



## Economy, Environment and Communities, Development Management

### Planning Committee

Report of Head of Planning and Building Control on 06 January 2022

Plans List Item Number: 4

#### Reason for bringing to committee

Significant Community Interest

#### Application Details

**Location:** WEST MIDLANDS CONSTABULARY, BROWNHILLS POLICE STATION, CHESTER ROAD NORTH, BROWNHILLS, WALSALL, WS8 7JW

**Proposal:** ERECTION OF A FREESTANDING SINGLE STOREY RESTAURANT WITH DRIVE-THRU FACILITY, CAR PARKING, LANDSCAPING AND ASSOCIATED WORKS, INCLUDING CUSTOMER ORDER DISPLAYS (COD).

**Application Number:** 21/0197

**Case Officer:** Sally Wagstaff

**Applicant:** McDonald's Restaurants Ltd

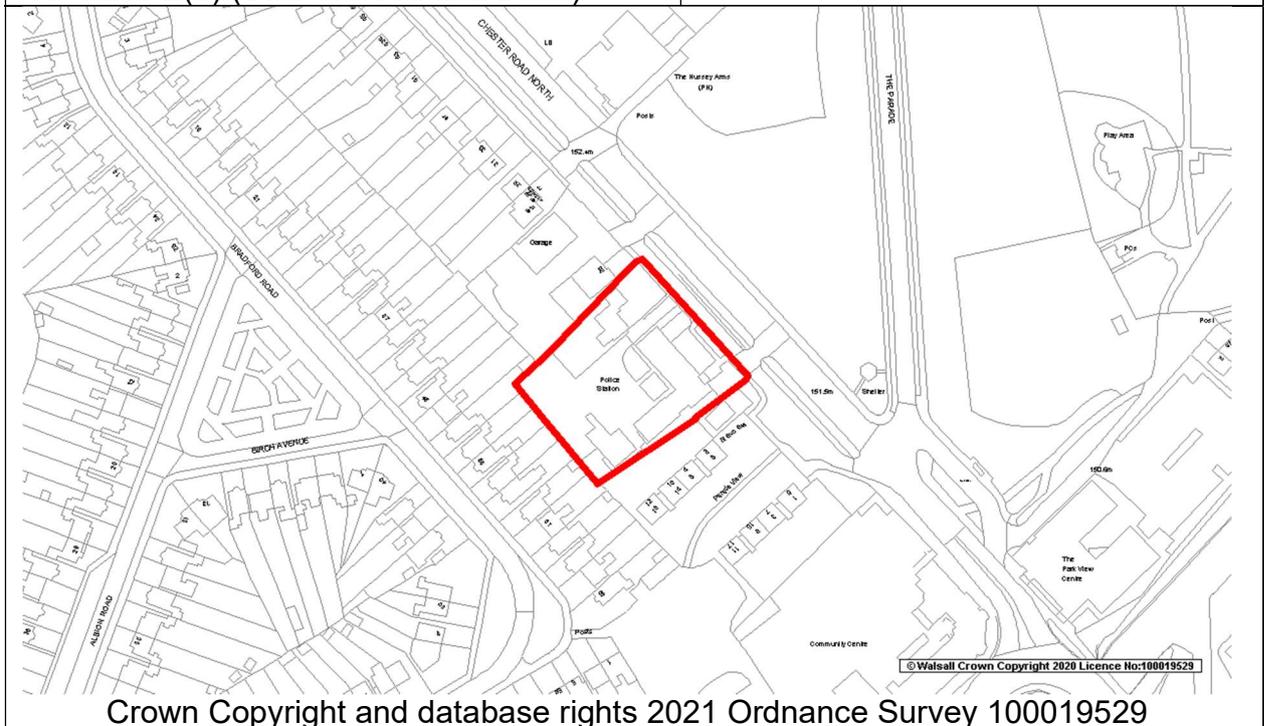
**Ward:** Brownhills

**Agent:** Matthew Carpenter

**Expired Date:** 21-Jun-2021

**Application Type:** Full Application: Minor Use Class E(b) (Sale of Food and Drink)

**Time Extension Expiry:**



## Recommendation:

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to;
  - No new material considerations being received within the consultation period;
  - The amendment and finalising of conditions;

## Proposal

The proposal relates to the erection of a free standing McDonald's restaurant with Drive - thru at the former Brownhills Police Station, Chester Road. The proposal is for both the sale of food and drink for the consumption on and off the premises.

The building will be single storey of contemporary design using neutral and natural brands colours. The palette of materials includes timber effect, contemporary grey block and stone effect panels, and areas of glazing. The design of the building reflects the company's current corporate image.

The proposal includes operating 24/7, customer seating area comprises approximately 90 covers. Deliveries are to take place approximately 3 times per week lasting approx. 15-45 minutes.

The layout of the site includes:

- Vehicular access into the site utilising the existing access from Chester Road
- Front elevation of building orientated to address the main road frontage
- Drive thru lane located to the south west including a 'fast forward' lane and customer order displays
- Storage areas to the rear
- Acoustic fence of 3.2 metres and on the north west boundary along the garden with Chester Road South, 2 metre timber fence to the front of no.25 and timber fencing at 2.4 metres on the east and south boundaries.
- Disabled parking located close to the pedestrian entrance of the building
- Outdoor seating patio area close to restaurant front entrance
- External lighting and safety barriers separating vehicle movement and pedestrians
- Bin store located to the rear of the building
- Hard and soft landscaped areas

The following supporting documents accompany the Planning application:

- Transport Assessment ADL Ltd
- Travel Plan ADL Ltd
- Delivery Management Plan ADL Ltd.
- Arboriculture and drawing report Haydens.
- Environmental Noise Assessment AASW ltd

## Site and Surroundings

The site is located on the A452 Chester Road set back from the highway on Chester Road North service Road. The site is the former Brownhills Police Station which closed in 2014. The building is a two storey flat with a flat roof brick and cladding.

The site lies within 300 metres of the boundary of Brownhills District Centre. Opposite the site is Holland Park which links to Brownhills Common. To the north, south and west of the site are residential properties. Bradford Road directly adjoins the rear of the site. No. 25 Chester Road North borders the south west of the site. It is a residential property with a tattoo parlour incorporated within. To the south east of the site are x 2 blocks of 4 residential properties known as Parade View, the rear amenity adjoins the boundary of the site.

Within the vicinity of the application site is a mix of uses including a Public House, Commu Centre an auto centre. The site is within easy walking distance to Brownhills District Ce which is well served by public transport.

## Relevant Planning History

BC20486P- Car Park Extension. Grant Permission Subject to Conditions 18/08/21

## Relevant Policies

### National Planning Policy Framework (NPPF)

[www.gov.uk/guidance/national-planning-policy-framework](http://www.gov.uk/guidance/national-planning-policy-framework)

The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a "*presumption in favour of sustainable development*".

**Key provisions** of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 7 – Ensuring the vitality of town centres**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 15 – Conserving and enhancing the natural environment**

On **planning conditions** the NPPF (para 56) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted,

enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **National Planning Policy Guidance**

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

### **Reducing Inequalities**

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty "PSED" on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean 'preferentially'. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the

ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

### **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

### **Saved Policies of Walsall Unitary Development Plan**

- 3.6 to 3.8 Environmental Improvement
- 3.9 Derelict Land Reclamation
- GP2: Environmental Protection
- GP6: Disabled People
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- S1: Definition of Town Centre Uses
- S2: The Hierarchy of Centres
- S3: Integration of Developments into Centres
- S4: The Town and District Centres: General Principles
- S6: Meeting Local Needs
- S7: Out-of-Centre and Edge-of-Centre Developments
- S10: Hot Food Take-Aways, Restaurants and Other A3 (Food and Drink) Outlets
- S11: Drive-Through Facilities
- T4 - The Highway Network
- T5 - Highway Improvements
- T6 - Traffic Calming
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

### **Black Country Core Strategy**

- Vision, Sustainability Principles and Spatial Objectives
- CSP4: Place Making
- CEN6: Meeting Local Needs for Shopping and Services
- CEN7: Controlling Out-of-Centre Development
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN3: The Efficient Movement of Freight
- TRAN4: Creating Coherent Networks for Cycling and for Walking

- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV8: Air Quality

## **Walsall Site Allocation Document 2019**

IND5: New Employment Opportunities

T4: The Highway Network

T5: Highway Improvements

## **Supplementary Planning Document**

### **Conserving Walsall's Natural Environment**

Development with the potential to affect species, habitats or earth heritage features

- NE1 – Impact Assessment
- NE2 – Protected and Important Species
- NE3 – Long Term Management of Mitigation and Compensatory Measures

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

### **Designing Walsall**

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

### **Air Quality SPD**

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures

- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL

## **Consultation Replies**

### **Archaeological Officer**

No archaeological implications

### **Coal Authority**

No objection – development would lie outside the defined High Risk Area. Note to applicant recommended.

### **Environmental Health**

No objection – no adverse comments from Environmental Health

### **Fire Officer**

No objection – proposal will need to comply with Building Regulations Approved Document B, Volume 2, Buildings other than Dwellings, 2019

### **Local Highways Authority**

No objections subject to conditions including traffic management/ delivery management plans.

### **Natural England**

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

### **Police Architectural Liaison Officer**

No objection – Secured by Design Principles recommend in relation to alarm systems and cctv for the premises. Note advising the service Road is recommended to keep free of parking as this may cause drivers to congregate.

### **Pollution Control**

No objections subject to recommended conditions relating to odour and noise mitigation measures. Electric vehicle charging points and a Construction Environmental Management Plan.

### **Severn Trent Water**

No objection subject to a recommended condition relating to drainage plans for the disposal of foul and surface water.

### **Strategic Planning Policy**

No objection – sequential test satisfactory. Concerns raised regarding the amenity of adjacent dwellings due to vehicular movements in proximity to gardens.

## Tree Preservation Officer

No comments received at time of writing (comments to follow within supplementary paper)

## Representations

293 letters from residents of Brownhills and the wider Walsall borough (11 with no addresses given) have been submitted in support the scheme. The letters of support is summarised below (*Local Planning Authority comments in brackets and italics*):

- Need for a Mc Donald's in the area – nearest restaurant over 5 miles away. This would reduce trip generation and emissions to nearest current facility.
- Proposal would create local jobs for a variety of ages and backgrounds
- Proposal would bring back into use a redundant site
- Restaurant would generate increased business rates for Walsall Council to spend on key local services.
- Mc Donald's franchises support local communities
- Would encourage people to visit Brownhills in turn supporting the High Street

40 objections have been received by 13 local residents including those who boarder the site and within the immediate vicinity of the site. Concerns are summaries as follows:

- Site is inappropriate for the use due to be being surrounded by residential properties
- Creation of litter within the immediate site and beyond due to Drive- thru facility.
- Litter in general is an issue within Brownhills area (*Litter in general comment, is outside the scope for the assessment of the current planning application*)
- Significant increased traffic levels and congestion especially entering and leaving the site
- Creation of air pollution and vibration from vehicles
- Impact upon residents behind the site being able to enjoy the rear amenity areas
- Site is opposite Brownhills SSSI, litter is prohibited under the protection of SSSIs.
- There is a need for housing within area not a fast food facility – proliferation of fast food outlets on High Street
- Creation of noise from vehicles using drive thru facility including engines running in parking areas
- Noise and disturbance from users of the facility within cars and external areas of site
- Odour within a residential area
- Potential for anti-social behaviour
- Pests – rats and mice would be attracted to the restaurant.
- Value of properties within the area would decrease (*this is not a material consideration in the determination of the application*)

## Determining Issues

- Principle of Development
- Protected Sites – SSSI

- Design, Layout and Character
- Amenity of Neighbours
- Highways
- Trees
- Ground Conditions and Environment

## Assessment of the Proposal

### Principle of Development

The proposal is for a main town centre use as defined by the NPPF. NPPF paragraph 86 states that local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

The site lies within 300 metres of the boundary of Brownhills District Centre as defined by the UDP inset map. It is therefore defined by the NPPF as an edge of centre site. NPPF paragraph 87 states that when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.

Both the NPPF and UDP policy S7 require a sequential test to be met. A sequential test has been submitted which appears to satisfy NPPF and UDP Policy S7 requirements. The test includes an assessment of alternative sites explored which were found to be inappropriate for development. This includes Ravens Court which is within Brownhills centre and was suggested by local residents and the Council as a potential site for the development. The test considers this location could not support a drive-thru and units would not be large enough to accommodate the development.

This is a previously developed site within a sustainable location, it is well served by public transport and within walking distance of Brownhills Centre. It is acknowledged that there are other fast food outlets on Brownhills District Centre nevertheless it is considered the proposal would not result in a proliferation of fast food outlets within the area.

The applicant explains the development would create 65 full and part time jobs allowing for local people of all ages and skills to be employed.

On balance, it is considered the use principle of development is considered acceptable within this location.

### Sites of Special Scientific Interest

Comments have been received regarding concerns the proposal will have an impact upon Brownhills SSSI. The proposal is located adjacent to Holland Park which links to

Chasewater and the southern Staffordshire Coalfields Heath SSSI. The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on “*Development in or likely to affect a Site of Special Scientific Interest*”. Based on the plans submitted, Natural England considers the proposed development will not have a likely significant effect on statutorily protected sites and has no objection to the proposed development. On balance it is considered the proposal would have a limited impact upon the biodiversity of the SSSI as well as the park immediately adjacent to the site.

## **Design, Layout and Character**

The layout of the site includes a restaurant to the west of the site car parking to the north east and east of the site and drive – thru lanes wrapping around the rear of the site. It is acknowledged that the layout of the site requires vehicles to be within proximity to rear gardens of Bradford Road due to the siting of the drive- thru lane.

The proposed building is of contemporary design reflecting the brands concept. The building is sited away from neighbouring properties. The overall height of the building at 11.7 metres is considered would not be unduly dominant within the streetscene. The mix of materials softens the massing of the building to ensure it does not cause harm within the streetscene.

It is proposed there will be a cranked acoustic fence sited adjacent to the boundary with no.25 Chester Road South between 2.5 metres and 3.2 metres in height along the length of the house and garden. To the front of the property a timber fence is proposed to be 2 metres in height. The height of the fence has been amended to this height due to concerns the height at 3.2 metres within the street scene would be unduly dominant and oppressive. To the rear and north east side of the site a 2.4 metre vertical timber fence is proposed. It is considered that whilst the height of the fences at 3.2 metres especially would be more than what is expected within a residential curtilage on balance its purpose in relation to noise mitigation outweighs the impact upon the streetscene.

The application is supported by a landscape plan that includes hard and soft landscaping area, maintained and managed by local contractors employed of McDonald's.

On balance it is considered that the layout of the proposal will allow for a functional development that integrates with the surroundings.

## **Amenity of Neighbours**

The opening hours for the restaurant as stated within the Planning Statement are ideally 24 hours per day, 7 days per week although different hours of operation can be considered where specific amenity concerns are outlined. The applicant has advised they would be happy to discuss a condition limiting hours of operation if necessary. In

order to protect the amenity of local residents. It is considered hours of use should be restricted to 06.00 a.m. – 23.00 a.m 7 days a week.

It is acknowledged that the restaurant would be sited in close proximity to local residents with approximately 10 metres to the nearest rear gardens on Bradford Road and 11 metres to no. 25 Chester Road South which is a cause of concern to local residents in relation to odour and noise.

The Planning Statement advises that the extraction equipment has been designed to remove 98% of airborne grease at source. Pollution Control have assessed the Odour Control Assessment submitted as part of the application and concur with the assessment and the odour mitigation measures recommended. Pollution Control advise that based on having received minimal odour complaints from existing Macdonald restaurants in the Walsall area, they are satisfied that if the odour mitigation measures are implemented, as recommended in the report, then this should be satisfactory. It is noted Environmental Health have not raised concerns regarding the development. A planning condition is required to ensure the mitigation measures within the Odour Control Assessment are implemented.

On balance, it is considered that potential odour caused by the restaurant would be limited based on the evidence before the LPA and commentary from our consultees. It is considered odour would not result in an undue impact upon the quality of life enjoyed by neighbouring properties, to warrant refusal of the application for this reason. If odour complaints arise in the future, Environmental Health have responsibility to pursue these.

An amended noise assessment has been submitted as part of the application with additional noise measures following concerns from Pollution Control that the assessment required the consideration of existing background noise levels to the rear of the site and consideration of noise levels when road traffic is not significant. The report determines the noise levels generated by the proposed Macdonald's Restaurant/Drive-Thru will not be excessive, subject to putting mitigation measures in place, when compared against existing background noise levels.

Following additional communications with the acoustic consultant an additional update to the report has been issued. The consultant is advising that if they were to increase the fence height to 3.2 metres on the Bradford Road boundary, then this will provide additional mitigation in terms of numbers i.e. 1 – 2 dB. It should be noted that from an audibility perspective then the amount that humans can tend to hear the difference between noise levels is 3dB. Therefore, from a human audibility perspective there is minor change, however, in terms of sound energy then there will be a reduction. Given the minor reduction in acoustic levels from increased fencing, Pollution Control do not object to the proposed fencing arrangement put forward by the acoustic consultant.

It is considered that increasing the fence height to 3.2 metres on the boundary with Bradford Road would result in the height being more than a single storey, for limited reduction in noise. It is considered this height is excessive in relation to the character of the area. The applicant has advised that they are open to altering the height of the

fences on boundaries if considered necessary by planning committee for noise mitigation.

It is acknowledged that noise from cars and people using the facility is a large concern with residents. Taking into account the comments made by the pollution control officers, it is considered that on balance the proposal would not result in noise levels which would be unduly harmful to the amenity of neighbouring properties.

Comments received by a local resident regarding the survey specifying a noise level reading was taken from within the resident's garden, which they consider did not take place. The applicant has advised the, *"acoustic report uses acoustic modelling to accurately map and calculate sound levels. No readings were taken in the garden of no. 51 Bradford Road they are predictions from the model as set out in the report"*.

The submitted Planning Statement advises shift managers receive training to measure and deal with noise or anti-social behaviour should it arise. The management team are trained to monitor the car park consistently to ensure customers causing disruption or noise are asked to leave the premises.

A number of concerns have been raised regarding the proposal leading to increased litter within the site and surrounding area. The applicant has reviewed these concerns and advises that the application documents set out Mc Donald's provide bins and employee's litter pick at least three times daily. It is acknowledged that there is the potential for increased littering within the vicinity given the proposal includes a drive-thru facility, nevertheless it is considered the responsibility is on the users of the facility to properly dispose of their waste, whether on site or further afield. Third party legislation stipulates littering is an offence under the Environmental Protection Act and is outside the scope of the planning legislation. Waste from on site will be secured within a bin store to the rear of the building. The bin store is located in an enclosed area to minimise any perceived and adverse impact on the amenity of neighbouring properties.

## **Highways**

The application looks to demolish the existing former Police Station and construct a Drive Thru restaurant with associated accesses and parking.

Whilst the Highway Authority accepts that the site is an accessible and sustainable location there are concerns around the potential impact on the free flow of traffic along Chester Road North and potential conflicts around parallel service, particularly at peak traffic periods for customers of the development.

### VEHICLE ACCESS:

The development proposes two access points onto the service road. The northern access being the main two-way access for customers and the southern access a delivery vehicle access only with access control measures.

Visibility at both accesses is acceptable.

## INTERNAL LAYOUT:

The internal layout provides parking for 32 cars, drive-thru lane, access and vehicle manoeuvring areas and pedestrian crossings.

At delivery times access will be allowed for delivery vehicles

## VEHICLE PARKING:

The development proposed 32 parking spaces, inclusive of 2 EVCP's, 2 disabled bays and 1 grill bay.

Based upon a GFA of about 370sqm the UDP T13 Policy required is 19 spaces. The development proposed nearly double the policy requirement but clearly the applicant provided a higher level of parking to meet its operational needs based upon similar outlets.

According to the Traffic Assessment (TA), the maximum parking demand would be 32 vehicles on a Friday and 31 vehicles on a Saturday. This is the peak parking demand during the busiest 15-minute period of the week. The average parking demand during the 4-hour Saturday lunchtime period was only 23 spaces. The proposal provides 32 parking spaces and therefore would have adequate capacity to accommodate the maximum anticipated demand.

The drive thru lane has capacity for 16 vehicles (based on a 4.5m saloon; a greater number of smaller cars could be accommodated). It is concluded that the drive thru lane has sufficient capacity to accommodate the expected demand

## TRAFFIC IMPACT:

In order to understand the traffic impact of the development, the TA has used counts and customer interview surveys at the McDonald's restaurant in Swaythling. This restaurant is considered to be a good comparable restaurant for the following reasons:

- The Swaythling restaurant is similarly located in a suburban location adjacent to a principal road.
- Similar traffic flows (AADT) and market share.

The peak trading periods for McDonalds restaurants are during Friday evenings and Saturday lunchtime periods and therefore the local highway network and McDonalds peak traffic periods do not coincide. However, the McDonalds peak traffic has been used in order to provide a robust assessment.

The proposal is expected to generate the following inbound vehicle trips:

- Friday PM Peak 113 vehicles
- Saturday Peak 127 vehicles

The majority of vehicle trips (58%) on a Friday and (62%) on a Saturday to the restaurant are expected to be existing on the network. The number of additional trips (solely to McDonald's) are expected to be only:

- Friday PM Peak 47 vehicles
- Saturday Peak 48 vehicles

The proposal would have no material impact on the operation of the Chester Road N Service Road /A452 Chester Road North junction.

#### CONSTRUCTION TRAFFIC MANAGEMENT:

An acceptable Construction Environmental Management Plan has been submitted.

#### PEDESTRIANS AND CYCLISTS:

The site is within easy walking distance to Brownhills District Centre with controlled uncontrolled pedestrian crossing points across Chester Road North and the other arm the Tin Man gyratory.

The site is close the Walsall to Birmingham National Cycle Route 5 and the MacLean V along the former railway line.

Cycle stands are provided on site.

#### PUBLIC TRANSPORT:

The site is within easy walking distance to Brownhills District Centre which is well served public transport.

#### SECTION 278 AGREEMENT/OFF SITE IMPROVEMENTS:

The applicant has submitted a Store Travel Plan Statement which will be managed by Company and Conditioned.

Off –site Highway improvement will require the confirmation and implementation of Traffic Regulation Orders and a S278 agreement.

The Police Architectural Officer have requested parking restrictions on the service Road. This will form part of the S278 agreement if deemed necessary.

#### RECOMMENDATION

The Highway Authority concludes, the potential impacts on the local highway network requires delicate judgement due to the nature of the development and its location on network.

The main issues for the Highway Authority are;-

- i) The potential conflicts between traffic using the parallel service road and multiple access points,
- ii) The proposed on-site delivery arrangements and access management for delivery vehicles.
- iii) Safe pedestrian access.

To address these concerns the applicant has put forward a number of mitigation measures

One is a Delivery Management Plan to satisfy the Highway Authority that at delivery times the on-site arrangements, included coning off a substantial part of the customer car park operating the lockable bollards to facilitate access for the delivery vehicle, restricting the location of the delivery vehicle and delivery timings to avoid peak periods both for the highway

customers. A condition is recommended to ensure the deliveries are carried out in accordance with the submitted Delivery Management Plan.

The other is a package of highway improvement measures in the locality of the site to improve access and reduce potential vehicle and pedestrian conflicts and minimise disruption on the main Chester Road North.

Overall, on balance, the Highway Authority considers the development will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF 2021 paragraph 111.

## **Trees**

There are no Tree Preservation Orders within the application site therefore written permission is not required as part of the proposal nevertheless their amenity value is a material consideration.

The proposal includes removal of 7 trees and 2 hedges to permit development.

(Tree comments will be updated at planning committee)

## **Ground Conditions and Environment**

The Coal Authority have confirmed part of the site falls within the defined Development High Risk Area. Records indicate that the application site lies in an area of likely historic unrecorded coal workings at shallow depth. However, the part of the site where the development is proposed lies outside of the defined High Risk Area. Therefore it is considered that a Coal Mining Risk Assessment is not necessary to support this proposal and do not object to this planning application. The Coal Authority does recommend that, should planning permission be granted for this proposal an informative is noted for the application.

Due to the proposal including demolition of the existing structures on site a condition is recommended for an asbestos Survey to be carried out prior to demolition. This is to ensure that potential hazardous substances are identified and removed where necessary safely.

## **Conclusions and Reasons for Decision**

It has been demonstrated that the proposed development is of an acceptable overall appearance, would not result in harm to the natural or built environment.

On balance, it is considered the proposal would not result in an undue impact upon the amenity of occupiers.

The proposal would not result in harm to the safety or operation of the highway network subject to the conditions as set out. The recommended planning conditions, , are considered necessary to make the application acceptable, and to meet the government's tests contained within the National Planning Policy Framework.

On the above basis, on balance, the proposal is considered to meet the requirements of the Development Plan, and the National Planning Policy Framework and it is therefore considered that the application should be recommended for approval.

## **Positive and Proactive Working with the Applicant**

### **Approve**

Officers have spoken with the applicant's agent and in response to concerns raised by the Highway Authority and the height of fence within the streetscene, amended plans have been submitted which enable full support to be given to the scheme.

## **Recommendation**

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to;

- No new material considerations being received within the consultation period;
- The amendment and finalising of conditions;

## **Conditions and Reasons**

1. The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents:

Block Plan drawing no. 11705\_AEW\_8303\_0002 Rev E, submitted 01/12/21

Proposed Site Plan drawing no.11705\_AEW\_8302\_0004, Rev D submitted 01/12/21.

Proposed Elevations, drawing no. 11705 AEW\_8302\_0005 Rev A, submitted 15/02/21

Proposed Floor and Roof Plan, drawing no. 11705 AEW\_8302\_0006 Rev A, submitted 15/02/21

Proposed Acoustic fencing, drawing no.11705\_AEW\_8302\_0018, Rev B submitted 01/12/21.

Landscape Plan, drawing no. 11705\_AEW\_8303\_0015 Rev D, submitted 01/21/21

Supporting Statement prepared by Planware Limited Version 3, submitted 15/02/21

Goal Post Height Restrictor and COD canopy, submitted 15/02/21  
Standard patio area supporting specifications, submitted 15/02/21

Odour Control Assessment Rev B, prepared by CDM Partnership, submitted 19/03/21

Odour Control Specification, prepared by CDM Partnership, submitted 16/12/21

Transport Assessment, ADL/CC/4699/14A dated January 2021, submitted 15/02/21

Travel Plan, ADL/CC/4699/14B dated January 2021 submitted 15/02/21

Environmental Noise Assessment, prepared by Acoustic Associates sw ltd, project ref 7405 Rev 23 dated 21/06/21 submitted 22/06/21

Reason: To ensure that the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted, (except in so far as other conditions may so require).

3. The development hereby permitted shall not be open to customers otherwise than between the hours of 08.00 hours to 23.00 hours Mondays to Sundays, Bank and Public Holidays .

Reason: To protect the amenities of nearby residential occupiers in accordance with saved UDP policies GP2 and ENV32.

4. Prior to commencement of the development hereby permitted an intrusive pre-demolition asbestos survey in accordance with HSG264 supported by an appropriate mitigation scheme to control risks to future occupiers shall be submitted in writing to and approved in writing by the Local Planning Authority. The scheme shall:

- i. be written by a suitably qualified person
- ii. demonstrably identify potential sources of asbestos contamination and
- iii. detail removal.

4b. Prior to occupation of the development hereby permitted a written Validation Report shall be submitted in writing to and agreed in writing by the Local Planning Authority.

4c. All contaminated material to be removed from the site shall not be otherwise than be removed by a licensed waste carrier to a facility that is licensed to accept it.

Reason: To ensure any potentially hazardous asbestos associated with the buildings or their previous use in accordance with saved policies GP2 and ENV14 of Walsall's Unitary Development Plan.

- 5a. Notwithstanding the details shown on submitted Proposed Site Layout Revision D ADL drawings, 4699-SK-11A, 4699-SK-12, 4699-TR-18, 4699-TR-19 prior to commencement of the development hereby permitted, a Traffic Management Plan, includ

full technical details of all off-site highway infrastructure works shall be submitted in writing to and approved in writing by the Local Planning Authority.

5b. Prior to occupation of the development hereby permitted, the approved Traffic Management Plan highway infrastructure works shall not be carried out otherwise than in accordance with the approved Traffic Management Plan and shall thereafter be retained for the lifetime of the development.

Reason: To ensure the safe and satisfactory operation of the development, in accordance with UDP Policy GP2, T4 and in the interests of highway safety.

6a. Prior to the commencement of development hereby permitted including any site clearance or site preparation:

- i. details of protective fencing and ground protection to be installed around all retained trees shall be submitted in writing to and approved in writing by the Local Planning Authority
- ii. Prior to the commencement of the development hereby permitted the approved protective fencing and ground protection shall be installed
- iii. One month's written notice of the intention to commence development shall be given to the Local Planning Authority to allow the Council's Arboricultural Officer to fully inspect the installation of the protective fencing and ground protection

6b. The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved details before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

6c. Nothing shall be stored or placed nor any fires started, any tipping, refuelling, disposal of solvents or cement mixing carried out inside the protective fencing or on the ground protection referred to in part a to this condition. Ground levels within protective fencing and on ground protection areas shall not be altered nor shall any excavation or vehicular access or drainage routes be made.

6d. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details.

Reason: To preserve and enhance the visual amenities of the locality in accordance with Saved Policy ENV18 of the UDP and Conserving Walsall's Natural Environment SPD.

7a. Prior to the commencement of development hereby permitted drainage plans for the discharge of surface water and disposal of foul sewerage and all existing and proposed underground services and sewers shall be submitted in writing to and approved in writing by the Local Planning Authority.

7b. The development shall not be carried out otherwise than in accordance with the approved details and the approved drainage shall thereafter be retained as installed for the lifetime of the development.

7c. The development hereby permitted shall not be occupied until the approved drainage has been installed in accordance with the approved plans.

Reason: To ensure the development is provided with a satisfactory means of drainage and/or to reduce the risk of creating or exacerbating a flooding problem and/or to minimise the risk of pollution and/or to safeguard water quality from fuels, oils and other chemicals from the site in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

8a Prior to the commencement of building operations above damp proof course of the development hereby permitted details of electric vehicle charging points to be provided for the development shall be submitted in writing to and agreed in writing by the Local Planning Authority.

8b. Prior to occupation of the development hereby permitted shall not be carried out otherwise than in accordance with the approved electric vehicle charging points and the approved electric vehicle charging points shall thereafter be retained for the lifetime of the development.

Reason: In the interests of creating a sustainable form of development and to encourage the use of ultra-low emission vehicles in accordance with Policies ENV8 and DEL1 of the Black Country Core Strategy.

9. Prior to the occupation of the development hereby permitted, all access ways, veh manoeuvring and parking areas shall be consolidated, hard surfaced and drained so that areas do not drain onto the public highway or into any highway drain, together with the demarcation of all parking bays, associated directional signing and lining and pedest crossing points.

Reason: To ensure the satisfactory completion and operation of the development in accordance with UDP policy GP2, T7 and T13.

10. Upon the development hereby permitted first coming into use, the measures incentives to promote the development's sustainability credentials and encourage non-borne travel modes shall be implemented in accordance with the submitted ADL Store Tr: Plan Statement dated June 2021.

Reason: To encourage sustainable travel modes, in accordance with BCCS policy TR/ and UDP Policy T10.

11. Deliveries to the development shall be in accordance with the submitted ADL Delivery Management Plan dated June 2021 to restrict the size and type of delivery vehicles to site constraints and the timing of deliveries wherever possible to avoid peak traffic customer periods.

Reason: To ensure the satisfactory operation of the development, and to minimise disruption to the operation of the local highway network, in accordance with UDP Policy GP2, T4 and in the interests of highway safety.

12. The development hereby permitted shall not be carried out otherwise than in accordance with the approved Glanville Construction Environmental Management Plan dated 19th February 2021 and shall thereafter be retained throughout the construction period.

Reason: In order to minimise on street parking by site operatives and the potential disruption to the free flow of traffic along the public highway, in the interests of highway safety.

13 a. The development hereby permitted shall not be carried out otherwise than in accordance with the approved Proposed Acoustic fencing, drawing no.11705-AEW-83032\_0018, Rev B submitted 01/12/21.

13b. The development hereby permitted shall not be carried out otherwise than in accordance with the agreed measures and such measures shall thereafter be retained for the lifetime of the development.

Reason: To reduce potential negative health impact upon future occupants in compliance with the saved policy ENV10 of Walsall's Unitary Development Plan.

14a. The Odour Control Scheme detailed within 'Odour Control Assessment' and 'Odour Control Specifications' submitted with the Application shall be implemented prior to any hot food cooking taking place.

14b. The Odour Control equipment and machinery shall be maintained and serviced throughout the lifetime of the restaurant in accordance with the 'Odour Control Assessment' and 'Odour Control Specifications' submitted with the Application Form.

Reason: To reduce potential negative health impact upon future occupants in compliance with the saved policy ENV10 of Walsall's Unitary Development Plan.

### **Notes for Applicant**

#### **Trees**

No works shall be carried out to the protected trees otherwise than in accordance with British Standard 3998: 2010 'Tree Work'

#### **Secured by Design Principles**

Monitored alarm systems. cctv particularly identifying at all doors.

Alarm and cctv installers should be approved by NSI, SSAIB or both

See <https://www.nsi.org.uk/> and <https://ssaib.org/>

Below is a link to secured by design guides, including Commercial, police approved crime reduction information.

<https://www.securedbydesign.com/guidance/design-guides>

Below is a link to secured by design commercial, police approved crime reduction information guidance.

[https://www.securedbydesign.com/images/downloads/SBD Commercial 2015 V2.pdf](https://www.securedbydesign.com/images/downloads/SBD_Commercial_2015_V2.pdf)

Secured By Design security standards are explained.

Please see: <https://www.securedbydesign.com/guidance/standards-explained>

## **Coal Authority**

The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity at the surface or shallow depth. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and former surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of new development taking place.

It is recommended that information outlining how former mining activities may affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), is submitted alongside any subsequent application for Building Regulations approval (if relevant).

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant land stability and public safety risks. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design which takes into account all the relevant safety and environmental risk factors, including mine gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

[www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries](http://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries)

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at:

[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

## **Highway Authority**

The Traffic Management Plan will require the confirmation and full implementation of appropriate Traffic Regulation Orders in accordance with the requirements of the approved Plan.

The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.

For new road construction or alterations to existing highway the developer must enter into an Agreement with the Highway Authority under S38/278 of the Highways Act 1980. For further advice please contact Highway Development Control Team at [Stephen.Pittaway@walsall.gov.uk](mailto:Stephen.Pittaway@walsall.gov.uk)

The Highway Authority's permission is required under the Highways Act 1980 and the Roads and Street Works Act 1991 for all works on or in the highway.

As the existing building to be demolished abuts the highway boundary, any barriers, scaffolding, hoarding, footway closure etc. required for the demolition works to be undertaken will require a licence. This should be applied for by email to [Trafficmanagement@walsall.gov.uk](mailto:Trafficmanagement@walsall.gov.uk)

The costs for the alterations of the TROs should be funded by the Applicant. The Applicant is advised to contact [Trafficmanagement@walsall.gov.uk](mailto:Trafficmanagement@walsall.gov.uk) to discuss the requirements to enable the TRO's to be processed.

If the development proposal includes land which is currently highway, the Applicants need to make an application to the Secretary of State for the stopping up of the highway affected under section 247 of the Town and Country Planning Act 1990. The Highway Authority do not need to issue express permission beforehand as they are a consultee. Guidance and applications forms are available via the following link: <https://www.gov.uk/government/publications/stopping-up-and-diversion-of-highways>

**END OF OFFICERS REPORT**