly to a tree trunk or branch; or you can use rope or wire wrapped right around the box and trunk (remembering to protect the trunk from the wire cutting into it by using a piece of rubber underneath it). Both methods are satisfactory, but annual maintenance is easier if the box is wired and can be taken down easily for cleaning.

The number of nestboxes which can be placed in a garden depends on the species you wish to attract. Many species are fiercely territorial, such as blue tits, and will not tolerate another pair close by; about 2 to 3 pairs per acre is the normal density for blue tits. Other species, such as the tree sparrow, which is a colonial nester, will happily nest side-by-side.

Do not place your nestbox close to a birdtable or feeding area, as the regular comings and goings of other birds are likely to prevent breeding in the box.)

(Locating your bat box: Bat boxes should be positioned at least 3 metres above the ground (5 metres for noctules) in a position that receives some direct sun for part of the day, with a clear flight path to the box, but preferably also with some tree cover nearby as protection from the wind. In the roof eaves, on a wall or fixed to a tree are all suitable sites.)

- biodiversity enhancing planting and landscaping including trees, hedges and native species, wildflower planting and nectar rich planting for bees and night scented flowers for bats
- measures to enhance opportunities for invertebrates including bug hotels/log piles, stone walls including a programme of implementation and maintenance