

Case Officer: Sarah Kay
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Ctte Date: 23rd September 2019

File No: CHE/19/00199/FUL
Plot No: 2/1272

ITEM 6

PROPOSED ERECTION OF A FREESTANDING TWO STOREY RESTAURANT WITH DRIVE-THRU (A3/A5), CAR PARKING, LANDSCAPING AND ASSOCIATED WORKS INC. INSTALLATION OF 2 NO. COD (CUSTOMER ORDER DISPLAYS) WITH ASSOCIATED CANOPIES (REVISED PLANS / DETAILS RECEIVED 24/06/2019, 08/08/2019, 16/08/2019, 28/08/2019 AND 03/09/2019) AT LAND ADJ TO THE ROYAL MAIL DEPOT, WEST BARS, CHESTERFIELD, DERBYSHIRE FOR MCDONALDS RESTAURANTS LTD

Local Plan: Town, District & Local Centre
Ward: St Leonards

1.0 **CONSULTATIONS**

CBC Strategic Planning	Comments received 21/05/2019 – see report
CBC Environmental Services	Comments received 17/05/2019, 25/05/2019 and 19/08/2019 – see report
CBC Design Services (Drainage)	Comments received 29/04/2019 and 04/09/2019 – see report
CBC Economic Development	Comments received 29/04/2019 – see report
Environment Agency	Comments received 18/04/2019 – no objection / comments to make
Yorkshire Water Services	Comments received 13/05/2019 – no observations / comments required
Derbyshire Constabulary	Comments received 23/04/2019 and 22/08/2019 – see report
Lead Local Flood Authority	Comments received 23/04/2019 and 02/09/2019 – no objection / comments to make
DCC Highways	Comments received 16/05/2019 – see report
DCC Archaeology	Comments received 17/05/2019

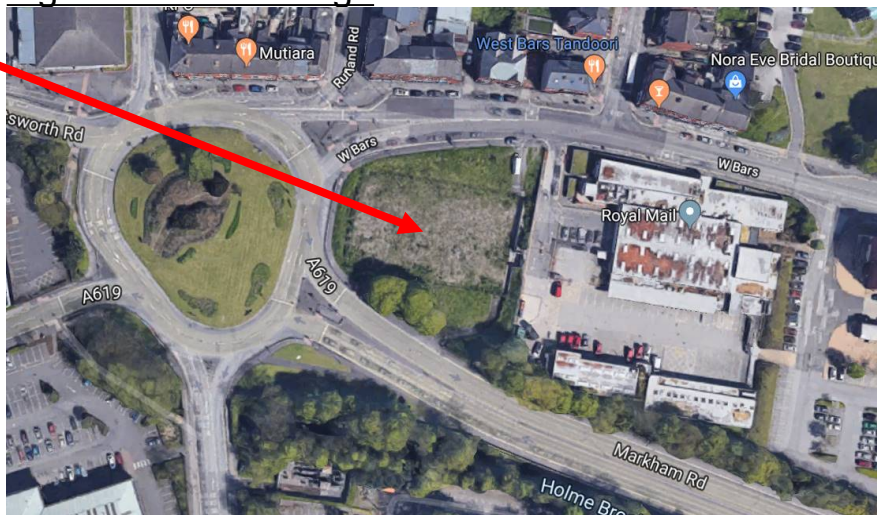
	– see report
Chesterfield Civic Society	No comments received
Chesterfield Cycle Campaign	Comments received 12/04/2019 and 19/08/2019 – see report
Transition Chesterfield	Comments received 22/04/2019 and 20/08/2019 – see report
Coal Authority	Comments received 10/05/2019 and 19/08/2019 – see report
CBC Tree Officer	Comments received 18/04/2019 and 29/08/2019 – see report
CBC Urban Design Officer	Comments received 13/05/2019 and 25/08/2019 – see report
Ward Members	Comments received from Cllr Fordham regarding initial site notice placement (resolved on re-consultation) – no other comments received
Site Notice / Neighbours	3 representations received

2.0 **THE SITE**

2.1 The site the subject of the application is that of the former Royal Mail Multi Storey Car Park (MSCP), West Bars which was demolished and cleared in 2015. Since demolition the site has been fenced off and is naturally regenerating with overgrowth.

2.2 The site measures approx. 0.32ha in area and shares highway frontage with West Bars, West Bars roundabout and Markham Road.

Figure 1: Aerial Image



2.3 In association with its former use as a MSCP, the site access is taken off Markham Road to the south and the site egress is onto West Bars to the north. Levels across the site generally fall from north to south, with both access and egress on an incline, but the former footprint of MSCP building is level in the centre of the site. There is a retaining wall positioned along the eastern edge of the site which is shared with the Royal Mail Depot, who is positioned at a higher level.

Photo 1 and 2: Site from West Bars



Photo 3 and 4: Site from Markham Road



2.4 There are three mature Maple trees located to the Markham Road frontage which are protected by Tree Preservation Order 4901.334.

3.0 RELEVANT SITE HISTORY

- 3.1 CHE/19/00192/ADV - Installation of 5 illuminated fascia signs; CHE/19/00195/ADV - Installation of a free standing sign head on a 9m pole; and CHE/19/00196/ADV - Various site signs including 4 free standing illuminated double digital menu boards, 12 DOT non illuminated signs and 1 illuminated digital booth screen.
- All Pending Consideration.
- 3.2 CHE/15/00039/TPO - T1, T2 and T3 Maples - minor pruning.
- Conditional Permission 01/04/2015.
- 3.3 CHE/15/00038/DEM - Demolition of three storey, concrete frame (and clad) split level car park adjacent to Royal Mail's Chesterfield Delivery Office.
- Prior Approval Granted 19/05/2015.
- 3.4 CHE/14/00251/ADV - One free standing (externally illuminated) 48 sheet general poster advertising display sited between West Bars and Markham Road.
- Refused 12/06/2014; but Appeal Allowed 03/06/2015.

4.0 THE PROPOSAL

- 4.1 The application, which is submitted in full, proposes the erection of a two storey restaurant and drive-thru (Use Class A3 / A5) with parking, landscaping and associated works inc. the installation of 2 no. Customer Order Displays (COD) with canopies.
- 4.2 The scheme proposes a restaurant of 518sqm within a two-storey building. The proposed site layout includes 29 parking spaces, 2 disabled parking spaces, plus 6 other spaces (including Grill, Staff and Electric Vehicle Charging Points). Cycle parking is also proposed. The majority of the site is occupied by parking, access and circulation space, given the nature of the A3/A5 use with drive-thru facilities. The grassed area to the south of the site, upon which the 3 no. mature Maple trees are located, is to be retained alongside the trees.
- 4.3 The layout shows the restaurant building positioned broadly centrally within the plot and set diagonally across the site, aligned northwest to southeast axis. Access is from Markham Road at the southeast corner, with the exit situated opposite, at the northeast

corner onto West Bars. The drive-thru lane loops around the building following the western and north-western boundary and returns into the site parallel to the food collection windows on the north-east elevation.

4.4 The application submission is supported by the following plans / documents:

5743_AEW_8172_0001 Rev A – Site Location Plan

5743_AEW_8172_0002 Rev A – Block Plan

5743_AEW_8172_0003 Rev A – Existing Site Plan

5743_AEW_8172_0004 Rev A – Proposed Site Plan *[superseded]*

5743_AEW_8172_0005 – Proposed Elevations *[superseded]*

5743_AEW_8172_0006 – Proposed Floor and Roof Plan

5743_AEW_8172_0015 Rev A – Proposed Landscape Plan

4180561- 1000 Rev P3 – Proposed Levels

4180561- 1001 Rev P3 – Site Sections

4180561- 1200 Rev P3 – Proposed Drainage

4180561- 1210 Rev P1 – Drainage Detail (1 of 2)

4180561- 1211 Rev P1 – Drainage Detail (2 of 2)

4180561- 1212 Rev P3 – Proposed Drainage Maintenance Plan

Supporting Statement (prepared by Planware Ltd dated March 2019)

Drainage Calcs (prepared by Glanville Consultants Ltd dated February 2019)

Transport Statement (prepared by ADL Traffic and Highways Engineering Ltd dated March 2019)

Travel Plan (prepared by McDonalds dated March 2019) *[superseded]*

Tree Survey, Arboricultural Impact Assessment, Arboricultural Method Statement & Tree Protection Plan [7195-D-AIA] (prepared by Hayden Arboricultural Consultants dated February 2018)

Coal Mining Risk Assessment (prepared by Pam Brown Associates dated February 2019)

Phase I Desk Study and Phase II Geo-Environmental Site Investigation (prepared by Pam Brown Associates dated March 2019)

Standard Patio Area – Supporting Specification

Odour Control – Supporting Information

Goal Post Height Restrictor and COD/Canopy – Details

Site Flythrough Video / Illustration – rec'd 02/08/2019

Revised Plans received 16/08/2019

5743_AEW_8172_0004 Rev C - Proposed Site Plan

5743_AEW_8172_0005 - Proposed Elevations

Revised Plans / Documents received 28/08/2019

5743_AEW_8172_0017 Rev A - Proposed Retaining Wall

McDonalds Litter Control – Standards / Guidance

Revised Documents received 03/09/2019

Traffic Note (prepared by ADL Traffic and Highways Engineering Ltd dated July 2019)

Travel Plan (prepared by McDonalds dated July 2019)

CIL Forms / Liability

5.0 **CONSIDERATIONS**

5.1 **Planning Policy Background**

5.1.1 The site is situated within the built settlement of St Leonards ward in an area on the outskirts of the Chesterfield Town Centre which is predominantly commercial in nature, with some residential uses to upper floors on West Bars opposite and beyond to the north and south.

5.1.2 Having regard to the nature of the application proposals the following planning policy is relevant:

National Policy and Guidance

- National Planning Policy Framework (NPPF) – Core Planning Principles & Requiring Good Design.
- National Planning Practice Guidance (NPPG) – Design (ID: 26)

Chesterfield Core Strategy: Local Plan (2013)

- CS7 Managing the Water Cycle
- CS9 Green Infrastructure and Biodiversity
- CS15 Vitality and Viability of Centres
- CS18 Design
- CS19 Historic Environment
- CS20 Influencing the Demand for Travel
- PS1 Chesterfield Town Centre

Supplementary Planning Documents

- Successful Places: A Guide to Sustainable Housing Layout and Design (2013)
- Designing Out Crime (2007)

<http://www.chesterfield.gov.uk/planning-and-building-control/local-development-framework/supplementary-planning-documents.aspx>

A Building for Life 12 (BfL12) - The sign of a good place to live

<http://www.designcouncil.org.uk/our-work/CABE/Our-big-projects/Building-for-Life/>

Chesterfield Town Centre Masterplan (2015):

<https://www.chesterfield.gov.uk/business-and-economic-growth/regeneration-and-economic-growth/chesterfield-town-centre-masterplan.aspx>

5.2 Principle of Development

- 5.2.1 The application site lies within the defined boundary of Chesterfield Town Centre and falls within the extent of Chesterfield Town Centre, covered by Core Strategy policy PS1. Policy CS15 of the Core Strategy also applies as it relates to the vitality and viability of centres.
- 5.2.2 Having regard to the nature of the application proposals and looking at the principle of development, the location of the development proposals on previously developed land on the edge of the town centre would inevitably accord with the Council's strategy of concentrating development within walking and cycling distance of centres (Policies CS1 and CS2).
- 5.2.3 In the context of policy CS15 (vitality / viability of centres) the site is not within the primary retail core of Chesterfield Town Centre and the use of the development proposed is considered to be a main town centre use which is complimentary to the town centre location. This type of use in a defined centre is generally acceptable in principle and it is a sequentially appropriate location, therefore no sequential assessment required. Overall the principle of the development proposals accord with the provisions of policies CS1, CS2 and CS15 and are considered to be acceptable.

- 5.2.4 Alongside the Spatial Strategy, the Core Strategy includes a package of place making policies inc. Policy PS1 (Chesterfield Town Centre) which states that subject to policy CS15, planning permission will be granted for development that contributes towards a) providing employment, services, leisure and retail b) supporting the objectives of the TC masterplan c) economic development providing a diverse range of uses inc. retail, food and drink.
- 5.2.5 In regard to these provisions the Chesterfield Town Centre Masterplan, whilst not a formal planning document, is a material consideration given its reference in policy PS1. The site is identified as a “potential development opportunity” in the masterplan. The masterplan states; “The West Bars MSCP is physically obsolete and represents a substantial gateway opportunity. The site could be suitable for commercial office, retail/leisure and or mixed use residential development. High quality development will be especially important on this site as it is the main gateway as visitors enter the town from the west”.
- 5.2.6 Overall (subject to detailed considerations such as design etc. set out below) the principle of development is considered to accord with the provisions and aspirations of policy PS1.
- 5.3 **Design and Appearance Considerations (inc. Neighbouring Impact / Amenity)**
- 5.3.1 The site lies at the western edge of Chesterfield Town Centre (Policy CS15), but outside the retail core, where a wide range of uses is encouraged. In this respect new development should make a positive contribution to the centre’s viability and vitality and be of an appropriate scale.
- 5.3.2 The Town Centre Masterplan – Strategic Development Framework (2015) identifies this site as suitable for a number of potential uses, but emphasises the importance of high quality design due to the main gateway nature of the location.
- 5.3.3 The application submission was reviewed by the Council’s **Urban Design Officer (UDO)** and the **Crime Prevention Design Advisor (CPDA)** – who raised no objections subject to the CCTV details being the submitted for approval prior to installation. The UDO made the following more detailed comments:

Layout

The site occupies an important gateway location on the west side of the town centre, as recognised within the Town Centre Masterplan – Strategic Development Framework (2015).

The layout shows the restaurant building positioned broadly centrally within the plot and set diagonally across the site, aligned northwest to southeast axis.

Access is from Markham Road at the southeast corner, with the exit situated opposite, at the northeast corner onto West Bars. The Drive-Thru lane loops around the building following the western and north-western boundary and returns into the site parallel to the food collection windows on the north-east elevation.

The supporting statement indicates that the distinctive glazed customer area is orientated to address the main frontage of the site to provide a lively customer area and adding to the local form with active frontages. The position and orientation of the building however, represents an awkward inward looking arrangement that turns it back on key frontages to West Bars and fails to acknowledge the relationship between the proposal, its gateway location.

The siting of the building within the central part of the site detaches it from the adjacent frontages. The angled alignment further segregate it from the street, provides ill-defined edges and a weak sense of enclosure to West Bars.

The primary elevations (A & B) face southeast towards the Royal Mail Depot and southwest towards Markham Road respectively and are partially screened from public view, by reason of their orientation and the presence of mature trees.

Elevations C and D comprise largely blank facades and face towards the most open and prominent edges of the site. The rear elevation (Elevation D) contains the storeroom and waste bin enclosure. These service functions are orientated to face towards the northwest corner where West Bars joins the roundabout. An absence of active frontages on key elevations results in primarily blank elevations, with the development relating poorly to its surroundings.

Pedestrian and cycle connectivity - The formal pedestrian entrance into the site is via the main access off Markham Road, although footfall is likely to be greater along West Bars between the local shops and the town centre. However, the design of the scheme does not provide for a dedicated pedestrian and cycle link from the north, or a safe route through the car park, from this direction.

Scale and Massing

The gateway position of the site is recognised within the supporting planning statement (Section 2), but is not reflected in the design of the scheme.

The application proposes a modest two-storey standalone building within open surroundings and lacks the height, scale and massing to effectively perform the role of a landmark building at this entrance to the town centre.

The built form and scale steps down towards the junction at West Bars roundabout and present the rear of the building and its service functions towards the street on the most prominent parts of the site. Consequently, the layout and orientation of the building is inward looking and fails to respond positively to the gateway location this site represents within the townscape.

Landscaping

Existing protected trees will remain in-situ, although the position of the access will require the removal of some existing trees.

The extent of site coverage in respect of built form and hard surfacing leaves limited scope for soft planting to assist mitigate the loss of mature trees to facilitate the entrance, contribute to achieving a net gain in biodiversity value and enhance the appearance of the development through the effective use of soft landscaping.

Soft planting appears to be generally limited to areas of grass situated within awkward left over areas of land between roads, paths and parking bays. No substantive environmental improvements through the implementation of landscaping appear to be proposed.

Headlight screen - A 1200mm high close board fence is proposed around the western edge of the site against the roundabout. This is shown to extend for approximately 30m and is intended to prevent headlight glare interfering with vehicles on the adjacent highway. This represents an incongruous means of enclosure at a prominent edge to the site.

Retaining structure - A sheet piled retaining wall is proposed along the eastern boundary with the Royal Mail depot which sits above the site. A section through the wall indicates this to be faced with timber cladding, with a 1.8m high fence situated above.

This feature is not discussed in the supporting statement and the extent of the retaining wall is unclear on the Site Sections drawing, although the level of excavation indicated shows a maximum retaining wall height of 3m with a 2m screen fence above. This has the potential appear as an imposing, incongruous feature as a backdrop to the development.

The siting of a bank of customer parking adjacent to the wall along its length provides limited scope to mitigate its visual impact through the introduction of soft landscaping to soften and screen this feature. At present no mitigation appears to be proposed.

Street furniture - The proposals include various items of street furniture within the site such as railings, benches, canopies etc. The most prominent items include a number light columns arranged around the perimeter.

The exact design, height and appearance of the proposed light columns is somewhat unclear. However, given the close proximity of existing light columns on the adjacent highway, the introduction of further columns will be likely to add to the visual clutter of the site and detract from its appearance, unless these are low level bollard style lighting.

Appearance

The building is a contemporary design, and a contemporary approach is supported in principle. However, the proposal contains a number of largely blank facades facing key public frontages. This represents a poor response to its setting.

The stepped form and projecting canopies provide some relief to its appearance and the use of cladding panels in different colours and alignment also help moderate the blocky form of the building.

The local context is predominantly characterised by buildings of red brick and slate. Although the use of dark grey brick and panels makes some reference to the local slate roof coverings, the Basalt grey panelling is not representative of the local stone and more closely matched alternatives would be more appropriate.

Access

The suitability of the vehicle access for customers and deliveries would need to be advised by the DCC Highway Engineer.

Pedestrian and cycle access is indirect and fails to take into account the desirability of access from West Bars. Consequently pedestrian and cycle access is considered to be indirect and inconvenient.

Conclusion

In its current form the proposal does not represent a good standard of design and it is not considered that the proposals meet the requirements of Policy CS18 or design policies in the NPPF (2018).

5.3.4 Upon receipt of the comments / feedback above the applicant met with the Case Officer and UDO and amendments were made to the scheme to address design comments as well as other matters (see other sections below).

5.3.5 Revised drawings were submitted on 16 August 2019 which were reviewed by the UDO and the following comment was received:

Thank you for your consultation regarding the amended plans for the above scheme. I can confirm that the revised proposals have responded positively to the majority of the issues previously identified. The building is now orientated to better address its surroundings, and relate to the roundabout with the taller element of now facing West Bars roundabout. The design, fenestration, landscaping and pedestrian access have also all been improved. As such, there are no urban design objections to amended scheme.

Details of retaining wall and its extent and height will be required as this has the potential to be a significant feature. How this is faced will also be important to ensure a suitable finish and appearance. A full elevation, its height and finishes is recommended. This could be managed by condition.

Conditions are also recommended relating to details of the materials, colours and samples if requested, together with detailed landscaping and its implementation.

- 5.3.6 Having regard to the commentary set out above, the applicant has worked proactively with the Local Planning Authority to address initial design and appearance concerns. As a result the scheme has been positively amended to the satisfaction of the LPA. Where appropriate or where further details are needed planning conditions can be imposed to require the submission of further information (landscaping, materials, CCTV, lighting etc.) but overall it is considered that the design and appearance of the scheme meets the requirements of policies CS2 and CS18 of the Core Strategy.

Neighbouring Impact / Amenity

- 5.3.7 The application site is predominantly adjoined by existing commercial uses; however there are residential properties located to the upper floors of premises on West Bars opposite and beyond on Clarence Road and Rutland Road to the north.
- 5.3.8 In this regard whilst the overall scale and design of the scheme mean it is unlikely the development will impose any adverse amenity impacts upon these properties in terms of overlooking, overshadowing and/or overbearing; the operative nature of the site and any potential impacts arising are a consideration.
- 5.3.9 As a restaurant / takeaway with drive-thru facilities there will be a frequent / high turnover of visitors to the site which could have the potential to impact upon the amenity of local residents having regard to noise. Other matters such as odour and litter may also be of concern.
- 5.3.10 The application is supported by Odour Control Specifications for the kitchen installation and extraction equipment (specific to the applicant – McDonalds) and also the proposed operators Litter

Control Standards and Guidance. In regards to Odour the application submission has been reviewed by the Council's **Environmental Health Officer (EHO)** who did not raise any specific concerns or comments about odour or litter. It is therefore assumed that the proposals are acceptable to them in this regard. In terms of litter, the applicant is responsible for litter control on their site and there are waste bins indicated on the proposed site layout. In terms of litter off site, the approach set out by the applicant to patrol areas off site is commendable, however it must be noted that the behaviour of people who leave the site and discard of litter inappropriately is not a matter which can be controlled through planning legislation.

5.3.11 Turning to the issue of noise, the application form submitted did not originally detail any proposed opening hours however the supporting planning statement suggested a desire to operate the site 24/7, unless amenity considerations dictated otherwise. Furthermore the servicing requirements for the site are set out in the supporting planning statement advising that the site will receive typically 3 deliveries per week, which are managed and timed by service delivery software.

5.3.12 These proposals were discussed with the EHO who was of the opinion there could be an adverse impact upon neighbouring amenity if opening and service hours were not restricted. The EHO recommended servicing hours be restricted, with no deliveries taking place between 22:30hrs on any day and 07:00hrs on the following day; and opening hours be restricted with the store being closed between 24:00hrs – 06:00hrs on any day. The servicing and opening hours restrictions suggested by the EHO were confirmed acceptable by the applicant (email dated 24 June 2019) and accordingly in the interests of protecting neighbouring residential amenity, appropriate planning conditions can be imposed restricting these hours as agreed.

5.4 **Highways Issues / Demand for Travel**

5.4.1 In respect of matters of highway safety and demand for travel the application submission is accompanied by a Transport Statement (TS) and Travel Plan (TP), which has been reviewed by the **Local Highways Authority (LHA)** who advised:

The submitted details propose restaurant with up to 160no. seats and a drive-thru take-away facility served by an existing vehicular entrance from Markham Road and existing exit to West Bars with each of the access points to be modified to accommodate the proposals.

A Transport Statement has been submitted in support of the application in response to pre-application highway observations.

The Statement recognises that the site has been vacant for a number of years. As such, you may well consider that it has no extant use. An assessment has been made of capacity of the multi-storey car park previously occupying the site by means of satellite images together with perceived trips generated if operated as a long stay facility. Whilst the capacity of the former car park may well be reasonably accurate, this was private for use only by employees of the adjacent Royal Mail offices / depot therefore it's unlikely that there would have been much turn-over in use of the parking spaces and the perceived former trip generations are considered to be high.

An accident analysis for a five year period ending 31 August 2018 has been undertaken concluding that there are no highway safety issues on the existing network that need to be addressed as a part of this application. Obviously, there has been no use of the site access and egress points over this same period to have any influence on operation of the highway. Accidents records from 1999 – 2006 have also been included within the Statement which similarly concludes that, as there were no collisions in this period, there is no history of accidents on the length of Markham Road between the roundabout junction and existing site access.

Notwithstanding the above, traffic activity associated with the current proposals will no doubt be markedly different to that arising from the previous development therefore the modified accesses will need to be laid out in an acceptable manner and provided with visibility sightlines meeting current design criteria.

It's noted that exit from the site is to be modified to be left turn out only. It's suggested that a visibility sightline of 2.4m x 43m is appropriate from the exit, such a sightline being demonstrated on a drawing contained within appendix 7 of the Statement. It's not clear whether or not the sightline has been drawn on a topographical

survey or Ordnance Survey base or, if the latter, if it's been accurately determined as being available on site. The 2.4m setback distance at the centreline of the exit has been demonstrated at an acute angle to the existing carriageway channel however, in order to be robust, it's considered that this should be at 90°. In addition, West Bars carries a high number of bus trips and it's suggested that this should be reflected within the calculation for the recommended sightline. Therefore, it's considered that an exit visibility sightline of 2.4m x 47m minimum is clearly demonstrated on an accurate survey base.

The site entrance is to be modified by widening to the east in order that there is no reduction in distance between it and the roundabout junction. The aforementioned historic accident record has been put forward in support of there being no requirement to demonstrate forward visibility to vehicles slowing to enter the site. As stated above, it's considered that use of the site entrance will be different to that associated with the previous development and an appropriate level of forward visibility should be available and secured. It should also be noted that the area of the site between the former car park building and highway boundary was level grass thereby maximising forward visibility. It's appreciated that it would be difficult to establish 85%ile vehicle approach speeds due to the presence of signals, however, it's considered that forward visibility of 47m would be appropriate and this should be demonstrated and secured.

It's reiterated, as noted in previous correspondence contained within the Transport Statement, that the proposed access modifications will require detailed designs to be submitted following any Consent and entry into an Agreement under Section 278 with the Highway Authority in order to carry out the Works.

Although the Transport Statement includes survey data supporting the proposed level of off-street parking provision, I trust that you will ensure that this is adequate to meet your own Authority's requirements for the restaurant element of the development.

The Statement includes details of proposed servicing for the site and how the arrangements successfully operate at other similar developments. It's assumed that servicing in accordance with the arrangements stated can be made the subject of Condition of any Consent with any future changes requiring written approval of the

Local Planning Authority. It should be clarified that the 'island' linking the identified crossing points between the proposed restaurant and north of the site is to be flush as the vehicle swept paths pass over it.

The installation of a 1.2m height close boarded fence around the drive-thru lane to prevent glare from headlights affecting drivers on the public highway is noted and considered to be acceptable.

A couple of comparison sites have been given in order to establish perceived traffic generation of the proposed development. It's noted that there are two and a half times more other McDonalds restaurants within 5km of both of the other sites identified. However, population served within these areas isn't given and will no doubt be an influence on popularity of a site. The Transport Statement uses the average of survey results in determining perceived traffic generation for the West Bars site. The Statement refers to research having proven that there is no statistically significant relationship between McDonalds traffic and either floor area, dining area, number of seats and parking provision therefore the Highway Authority considers that, given the perceived implications of queuing extending back out onto Markham Road, off-street provision should be in line with maximum demands identified elsewhere. Analysis of trip generations at further McDonalds sites using the TRICS database has also been included suggesting that the comparison sites have trip generations in excess of the average on a Friday peak and below the average in the Saturday peak hour. A review of predicted and actual traffic at five other recently built restaurants indicates an average of 98% accuracy in predictions throughout periods on Friday evenings and Saturday lunchtime/ afternoons although again, in order to be robust in this particularly sensitive location, the Highway Authority considers that worst case scenarios should be used. It's noted that actual traffic numbers are significantly greater than those originally predicted at the majority of the recently built sites.

Notwithstanding the above, it's noted that maximum parking demand for either of the comparison sites is 31no. spaces, a figure within the 37no. spaces for the proposed site – although this is below the 45no. spaces identified as being required to meet the maximum provision of your Authority's Local Plan.

Maximum queuing at the drive-thru element of the comparison sites was recorded as 8no. vehicles this being below the 21no. spaces demonstrated as being available for the same purpose within the proposed development site. Drive-thru is identified as the most popular means of serving car based customers and, this being the case and bearing in mind the aforementioned concern with queues backing out onto Markham Road, the Highway Authority considers it essential that this element of the development is comfortably accommodated with a significant 'safety factor' built in. As referred to above and within the Statement, it's difficult to predict precisely what the level of demand may be for a new drive-thru restaurant. However, it's noted that the available space for queuing is two and a half times that needed to accommodate maximum queues recorded at the comparison sites. Further comfort could be provided if the route around the proposed building between the entrance and order point is constructed in a manner that would allow widening to two lanes should the need arise in the future. Relocation of the proposed lighting columns to the northern side of the access route would be likely to make this more easily/ less costly, to achieve – obviously, only if required.

It's noted that it's intended to install formal crossing points for pedestrians at each of the modified site accesses. However, there is no segregated route into/ out of the site for pedestrians or cyclists to/ from West Bars. Given the perceived number of staff and customers likely to use public transport/ cycle/ etc. it's considered that a suitable link and facilities should be provided e.g. lighting, cycle stands, etc.

It's considered that a development of the scale and nature proposed would be unlikely to generate additional traffic to significantly impact on capacity of the existing local highway network.

A number of proposed lighting columns are shown within the site. Details of light spillage onto the highway should be provided together with measures to prevent glare affecting vision for drivers of vehicles on the adjacent highways.

Comments with respect to the Travel Plan are appended to this response. In the event of approval, it's recommended that funding of £2500 is secured for monitoring of the Plan over a period of 5 years i.e. £500 p.a.

Therefore, it's recommended that the applicant is given opportunity to submit revised details demonstrating measures to satisfactorily address the above pedestrian/ cycle access, visibility sightline and proposed lighting issues.

5.4.2

In addition to the comments of the LHA above, comments were also received from the **Chesterfield Cycle Campaign (CCC)** and **Transition Chesterfield (TC)** as follows:

CCC - Whilst having no objection in principle to this application the layout does not prioritise walking and cycling access therefore the Campaign objects to the application.

There appears to be no dedicated pedestrian access from West Bars into the restaurant site. This will almost certainly result in pedestrians having to 'dash' across the exit road. There is Pedestrian access from Markham Road but because most footfall is along West Bars it is most unlikely that pedestrians will walk all the way round the site to use that.

We can only presume that anyone arriving by bicycle will have to negotiate the roundabout and enter the site from Markham Road too. Clearly very few cyclists will do that and like pedestrians will enter the site the wrong way on the exit road. The travel plan suggests that up to 7% of their proposed (up to) 100 staff will cycle to work and presumably some customers may cycle too.

Whilst it is accepted that a 'Drive Thru' restaurant is primarily based on car use surely safe provision should be made for customers arriving on foot and by bicycle especially as this is close to the town centre.

At the very least there should be a continuation of the pedestrian route past the electric vehicle charging bays to the footway on West Bars. We believe a better solution is:

There are two pedestrian 'corridors' shown running along the parking bays, this is a very poor design because it puts pedestrians (including small children) in the position where cars are moving in and out of the parking bays.

The longer pedestrian walkway would be much better sited between the parking bays and the (post office building) boundary. With one parking bay dedicated to cycle parking adjacent to a pedestrian crossing, which would free up space outside the restaurant entrance.

This walkway could link out of the site onto West Bars, thus producing a safe pedestrian access from the town. This 'walkway' should be built as a shared path leading to the cycle parking mentioned above.

TC - This development by definition is designed for car access. There is poor walking and cycling access to the facility that might encourage people to visit by more environmentally friendly means, contrary to the Council's policies to encourage walking and cycling. We support the suggestions made by Chesterfield Cycle Campaign to provide shared space for walking and cycling nearer to the facility that connects to West Bars with dropped kerbs. This facility will also encourage people to drive through Chesterfield without stopping (when there is an existing McDonalds less than a mile away), which must undermine the town centre viability and vitality. However we do support the provision of 2 EV charging points.

- 5.4.3 In response to consultee comments received (inc. the LHA ones above) the application was subsequently revised. In addition to the amended site layout plans, an addendum Traffic Note (TN) to the TS and revised Travel Plan were submitted. These were forwarded to the LHA, CCC and TC for further comments.
- 5.4.4 The revised details incorporate the increased visibility splays (forward and exit) sought by the LHA to the site egress and exit (detailed in the addendum TN). These have been reviewed by the LHA who advise that the details submitted appear to be achievable, albeit that the scale of drawings in the TN mean the visibility splays drawn are a little cluttered with topographical data and ordinance survey data overlaid on the same drawing when printed. The LHA has advised that these details can be clarified as part of the S278 drawings necessary to amend the site access and egress and therefore they would be happy for a pre-commencement condition being imposed to secure this further detail. In a similar manner the LHA advised that they would seek the forward visibility splays demonstrated from West Bars to the

site access to be further maximised and on plan it appeared that this may require the removal of the 3 no. staff parking spaces shown in the SW corner of the site layout. Again the LHA has advised that these details can be clarified by revised detailed drawings necessary to amend the site access and egress and therefore they would be happy for a pre-commencement condition being imposed to secure this further detail. It is also noted that the forward visibility to the site access will need to be facilitated by ensuring the crown of the 3 no. Maples trees (which are protected) are lifted and maintained, but this is considered to be acceptable (and standard practice for trees located close to highway carriageway in any event).

5.4.5 Pedestrian access to the site was amended with a focus on the West Bars side of the site. The amendments introduced pedestrian crossing points (zebra) across the site egress and drive thru driving lane to ensure a safe pedestrian access route to the restaurant entrance, which is located on the south western corner of the building. Suggestions were put forward by the CCC / TC to place the footpath on the eastern side of the site in front of the car parking bays to provide a link West Bars without crossing the egress; however these bays are up against a retaining wall structure and a shared pedestrian / cycle route placed here (which would need to have been 3m wide) would have pushed the parking bays too far into the site to secure necessary delivery vehicle margins and manoeuvring / site tracking needed from the drive-thru circulation lane. Overall a balance was struck to achieve the best possible solution to the site layout (taking into account all site constraints) and improvements were achieved overall. Whilst it is noted that both the CCC and TC do not consider the amendments go far enough and that in their opinion a dedicated pedestrian and cycle route should be available from West Bars into the site to avoid cyclists entering the site from Markham Road; there is nothing preventing a cyclist from dismounting at West Bars and walking into the site using the pedestrian crossing provided if they do not wish to cycle around West Bars and enter from Markham Road. Cycle parking has been secured in the revised site layout and the provision of electric vehicle charging points. These facilities can be conditioned to ensure their provision and retention, furthermore the applicant has amended their Travel Plan proposals to reflect advice made by the LHA's Travel Plan team. Overall it is considered that as a package the scheme delivers the objectives of policy CS20 of the Core Strategy.

- 5.4.6 In respect of the revised site layout proposals vehicle tracking was also amended (in the accompanying Traffic Note) to reflect the latest site layout plan and car parking was amended to a total of 36 no. spaces. These spaces inc. 2 no. disabled, 2 no. electric vehicle charging points, 3 no. staff parking spaces and 2 no. grill bays.
- 5.4.7 In the Chesterfield Town Centre 518sqm of A3 / A5 floor space would trigger a requirements of 21 no. customer spaces based upon the Core Strategy Parking Standards; and with 65 no. employees, a further 16 no. spaces for staff (however it is unlikely the 65 no. staff would all be FT and present on site at the same time). Overall therefore the 36 no. spaces that are proposed are considered to meet the parking standards set out in Appendix G of the Core Strategy and are acceptable.
- 5.4.8 It is noted that in their comments the LHA provide some commentary about the comparative exercise undertaken in the Transport Statement, relating to trip and traffic movements to and from the site.
- 5.4.9 The former lawful use of the site as a MSCP was lost following its demolition, however it is noted that the LHA do not advise that the assumptions made in the TS in relation to trips and traffic movements are unreliable / unacceptable. Given that the LHA (having made their own observations about the former use and the trips associated therewith) go on to advise that the site access and egress need to be amended commensurate with the trips / traffic of the proposed use reported in the TS, it is assumed that the overall use of the site and its impacts upon the traffic network are acceptable to the LHA subject to these amendments. The latest TN demonstrates the revised visibility the LHA sought in their comments.
- 5.4.10 It is accepted that having regard to the site access and egress positions, their position respective to the site layout offer the creation of a drive-thru stacking lane with a capacity to accommodate at least 18 no. cars. Furthermore the case officer reviewed a number of other sites operated by the same applicant in the local area (Chesterfield, Barlborough, Mosborough and Sheffield) and concluded that this level of vehicle stacking was commensurate with other sites (which ranged from 15 – 19

spaces). It is therefore reasonable to assume that the site should operate effectively without queues being formed that would adversely affect the flow of traffic on the public highway.

5.4.11 Overall therefore it is considered that the development proposals have been appropriately assessed in terms of their potential traffic impacts and in respect of their proposed layout. The development proposals are considered to be appropriately sited and designed (subject to condition) such that they accommodate appropriate access, parking, manoeuvring and egress arrangements to ensure the development will operate without giving rise to any adverse highway safety concerns. In respect of policies CS2, CS18 and CS20 of the Core Strategy (and subject to appropriate conditions) the proposals are acceptable in highway safety and demand for travel terms.

5.5 **Flood Risk / Drainage**

5.5.1 In respect of matters of drainage and potential flood risk (having regard to policy CS7 of the CS), it is noted that the application site is located in Flood Risk Zone 1. The site is not at risk of any known surface water flooding. In this context the application is accompanied by a detailed Drainage Strategy (inc. Calcs) prepared by Granville Consultants Ltd.

5.5.2 Given its 'minor' application classification, both the **Environment Agency** (EA) and the **Lead Local Flood Authority** (LLFA) have declined to comment on the specific development proposals. In addition **Yorkshire Water Services** (YWS) has also offered no detailed response.

5.5.3 In respect of the on-site drainage proposals, the application form details that the development is to be connected to existing mains drains for foul and surface water, and the application submission is accompanied by detailed drainage proposals which have been reviewed by the Council's **Design Services (Drainage)** team (DS Team).

5.5.4 The DS Team advised, *'The site is not shown to be at risk of flooding, according to the Environment Agency Flood Maps. We have reviewed the proposed drainage details and it is shown not to flood in a 1 in 100 year storm, including an allowance for climate*

change. Any new discharge to the public sewer will require prior approval from Yorkshire Water’.

5.5.5 Having regard to the comments received above it is assumed that the detailed drainage design is acceptable to the DS team and is therefore acceptable as designed. No further details are requested by the DS Team, so if permission is granted a planning condition should be imposed requiring implementation of the drainage proposals in full.

5.6 **Land Condition / Contamination**

5.6.1 The site the subject of the application comprises of previously developed land and therefore land condition and contamination need to be considered having regard to policy CS8 of the Core Strategy. The application submission is supported by a Coal Mining Risk Assessment and Phase I and II Site Investigation Report.

5.6.2 In respect of land condition the **Coal Authority (CA)** were consulted on the application submission and provided the following response:

‘The Coal Authority considers that the content and conclusions of the supporting documents prepared by Pam Brown Associates, informed by contemporary site investigation data, are sufficient for the purposes of the planning system and meet the requirements of the NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development. The Coal Authority therefore withdraws its objection to the proposed development. However, further more detailed considerations of ground conditions, foundation design and gas protection measures may be required as part of any subsequent building regulations application’.

5.6.3 In addition to the comments of the CA, the Council’s **Environmental Health Officer (EHO)** was also consulted on the application, but they made no specific comments in their response relating to land condition / contamination.

5.6.4 Based upon the advice received from the CA and the EHO in specific relation to land condition / contamination the proposals do

not give rise to any adverse issues in this regard. The provisions of policy CS8 of the CS are subsequently met.

5.7 **Trees / Biodiversity**

5.7.1 As described in section 2.0 above, the site was cleared in 2015 and despite being previously development land it has started to naturally regenerate with vegetation and overgrowth. Furthermore there are three mature Maple trees located along the southern edge of the application site which are protected by TPO.

5.7.2 The application submission is supported by a Tree Survey, Arboricultural Impact Assessment, Arboricultural Method Statement & Tree Protection Plan prepared by Hayden Arboricultural Consultants and these documents have been reviewed by the Council's **Tree Officer** (TO) who offered the following comments:

'There are 3 Maple trees on the south boundary of the site covered by the above mentioned Tree Preservation Order reference T1-T3 on the Order map.

It is proposed to build a two storey restaurant with drive thru with associated parking and hard landscaping works on the site with the retention of the 3 protected trees. The majority of main development proposals are not within the rooting environment and designated Root Protection Areas (RPA's) of the retained trees with just a small encroachment for the drive thru.

The installation of new hard surfaces for the drive thru and footpath will slightly encroach into the RPA of the one tree to be retained as shown as T002 in the tree report. As stated in the tree report 'the negligible extent of the intrusion into the periphery of its RPA, 0.48%, it is considered this activity will not have an adverse effect on the tree's longevity. No adverse arboricultural implications are therefore expected'.

The tree survey, tree impact assessment and tree protection plan submitted with the application by Hayden's Arboricultural Consultants dated 11th February 2018 provides details of the tree protection measures to be implemented.

It is proposed that some tree pruning works are carried out to the 3 Maple trees; however these works are not required to allow the development to commence so a formal tree pruning application is therefore invited for consideration.

I therefore have no objections to the application as it stands as shown on drawing 5743-AEW-8172-0004 Rev A 'Proposed Site Plan' and as long as the following tree protection measures are attached as a condition if consent is granted to the application:

- The tree protection measures as outlined in the Tree Report, Tree Impact Assessment and Tree Protection Plan and drawing 7195-D-AIA by Hayden's Arboricultural Consultants dated 11th February 2018 shall be adhered to at all times throughout the site clearance and construction phases unless otherwise agreed to in writing by the Local Planning Authority.*
- There shall be no tree pruning works carried out to the 3 protected trees reference T-T3 of TPO 334 unless a formal tree pruning application is submitted and approved in writing.*
- Details shall be submitted on a site layout plan showing the location where the storage of materials, site cabins, car parking and other associated plant materials are to be located and approved before construction commences. These should be outside the designated RPA's.*
- There shall be no excavations for services i.e. electrical cables, inspection chambers, sewage etc. within the designated RPA's unless otherwise agreed in writing by the Local Planning Authority.'*

5.7.3 The TO was subsequently consulted on the revised site layout (Rev C) and he confirmed he had no further comments to make.

5.7.4 Having regard to the comments made by the TO above it is considered that the conditions requested are reasonable and proportionate in the interests of protecting the rooting environments of the protected Maple trees. In addition, albeit self-set, the redevelopment of the site will clear all regenerated soft vegetation so in the interests of securing a 'net gain' in biodiversity in accordance with policy CS9 of the CS soft landscaping will need to be secured.

5.7.5 Revisions to the Site Layout Plan negotiated during the application process included soft landscaping enhancements; and these are illustrated in principle of the latest Rev C drawing. Further details

of species etc. and an ongoing maintenance programme will also need to be secured by appropriate planning condition, as this has not been worked up fully and is not detailed in the application submission. It is however considered that an appropriate scheme can be accommodated to secure full compliance with policy CS9 of the CS. The developer may also consider including other biodiversity enhancements such as bird boxes in any such scheme, but it is accepted given the way in which the site and drive thru will operate that these measures may not be practical.

5.8 **Heritage / Archaeology**

5.8.1 Having regard to potential heritage / archaeological impacts the site sits outside of the Town Centre Conservation Area and the development proposals do not affect any designated heritage assets (listed buildings). A consultation comment was received from **DCC Archaeology** (DCC Arch) to the development proposals as follows:

'It is some little way outside the medieval town and the recent excavations at 15-17 West Bars (a good 200m closer in) suggested that even this location was peripheral and had spells both inside and outside the town. The site has an HER entry for railway activity on the southern part – historic mapping suggests cranes/sidings were present in the early 20th century. Mapping also suggests a row of 19th century houses along the West Bars frontage with yards/gardens behind, although a lot of this has been lost to the roundabout. Although this 19th century archaeology would be of interest if well preserved I note that the site has subsequently been substantially developed, with ground levels lowered significantly as part of this. I therefore feel on balance that there is little or no archaeological potential and that there is no need for archaeological involvement in the redevelopment proposals.'

5.8.2 In respect of the commentary received above, the absence of any comments / response from the Chesterfield Civic Society and the observations made in relation to nearby heritage assets the proposals do not give rise to any adverse heritage / archaeological concerns that need further consideration.

5.9 Other Considerations

5.9.1 Community Infrastructure Levy (CIL)

Having regard to the nature of the application proposals the development comprises the creation of new A3 / A5 Use Class floor space and the development is therefore CIL Liable.

The site the subject of the application lies within the single retail CIL zone (£80 / sqm charge [index linked]) and therefore the CIL Liability has been calculated (using calculations of gross internal floor space [GIF]) as follows:

			A	B	C	D	E
Develop ment Type	Proposed Floorspace (GIA in Sqm)	Less Existing (Demoliti on or change of use) (GIA in Sqm)	Net Area (GIA in Sqm)	CIL Rate	Index (perm ission)	Index (chargi ng schedu le)	CIL Charge
Retail (A1-A5)	518	0	518	£80	307	288	£44,174

Net Area (A) x CIL Rate (B) x BCIS Tender Price Index (at date of permission) (C) / BCIS Tender Price Index (at date of Charging Schedule) (D) = CIL Charge (E)

5.9.2 S106 / Planning Obligations

In respect of development classification, the application is only categorised as a minor development and therefore the usual S106 / Planning Obligations triggered by a 'major' application classification are not applicable.

The Council's **Economic Development** team commented on the planning application consultation seeking the imposition of a local labour clause and raising concerns about the fact the use proposed is not in line with the Town Centre Masterplan (where there is aspiration for a 'gateway' development on this site). Furthermore they commented that they would seek assurance the

65 jobs being proposed are new jobs, and not transferals from the existing town centre McDonalds.

Despite the ED team comments above, Policy CS13 (Economic Growth) of the Core Strategy quite clearly states that local labour clauses / conditions will be sought on 'major' developments; and therefore it would be unreasonable to impose this requirement on a 'minor' application decision (which this is). Furthermore there is no planning mechanism to prevent closure of another store, nor to insist that jobs / positions are not transferred.

Having regard to other S106 / Planning Obligation triggers, policy CS18 of the Core Strategy requires a 'public art' contribution from all 'major' development proposals and therefore similarly to the EDU request for local labour; a % for Art contribution cannot be sought for the site.

6.0 **REPRESENTATIONS**

6.1 The application has initially been publicised by site notice posted on 29/04/2019; and following the receipt of revised details was the subject of a second round of publicity by site notice posted on 19/08/2019 and by neighbour notification letters sent on 19/08/2019.

6.2 As a result of the applications publicity there have been three representations received as follows:

1. Local Resident – Object for the following reasons:

- The proposed McDonald's will greatly increase traffic at the already very busy Markham Road/ West Bars roundabout
- potentially increasing the already large amount of fast food/take-away litter in the Lidl/KFC/Queen's Park areas
- In Somersall Park there is already a lot of McD's litter, despite there being no McDonald's anywhere nearby

2. 4 Lower Grove Road – Object for the following reasons:

- Will have a significantly detrimental impact on the environment and local community which affects us and other local residents
- Chesterfield's historic town centre is rapidly being eroded by poor planning decisions and chain shops/restaurants

- Land is currently wild, giving a town-centre location for nature – could be developed for nature very cheaply
- There are already 2 McDonalds in Chesterfield and we do not need a third adding to the distressed state of the town centre
- Traffic will back-up to West Bars roundabout and disturb access to the Royal Mail Delivery Office
- We have concerns with McDonalds business both ethically (as shown in the McLibel trial in the High Court) and environmentally.

Environmentally

- as part of the fast-food industry they use huge volumes of unnecessary packaging (paper and plastic) 1 million tonnes/annum around the world, most thrown away after 5 minutes use – this is not sustainable
- Results in demands on land-fill and petroleum for packaging
- Packaging results in loss of natural trees replaced with monoculture plantations for paper with dangerous chlorine compounds and bleach used in the process and plastic/polystyrene products is non-biodegradable and contributes to the greenhouse effect and ozone depletion
- McDonalds do not recycle customer packaging and accepted in the McLibel Trial that they do create litter
- As they serve food to $\frac{3}{4}$ million people in the UK each day, they will add to litter
- If permission is granted it should be subject to them setting up a re-cycling scheme with litter patrols

Ethically

- The 'employment' created is low-skilled, low-paid and long hours – possible slips and burns – staff are not allowed breaks or union activity, and employees are forced to accept this exploitation
- Their employment threatens other fast-food outlets
- McDonalds advertising exploits children who are susceptible to their marketing – the High Court trial found this unacceptable and that they should not be granted planning permission to open a store where there are local children vulnerable to this marketing
- The companies 'charitable' events are only to benefit the company/greater sales
- They add to cruelty to animals – any permission should include conditions about how animals are treated

- As a result of the High Court case, McDonalds should not be considered to be a fit person to receive planning permission, and if permission was granted, the Council would be failing to protect the community or it should be subject to conditions

Conclusion

- The application should be rejected as it promotes un-healthy food – high in fats/sugars/salt and low in fibre/vitamins and especially to children and undoes good works done by health bodies – regular customers are at high health-risk
- The proposal is un-sustainable as it impacts on the world's environment; creates un-necessary waste; uses ozone-damaging coolants in refrigerators; promotes car-use with 50% of business from drive-thru, yet it is National Policy to restrict projects that result in traffic generation, and therefore undermines local policies
- It is in an area of historic character that does not want any more food-outlets – it should be reserved for fresh-food shops

3. Flat 3 Over 71-73 West Bars – Support for the following reasons:

- Fantastic idea to regenerate a large site which has been neglected for years.

6.3 **Officer Comments on above representations:-**

The issue of parking/loading and traffic congestion has been addressed within the applicant's Transport Assessment/Travel Plan and their suggested operating hours/loading times, and the Local Highway Authority raises no objections on Highway Safety grounds.

The site is close to the Town Centre, where A5 uses are considered to be appropriate in policy/access terms and are encouraged by the N.P.P.F.

It is acknowledged by that A3 / A5 use can create litter both on-and-off site and as a result, most McDonalds stores have a litter collection policy. The applicant has provided details of the litter collection policy promoted by McDonalds which relates to litter on site, litter within 10m of the site and litter within 100m of the site. It is noted that the control of litter and behaviour of its patrons off the site is neither in the control of the applicant or a material

consideration, but the policy provided is encouraging. Litter is controlled by other environmental legislation.

The comment made above that McDonalds are not fit to receive a planning permission is not relevant as it is an established principle that planning permission deals with the use of land, and runs with that land, and if an A5 use is appropriate for the site, then the name of the operator is not a relevant consideration.

Similarly, the ethical objections of the neighbour – such as advertising geared towards children, the health quality of their food products, staff wages and conditions and animal rights matters are all issues that are dealt with under different legislation and by other bodies and are simply not material planning considerations and cannot be considered in relation to this application.

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.

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 **RECOMMENDATION**

9.1 The principle of the use and the development proposals are considered to accord with provisions of policies CS1, CS2, CS15 and PS1 of the Chesterfield Local Plan: Core Strategy 2011 – 2031.

9.2 The development is considered appropriately sited, scaled and designed such that they do not present any adverse impacts upon the amenity, character or appearance of the surrounding area. The proposals do not give rise to any adverse highway safety issues and adequately served by existing and proposed infrastructure in accordance with policies CS2, CS18 and CS20 of the Chesterfield Local Plan: Core Strategy 2011 – 2031.

9.3 The application submission is supported by the preparation of assessment and reports which illustrates the proposed developments ability to comply with the provisions of policies CS7, CS8, CS9, CS18 and CS20 of the Chesterfield Local Plan: Core Strategy 2011 – 2031 and where necessary it is considered that any outstanding issues can be mitigated and addressed in any appropriate planning conditions being imposed.

10.0 **CONCLUSION**

10.1 It is therefore recommended that the application be approved 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.

5743_AEW_8172_0001 Rev A – Site Location Plan

5743_AEW_8172_0002 Rev A – Block Plan

5743_AEW_8172_0003 Rev A – Existing Site Plan

5743_AEW_8172_0006 – Proposed Floor and Roof Plan

5743_AEW_8172_0015 Rev A – Proposed Landscape Plan

4180561- 1000 Rev P3 – Proposed Levels

4180561- 1001 Rev P3 – Site Sections

4180561- 1200 Rev P3 – Proposed Drainage

4180561- 1210 Rev P1 – Drainage Detail (1 of 2)

4180561- 1211 Rev P1 – Drainage Detail (2 of 2)

4180561- 1212 Rev P3 – Proposed Drainage Maintenance Plan

Supporting Statement (prepared by Planware Ltd dated March 2019)

Drainage Calcs (prepared by Glanville Consultants Ltd dated February 2019)

Transport Statement (prepared by ADL Traffic and Highways Engineering Ltd dated March 2019)

Tree Survey, Arboricultural Impact Assessment,

Arboricultural Method Statement & Tree Protection Plan

[7195-D-AIA] (prepared by Hayden Arboricultural Consultants dated February 2018)

Coal Mining Risk Assessment (prepared by Pam Brown Associates dated February 2019)
Phase I Desk Study and Phase II Geo-Environmental Site Investigation (prepared by Pam Brown Associates dated March 2019)
Standard Patio Area – Supporting Specification
Odour Control – Supporting Information
Goal Post Height Restrictor and COD/Canopy – Details
Site Flythrough Video / Illustration – rec'd 02/08/2019

Revised Plans received 16/08/2019

5743_AEW_8172_0004 Rev C - Proposed Site Plan
5743_AEW_8172_0005 - Proposed Elevations

Revised Plans / Documents received 28/08/2019

5743_AEW_8172_0017 Rev A - Proposed Retaining Wall
McDonalds Litter Control – Standards / Guidance

Revised Documents received 03/09/2019

Traffic Note (prepared by ADL Traffic and Highways Engineering Ltd dated July 2019)
Travel Plan (prepared by McDonalds dated July 2019)
CIL Forms / Liability

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.

Drainage

03. The development hereby approved shall be constructed in accordance with the Drainage Scheme detailed on drawing no's 4180561- 1200 Rev P3 – Proposed Drainage, 4180561- 1210 Rev P1 – Drainage Detail (1 of 2), 4180561- 1211 Rev P1 – Drainage Detail (2 of 2) and 4180561- 1212 Rev P3 – Proposed Drainage Maintenance Plan. The building shall not be occupied until sewage disposal and drainage works have been completed in accordance with the approved plans, unless any alternative is otherwise agreed in writing by the Local Planning Authority.

Reason - In the interest of satisfactory and sustainable drainage and in accordance with policy CS7 of the Core Strategy.

Construction Management

04. No development shall take place until a Construction Management Plan or Construction Method Statement (CMP / CMS) has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for:
- parking of vehicles of site operatives and visitors
 - routes for construction traffic
 - swept paths for construction vehicles expected to enter the site (largest vehicle to be demonstrated)
 - hours of operation
 - method of prevention of debris being carried onto highway
 - pedestrian and cyclist protection
 - proposed temporary traffic restrictions
 - arrangements for turning vehicles

Reason – In the interests of highway safety.

05. Construction works 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 amenity.

Tree Protection

06. Prior to commencement of development Root Protection Area's (RPA's) shall be established to the 3 no. protected Maple trees on site in accordance with the Tree Protection Plan (drawing 7195-D-AIA) and tree protection measures shall be erected as outlined in the Tree Report, Tree Impact Assessment and Tree Protection Plan by Hayden's Arboricultural Consultants dated 11th February 2018. Throughout site clearance and construction phases the measures outlined therein shall be adhered to at all times

unless otherwise agreed in writing by the Local Planning Authority.

Reason - To avoid any irreversible damage to retained trees pursuant to section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality.

07. In association with the CMP / CMS (required by condition 4) details shall be submitted to and be approved in writing by the Local Planning Authority showing the proposed areas for storage of materials, site cabins, car parking and other associated plant materials and these facilities should be outside the designated RPA's of the 3 no. protected trees and shall not interfere with the rooting environment of these trees. Throughout site clearance and construction phases the layout outlined therein shall be adhered to at all times unless otherwise agreed in writing by the Local Planning Authority.

Reason - To avoid any irreversible damage to retained trees pursuant to section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality.

08. There shall be no excavations for services i.e. electrical cables, inspection chambers, sewage infrastructure etc. within the designated RPA's unless these details have been exclusively submitted under the provisions of this condition for prior consideration and written approval by the Local Planning Authority.

Reason - To avoid any irreversible damage to retained trees pursuant to section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality.

Highways

09. Prior to the commencement of development a detailed scheme of highway improvement works for the provision of the amended access from Markham Road and amended egress onto West Bars, together with a programme for the

implementation and completion of the works, shall be submitted to and approved in writing by the Local Planning Authority. These works shall include the provision of exit visibility splays measuring 2.4m x 47m on to West Bars; and the maximum achievable forward visibility from the West Bars roundabout onto Markham Road towards the site entrance. No part of the development shall be brought into use until the required highway improvement works have been constructed in accordance with the approved details. The developer will be required to enter into a 1980 Highways Act S278 Agreement with the Highway Authority in order to comply with the requirements of this condition.

Reason – In the interests of highway safety.

10. Prior to the development, the subject of the application, being brought into use, the vehicular and pedestrian accesses shall be created/ modified in accordance with the approved designs, the subject of Condition 9 above, all areas in advance of the visibility sightlines shall be retained throughout the life of the development free of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.

Reason – In the interests of highway safety.

11. Prior to installation a scheme detailing any external lighting shall be submitted to the Local Planning Authority for consideration. Only a scheme which receives approval in writing shall be implemented on site.

If within a period of 24 months from the lighting installation being implemented, any complaints are received about glare / overspill, the lights causing the effect shall be immediately turned off. Before the installation is allowed to be switched back on a night time lighting survey shall be undertaken to assess the full impact of the installation and remedial measures shall be submitted to the Local Planning Authority for consideration and written approval. Thereafter those remedial measures shall be implemented with immediate effect and retained thereafter as approved.

Reason – In the interests of amenity and to ensure the installation does not present any adverse overspill, nuisance or glare to adjoining to adjacent neighbouring properties / highway.

12. The development hereby permitted shall not be occupied until all existing vehicular and pedestrian accesses to the existing highway made redundant as a result of the proposed development shall be permanently closed with a physical barrier and the footway reinstated in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason – In the interests of highway safety.

13. No part of the development shall be taken into use until space has been provided within the site curtilage for the parking/ loading and unloading/ manoeuvring of staff/ customers/ service and delivery vehicles (including cycle parking), located, designed, laid out and constructed all in accordance with the approved site layout and maintained throughout the life of the development free from any impediment to its designated use.

Reason – In the interests of highway safety.

14. The development hereby permitted shall not be occupied until details of cycle parking facilities for the visitors to the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.

Reason – In the interests of highway safety.

15. There shall be no gates or other barriers within 6.0m of the nearside rear of footway/ margin and any gates shall open inwards only, unless otherwise agreed in writing by the Local Planning Authority.

Reason – In the interests of highway safety.

16. Prior to the commencement of the development details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of water from the development onto the highway. The approved scheme shall be undertaken and completed prior to the first use of the access and retained as such thereafter.

Reason – In the interests of highway safety.

Landscaping

17. Within 2 months of commencement of development full details of hard landscape works for the approved development shall be submitted to the Local Planning Authority for consideration.
Hard landscaping includes proposed finished land levels or contours; means of enclosure; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.) retained historic landscape features and proposals for restoration, where relevant. These works shall be carried out as approved prior to the occupation of the dwellings.

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

18. Within 2 months of commencement of development details of a soft landscaping scheme for the approved development shall be submitted to the Local Planning Authority for consideration.
The required soft landscape scheme shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers; densities where appropriate, an implementation programme and a schedule of landscape maintenance for a minimum period of five years. Those details, or any approved amendments to those details shall be carried out in accordance with the implementation programme

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

19. If, within a period of five years from the date of the planting of any tree or plant, that tree or plant, or any tree or plant planted as a replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

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

Opening Hours / Servicing Hours

20. Opening hours of the restaurant / drive-thru shall be restricted to between the hours of 06.00am and 24.00pm (midnight) on any individual day.

Reason – In the interests of residential amenity.

21. Deliveries to the site shall only be made between the hours of 07.00am and 22.30pm on any individual day.

Reason – In the interests of residential amenity.

Others

22. Before construction works commence or ordering of external materials takes place, precise specifications or samples of the walling and roofing materials to be used shall be submitted to the Local Planning Authority for consideration. Only those materials approved in writing by the Local Planning Authority shall be used as part of the development.

Reason - The condition is imposed in order to ensure that the proposed materials of construction are appropriate for

use on the particular development and in the particular locality.

23. Electric Vehicle Charging Points (EVCPs) shall be provided in accordance with the approved site layout for at least 2 no. car parking spaces; and passive provision shall be made available for the remainder of the site so that spaces are capable of being readily converted to EVCPs in the future. Thereafter the EVCP's shall be retained and maintained operational for the lifetime of the development.

Reason - In the interests of reducing emissions in line with policies CS20 and CS8 of the Core Strategy.

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.
02. This approval contains condition/s which make requirements prior to development commencing. Failure to comply with such conditions will render the development unauthorised in its entirety, liable to enforcement action and will require the submission of a further application for planning permission in full.
03. Please note that this permission is issued together with a separate Community Infrastructure Levy (CIL) Liability Notice, to which the developer should also refer. The developer should note the terms of the CIL Liability which is triggered upon commencement of development.

Further information can be found on the Council's website using the following web address
www.chesterfield.gov.uk/planning-and-building-control/planning-services/community-infrastructure-levy.aspx
or alternatively please contact the Infrastructure Planning Officer (Rick Long) on 01246 345792.

04. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
05. Pursuant to Section 278 of the Highways Act 1980, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the Strategic Director of Economy Transport and Community at County Hall, Matlock (tel: 01629 538658). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.
06. Under the provisions of the New Roads and Street Works Act 1991 and the Traffic Management Act 2004, all works that involve breaking up, resurfacing and / or reducing the width of the carriageway require a notice to be submitted to Derbyshire County Council for Highway, Developer and Street Works. Works that involve road closures and / or are for a duration of more than 11 days require a three month's notice. Developer's Works will generally require a three months notice. Developers and Utilities (for associated services) should prepare programmes for all works that are required for the development by all parties such that these can be approved through the coordination, noticing and licensing processes. This will require utilities and developers to work to agreed programmes and booked slots for each part of the works. Developers considering all scales of development are advised to enter into dialogue with Derbyshire County Council's Highway Noticing Section at the earliest stage possible and this includes prior to final planning consents.
07. In relation to the any works / conditions regarding trees the following British Standards should be referred to:
 - a) BS: 3998:2010 Tree work – Recommendations

- b) BS: 5837 (2012) Trees in relation to demolition, design and construction – Recommendations.