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Ctte Date: 22<sup>nd</sup> June 2020

File No: CHE/20/00250/FUL  
Plot No: 2/1272

### ITEM 3

## RE-SUBMISSION OF CHE/19/00199/FUL - ERECTION OF A FREESTANDING TWO STOREY RESTAURANT WITH DRIVE-THRU (A3/A5), CAR PARKING, LANDSCAPING AND ASSOCIATED WORKS. INSTALLATION OF 2NO. COD (CUSTOMER ORDER DISPLAY) WITH ASSOCIATED CANOPIES 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

<b>CBC Strategic Planning</b>	Comments received 21/05/2020 – see report
<b>CBC Environmental Services</b>	Comments received 30/04/2020 – no adverse comments to make / see report
<b>CBC Design Services (Drainage)</b>	Comments received 05/05/2020 – see report
<b>CBC Economic Development</b>	Comments received 15/05/2020 – see report
<b>Environment Agency</b>	Comments received 28/04/2020 – no objection / comments to make
<b>Yorkshire Water Services</b>	No comments received
<b>Derbyshire Constabulary</b>	Comments received 14/05/2020 – see report
<b>Lead Local Flood Authority</b>	Comments received 11/05/2020 – no objection / comments to make
<b>DCC Highways</b>	Comments received 22/05/2020 – see report
<b>DCC Archaeology</b>	No comments received
<b>Chesterfield Civic Society</b>	No comments received
<b>Chesterfield Cycle Campaign</b>	Comments received 12/05/2020

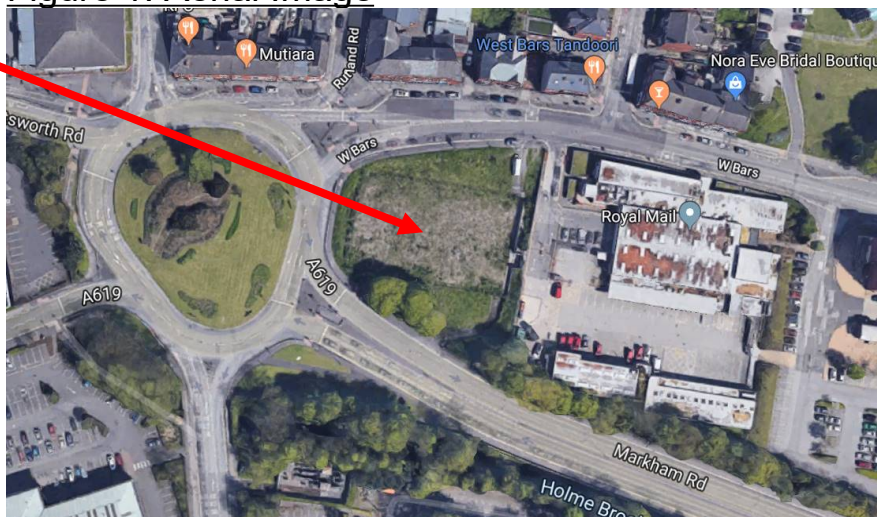
	– see report
<b>Transition Chesterfield Coal Authority</b>	No comments received
	Comments received 04/05/2020 – see report
<b>CBC Tree Officer</b>	Comments received 06/05/2020 – see report
<b>CBC Urban Design Officer</b>	Comments received 04/05/2020 – see report
<b>Ward Members</b>	Comments received from Cllr Fordham regarding public consultation
<b>Site Notice / Neighbours</b>	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



3.3 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



3.4 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/20/00287/ADV, CHE/20/00288/ADV and CHE/20/00289/ADV – applications for various McDonalds signage.  
- still pending consideration.

3.2 CHE/19/00199/FUL - 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.

- refused on 24/09/2019 by planning committee against the advice of officers for the following reasons:

*01. In the opinion of the local planning authority the development is not acceptable having regard to the following likely impacts:*

*a. The impact on highway safety having regard to the free flow of traffic on the West Bars roundabout and the adjacent roads taking account of how busy the site is likely to be and the space available on site for vehicle stacking;*

*b. The environmental problem arising from an increase in littering in the local area;*

*c. The contribution to a social health and wellbeing concern arising from a fast food outlet and the likely impact on obesity within the Borough of Chesterfield.*

*The development is thereby considered to be contrary to the Chesterfield Core Strategy policy CS2 and CS18 and the wider requirements of the 2019 National Planning Policy Guidance.*

***A subsequent Planning Appeal was lodged with a costs application against the Council for unreasonable behaviour. The appeal remains pending – APP/A1015/W/3249413. The Council has since sought Counsel advice on the issues raised and which has separately been reported to planning committee.***

- 3.3 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 withdrawn.
- 3.4 CHE/15/00039/TPO - T1, T2 and T3 Maples - minor pruning.  
- Conditional Permission 01/04/2015.
- 3.5 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.

- 3.6 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 application is a resubmission of the previously refused planning application CHE/19/00199/FUL (see planning history above).
- 4.3 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.
- 4.4 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.
- 4.5 The application submission is supported by the following plans / documents:

5743\_AEW\_8172\_0001 Rev A – Site Location Plan  
5743\_AEW\_8172\_0002 – Block Plan  
5743\_AEW\_8172\_0003 Rev A – Existing Site Plan  
5743\_AEW\_8172\_0004 Rev C – Proposed Site Plan  
5743\_AEW\_8172\_1005 – Proposed Elevations

5743\_AEW\_8172\_1006 – Proposed Floor and Roof Plan  
5743\_AEW\_8172\_0015 – Proposed Landscape Plan  
5743\_AEW\_8172\_0017 - Proposed Retaining Wall  
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 Assessment (prepared by ADL Traffic and Highways Engineering Ltd dated April 2020)
- Travel Plan (prepared by McDonalds dated April 2020)
- 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
- CIL Forms / Liability
- McDonalds Litter Control – Standards / Guidance

## 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.
- 5.2.7 The final inspectors report on the new emerging local plan has now been received and which should now be given substantial weight.



The direct relation between the Core Strategy policies mentioned above and the new policies is as follows:

CS1 – LP1

CS2 – LP2

CS15 – LP9

PS1 – SS1

The site continues to be located within the boundaries of Chesterfield Town Centre on the proposed Policies Map. Substantial weight should be given to the emerging Local Plan under the provisions of paragraph 48 of the NPPF as the Local Plan has now reached an advanced stage of preparation, there are no remaining unresolved objections and the Inspectors' Report confirms that, subject to the published modifications, the policies are consistent with the Framework. However, the differences between the Core Strategy and Emerging Local Plan policies would not result in any material change to the consideration of the application.

### 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 submitted for approval prior to installation. The UDO made the following more detailed comments:

*The previous application (19/00199/FUL) was the subject of considerable design discussions and the proposals were amended by the applicant in response to the design issues raised at that time.*

*The orientation of the building was rotated to address the West Bars frontage and the layout and site plan adjusted to suit these changes. A more clearly defined pedestrian link from West Bars was also introduced together with the provision of cycle parking close to the entrance to the building and electric vehicle charging points. In addition, landscaping was enhanced around the site perimeter with West Bars, softening the appearance of the development and supporting the potential for improved ecology and air quality.*

*The current application appears to be identical to the previously negotiated scheme, which was deemed to be acceptable in terms of urban design considerations. As such, there are no objections to the current application on design grounds.*

*The proposal is considered to meet the requirements of Policy CS18 (Design).*

*Notwithstanding the submitted information, it is recommended that conditions are attached to the grant of any planning permission to require details of the following:*

- Materials (including samples if requested).*
- Full details of landscaping proposals, including species, planting sizes, planting density, locations and details to ensure its implementation.*
- Facing the retaining walls with timber cladding in accordance with the submitted details prior to opening of the restaurant.*
- No means of enclosure other than that approved as part of this application.*

5.3.6 Having regard to the commentary set out above it is considered that the development proposals are appropriately sited, detailed and designed having regard to the provisions of policies CS2 and CS18 of the Core Strategy. The design of the building positively addresses gateway location of the site and multiple highway aspects which surround it in an appropriate manner. 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 and public highway 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 when the previous application (19/00199) was determined. The EHO 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.
- 5.3.13 Having regard to the above the servicing and opening hours restrictions suggested by the EHO were put back to the applicant for consideration and they were confirmed acceptable (email dated 22 May 2020). 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 Assessment (TA) and Travel Plan (TP), which has been reviewed by the **Local Highways Authority** (LHA) who advised:

*From a highways viewpoint, the development proposals are identical to those the subject of the aforementioned application.*

*A revised Transport Assessment has been submitted in support of the development proposals, this being prepared in response to the refusal of the previous application, and the Highway Authority has reviewed this. It should be understood that, as a generality, the Highway Authority does not “agree” the content of a Transport Assessment or, inevitably, concur with every detail contained therein. However, providing it is considered that the conclusion is sound then it is not regarded as reasonable or warranted to require the applicant to devote resources to amending detail which would not vary the conclusion. In this case the Highway Authority does not consider that there is an evidence base to suggest that the conclusion that the development would not have a significant*

*adverse effect on capacity or safety of the local road network is incorrect. Certainly, there is no data that would support a reason for refusal of planning permission on the basis that the development would result in severe harm on the highway network, with reference to Paragraph 32 of the National Planning Policy Framework.*

*It's noted that the minor revisions to the Travel Plan as recommended within the e-mail of 19 October 2019 do not appear to have been incorporated within the submitted document. However, it's suggested that these revisions do not affect the validity of the document and may be made as a part of the next update.*

*Therefore, as the proposed site layout, access modifications, etc. are identical to those submitted in association with CHE/19/00199/FUL, it's recommended that Conditions in line with those proposed for the earlier application are included within any Consent. These may be updated/ modified as follows:-*

*1. 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*

*2. 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 sightlines; formal closure of any*

*sections of existing vehicular access made redundant by the development; and detailed designs for any retaining structure(s) adjacent to the public highway. 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.*

*3. 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 2 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.*

*4. 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, 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.*

*5. 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.*

*6. There shall be no gates or other barriers to prevent free passage of vehicles through the site, unless otherwise agreed in writing by the Local Planning Authority.*

*7. 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.*



8. *The Approved Travel Plan shall be implemented in accordance with the timescales specified therein, to include those parts identified as being implemented prior to occupation and following occupation, unless alternative timescales are agreed in writing with the Local Planning Authority. The Approved Travel Plan shall be monitored and reviewed in accordance with the agreed Travel Plan targets.*

9. *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.*

5.4.2

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

*CCC - Having looked at the resubmitted application there don't appear to be many changes affecting cycling, therefore the Campaign's objections still stand.*

*Whilst there is now a clear walking route from West Bars, cyclists entering the site will still have to legally use the roundabout and enter off Markham Road.*

*The pedestrian walkway next to the parking bays remains. This is the most dangerous position to put a walkway with cars reversing in and out of parking bays.*

*From an air quality point of view the patio area is adjacent to the drive through waiting area, cars will be sat there with engines running creating poor air quality where customers are sat, many of them children.*

*With the declaration of a climate emergency it seems incompatible to create another car dependant facility in the town which will add to the congestion in this already very busy area.*

- 5.4.7 It is understood that the applicant has liaised with the LHA directly to resolve any issues concerning the site access and egress as they prepared to submit their appeal against the previous refused planning permission and the LHAs comments reflect this. Having regard to the comments received above it is noted that the Local Highways Authority are satisfied that the site can be safely served by the access and egress arrangements which are set out in the submission and detailed in the accompanying TA. On this basis it is considered that the site access and egress proposals do not give rise to any adverse highway safety concerns and are acceptable.
- 5.4.8 Having regard to parking, 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.
- 5.4.9 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.
- 5.4.10 The continued objections made by CCC are noted, however it is considered that the application presents the most feasible solution to pedestrian / cycle access and parking, taking into account the site operative requirements and the constraints of the surrounding highway network. The resubmitted scheme presents the same

solution as was negotiated under the previous application submission and was deemed acceptable.

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 applicant's Coal Mining Risk Assessment report (February 2019) and subsequent Phase 1 Desk Study & Phase 2 Geo-environmental Site Investigation report, 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 wishes to raise no 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 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 11<sup>th</sup> 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 C '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 ie Electrical cables, inspection chambers, sewage etc within the designated RPA's unless otherwise agreed in writing by the Local Planning Authority.*

5.7.3 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.

5.7.4 Soft landscaping enhancements are illustrated in principle of the site layout plan 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).

5.8.2 **DCC Archaeology** (DCC Arch) have previously commented about the application site 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 20<sup>th</sup> century. Mapping also suggests a row of 19<sup>th</sup> century houses along the West Bars frontage with yards/gardens behind, although a lot of this has been lost to the roundabout. Although this 19<sup>th</sup> 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.'*

5.8.3 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	344	288	<b>£49,498</b>

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 been publicised by site notice posted on 30/04/2020; and by neighbour notification letters sent on 29/04/2020.

6.2 As a result of the application publicity there have been 4 representations received as follows:

### **A Local Resident (by email)**

Please be advised I would like to object to the proposed new McDonalds on West Bars.

As previously stated I think we have enough unhealthy, litter producing fast food outlets. I believe this outlet would destroy other local businesses meaning further closures and the continuing decline of retail occupancy.

Litter is evident from current outlets in many parts of the town already and this will just compound the impact.

The West Bars is the gateway to the historic town centre and travelled by many tourists, what a shame to have this gateway identified by said outlet.

The noise, vehicular increase and it's associated pollution will be a blight on the local area. The traffic is already extremely heavy there with queues common place.

The amenity value of the local area with yet another monstrosity will surely be compromised.

I feel it is about time the local council started supporting local business and enterprise and stopped being so desperate to attract anything in any area and at any cost.

### **3 Cherry Tree Drive, Duckmanton**

I would question is any information has been collated to the traffic and safety aspects of such an outlet and also how many fast food outlets are operating in the town and surrounding area?

If this is approved West Bars will become more gridlocked than it is already, together with increased waiting traffic bringing about safety concerns for pedestrians in the area.

There will be an increased risk of RTCs on the roundabout which is overloaded at peak times.

As fast food outlets attract mostly the younger generation it is apparent that the standard of driving will not always be of the standard required. Any vehicles waiting to be served will cause a hazard if backed up and people become impatient.

The location is not conducive for such a building or business and the problems it is bound to bring.

#### **4 Lower Grove Road**

We still object to this proposal and feel that the timing is particularly exploitative and self-serving in the current situation when the council planning committee have already objected once, to put it in again when the council is under severe financial pressure and the planning committee is unable to meet, nor can representations be made in person is extremely opportunistic.

Our reasons for the objection remain as follows:

- 1) The development would increase the build up of traffic on West Bars roundabout in an area which is already busy due to the proximity to the Royal Mail sorting office.
- 2) The town centre already has 2 McDonalds, and a large number of various other fast chain food eateries, this is taking away any individuality from the town and ruining tourism and visits to the town.
- 3) The development would increase anti-social behaviour in the area.
- 4) The development would increase litter in the area.
- 5) The development would spoil a piece of land that has currently returned to nature and the view, which is currently pleasant and would be replaced with traffic and more golden arches.
- 6) The development would further encourage the people of the town to make unhealthy food choices due to the cheap availability of such food.
- 7) The development would increase noise pollution throughout the day and late into the night.

#### **17 Clarence Road**

I'm writing to inform you that myself and my wife are very concerned about the proposed McDonald's opening at the bottom of my road, if it's given the go ahead you'll be allowing a massive McDonald's to open up in what is a residential area. The traffic in the area is already pretty bad but if the McDonald's is allowed to open it will become unbearable. The added air pollution as well as

all the litter (and there will be lots of it) makes a mockery of the fact that Chesterfield Council declared a climate emergency, not to mention the added methane from the cows that'll need slaughtering to meet demand. As I've mention, the litter will utterly transform the character of our Queens Park, it will very quickly become filled with burger wrappers, straws, cups and those brown paper bags you see outside all McDonald's. The message that opening another McDonald's so close to the other two the town has is not good, what chance do the kids of Chesterfield have if the council is encouraging them to become obese, it really is cheap junk food. I also don't think that it's fair on our under pressure NHS, obesity is one of the biggest problems our NHS and our country is facing and to open another McDonald's so close to our towns schools would be a massive dereliction of responsibility. Now more than ever we need to be encouraging healthy eating and healthy living, it seems so daft to have the Beat The Street initiative running past 3 McDonald's!!

Also, a number of new small food businesses have open in the area, these are run by our own townspeople, they will quickly go out of business if a massive 24 hour drive through is allowed to open, again it just sends the message that you the council don't care. So I implore you to use some common sense and to refuse this planning application again, I can't see what has changed since the last application? And since Corvid 19 took hold across the world, Now more than ever we need to look after ourselves and each other.

6.3 ***Comments : See sections 5.2, 5.3 and 5.4 above which provide a response to the points which have been made.***

## 7.0 **HUMAN RIGHTS ACT 1998**

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

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

- 7.2 It is considered that the recommendation is objective and in accordance with clearly established law.
- 7.3 The recommended conditions are considered to be no more than necessary to control details of the development in the interests of amenity and public safety and which interfere as little as possible with the rights of the applicant.
- 7.4 Whilst, in the opinion of the objectors, the development affects their amenities and the amenity of the local area, it is not considered that this is harmful in planning terms, such that any additional control to satisfy those concerns would go beyond that necessary to accomplish satisfactory planning control

8.0 **STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT**

- 8.1 The following is a statement on how the Local Planning Authority (LPA) has adhered to the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 in respect of decision making in line with paragraph 38 of the National Planning Policy Framework (NPPF).
- 8.2 Given that the proposed development does not conflict with the NPPF or with 'up-to-date' Development Plan policies, it is considered to be 'sustainable development' and there is a presumption on the LPA to seek to approve the application. The LPA has used conditions to deal with outstanding issues with the development and has been sufficiently proactive and positive in proportion to the nature and scale of the development applied for.
- 8.3 The applicant / agent and any objector will be provided with copy of this report informing them of the application considerations and recommendation / conclusion.

9.0 **CONCLUSION**

- 9.1 The 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

**RECOMMENDATION**

10.1

That a CIL Liability notice be served in line with the calculation referred to at paragraph 5.9.1 above

10.2

That the application be approved subject to the following conditions:

**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 – Block Plan  
5743\_AEW\_8172\_0003 Rev A – Existing Site Plan  
5743\_AEW\_8172\_0004 Rev C – Proposed Site Plan  
5743\_AEW\_8172\_1005 – Proposed Elevations  
5743\_AEW\_8172\_1006 – Proposed Floor and Roof Plan  
5743\_AEW\_8172\_0015 – Proposed Landscape Plan  
5743\_AEW\_8172\_0017 - Proposed Retaining Wall

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 Assessment (prepared by ADL Traffic and  
Highways Engineering Ltd dated April 2020)

Travel Plan (prepared by McDonalds dated April 2020)

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

CIL Forms / Liability

McDonalds Litter Control – Standards / Guidance

*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 sightlines measuring 2.4m x 46m on to West Bars; and the maximum achievable sight stopping distance from the West Bars roundabout onto Markham Road towards the site entrance of 51m. 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 (within the development site boundary) 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 to prevent free passage of vehicles through the site, 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.*

24. The Approved Travel Plan shall be implemented in accordance with the timescales specified therein, to include those parts identified as being implemented prior to occupation and following occupation, unless alternative timescales are agreed in writing with the Local Planning Authority. The Approved Travel Plan shall be monitored and reviewed in accordance with the agreed Travel Plan targets.

*Reason - To encourage the wider use of more sustainable methods of transport.*

### **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](http://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. 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.
05. 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 into the highway. 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.
06. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, 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 Executive Director of Economy Transport and Environment 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.
07. 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 months 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.