

Planning and Rights of Way Panel 04th June 2019
Planning Application Report of the Service Lead – Infrastructure, Planning and Development.

Application address: Former Field and Trek, Hawkeswood Road, Southampton			
Proposed development: Part demolition and conversion of existing building to provide a fast food restaurant (classes A3/A5) with drive thru, car parking, landscaping and associated works			
Application number	19/00422/FUL	Application type	Minor
Case officer	Andrew Gregory	Public speaking time	15 minutes
Last date for determination:	ETA 7.6.19	Ward	Bitterne Park
Reason for Panel Referral:	Five letters of support contrary to the officer recommendation and a referral request received from Cllr Fuller	Ward Councillors	Cllr David Fuller Cllr Robert Harwood Cllr Ivan White

Applicant: McDonalds Restaurants Ltd	Agent: Planware Ltd
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Recommendation Summary	Refusal
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Community Infrastructure Levy Liable	Yes
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Refuse for the following reasons:

01. Un-neighbourly form of development

The proposed restaurant/drive thru by reason of its location, within close proximity to residential neighbours in Hawkeswood Road, and the proposed late night/early morning use will lead to increased opportunities for anti-social behaviour, noise and disturbance arising from the outdoor seating/play area, general comings and goings and from car parking and drive-thru activity, harmful to the residential amenities of nearby occupiers that cannot be appropriately mitigated. Furthermore the proposed 2m acoustic fence to mitigate against noise and visual impact would be out of keeping with the character and appearance of Hawkeswood Road street scene. As such the proposal has been assessed as contrary to 'saved' policies SDP1(i) (SDP7, SDP16 and RE17 (i), (ii) from the Amended Local Plan Review (2015) and policy CS13 (1) and paragraphs 127, 130 and 131 of the National Planning Policy Framework (2019).

02. Impact on highway safety

The proposed restaurant/drive thru would lead to a harmful intensification of vehicular trips to/from the site. The increased right turn movements into and out of Hawkeswood Road would prejudice highway safety and lead to severe obstruction to traffic flow on Bitterne Road West, a main arterial route which has been identified by Highways England as requiring major improvements to improve traffic flow. Therefore the proposal would have an unacceptable impact on highway safety and the residual cumulative impacts on the road network would be severe. In reaching this decision, regard has been had to the authorised hours of use of the site in respect of any A1 use fall-back position. The development proposal is thereby contrary to policies SDP1(i), SDP3, SDP4 and TI2 of the City of Southampton Local Plan Review (2015) and CS18 of the Local Development Framework Core Strategy (2015) and paragraph 109 of the National Planning Policy Framework (2019).

Appendix attached	
1	Development Plan Policies
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1 The site and its context

- 1.1 The site is located at the corner of Bitterne Road West and Hawkeswood Road with site access taken from Hawkeswood Road. The application site has an area of 0.37 hectares and comprises a vacant retail warehouse with associated car parking (37 spaces). The site has a predominantly open boundary to Hawkeswood Road with 6 no existing trees. Fencing encloses the side and rear boundaries, with railings fronting Bitterne Road West.
- 1.2 The surrounding area has a mixed commercial and residential character. The adjacent side of Hawkeswood Road comprises two-storey housing and a three-storey flatted block, larger 3-4 storey flatted blocks are located at the north-western end of Hawkeswood Road. The application site is authorised for A1 Retail use and is located outside of Centurion Industrial Park, which is located to the south and safeguarded for Industrial and Warehousing uses. The neighbouring site to the north is also in commercial use (Hampshire Mezzanine Floors Ltd). The River Itchen, a designated Site of Special Scientific Interest (SSSI), is located further South. Flats and housing are located on the adjacent side of Bitterne Road West.
- 1.3 Hawkeswood Road comprises a narrow two-way street which terminates at the northern end. On-street parking is located on either side of the street and reduces the carriageway width to single lane along some parts. Parking controls are in force within the street (permit holders or 1hr) and double yellow lines are located at the junction. Traffic lights are in place at the junction of Centurion Industrial Park and Bitterne Road West, located circa 100m to the south of the junction with Hawkeswood Road. Pedestrian crossing facilities are in place at the traffic lights. Vehicular movements are unrestricted at the junction of Hawkeswood Road and Bitterne Road West. There is not a dedicated right turn lane for vehicles turning right into Hawkeswood Road.

2 Proposal

- 2.1 The planning system deals with land use and in this case the Panel are being asked to consider the merits of a new restaurant with drive-thru. The proposal seeks to redevelop the site for a McDonald's utilising the existing vehicular access from Hawkeswood Road (adjacent Roman House). The end user is not a relevant consideration.
- 2.2 The proposed hours of opening as submitted as part of the application are 6.00am-midnight, seven days a week.
- 2.3 The proposal seeks to partially demolish the existing building to form a restaurant building with a mezzanine floor. The building would be located adjacent to the southern boundary with the main pedestrian entrance fronting Bitterne Road west.
- 2.4 The existing access will be widened and both vehicular and pedestrian access will be taken from the south-eastern end of Hawkeswood Road. The restaurant building has a floor area of 394sqm with kitchen and dining area located on the ground floor with plant and storage located within the mezzanine level. The proposed site layout incorporates 39 car parking spaces and a drive-thru lane for up to 16 vehicles. An external patio area with external seating and a play space is located in the south-eastern corner of the site. The scheme proposes a 2m high acoustic fence with landscaping to the boundary with Hawkeswood Road. 3 existing trees are to be removed and 3 replacements are proposed along the Hawkeswood Road boundary. In total 3 trees are to be removed and 9 replacements are proposed across the site.

3 Relevant Planning Policy

- 3.1 The Development Plan for Southampton currently comprises the "saved" policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015). The most relevant policies to these proposals are set out at **Appendix 1**.
- 3.2 The National Planning Policy Framework (NPPF) was revised in 2019. Paragraph 213 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated. The NPPF defines drive-thru restaurants as main town centre uses.
- 3.3 Saved policy REI7 (Food and Drink Uses) directs food and drink uses towards existing centres (City, town, district and local centres) and requires appropriate conditions to control the impact on amenity to local residents from disturbance and nuisance caused by cooking odours, noise and disturbance. Saved policy SDP1(i) (Quality of Development) seeks to protect the amenity of local residents.

4. Relevant Planning History

- 4.1 Conditional approval was granted on 16.02.2001 for a change of use from car dealership to retail unit for the sale of caravan and camping equipment and provision of car park. This permission was subject to a restriction on the hours of operation (condition 03) 8am-6pm Mon to Fri, 8am-7pm Saturday and 10am-5pm on Sundays and recognised Public Holidays, to protect the amenities of nearby residents. The retail use was also subject to a trade goods restriction (condition 04) in the interests of preventing adverse retail impact on existing centres. LPA Ref 00/01058/FUL.
- 4.2 On 08.08.2017 a lawful development certificate was granted removing the trade only restriction under condition 04 of planning permission 00/01058/FUL because the premises had operated by selling to non-trade customers for a period of more than 10 years. Therefore the site is no longer subject to any planning controls to restrict the sale of goods and therefore the site has lawful A1 retail use, but is subject to the remaining conditions attached to the planning permission 00/01058/FUL including a limitation on the hours of use.
- 4.3 It should be noted that prior to use of the site for the sale of caravan and camping equipment, the was occupied as a car showroom which included a repairs building that was subject to the following hours of use controls, 8am-6pm Monday-Friday and 8am-1pm Saturday, in the interests of neighbouring residential amenities.

5 Consultation Responses and Notification Representations

- 5.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners and erecting a site notice (09/04/19). At the time of writing the report a total of 196 representations have been received (191 against and 5 in support), including objections from Cllr Fuller, Cllr Harwood and Cllr White. The following is a summary of the points raised:
- 5.2
- the impact on neighbouring residential amenities;
 - highway safety;
 - increased anti-social behaviour;
 - air quality impact;
 - litter impact;
 - impact on public health
 - Increased congestion at Hawkeswood Road/Bitterne Road West junction.
 - Odour Impact;
 - Inadequate existing foul drainage capacity;
 - Surface water drainage concerns
 - Increased light pollution;
 - Ecology impact.
- 5.3 These points are addressed within the consultee responses and considerations sections below. Those representations in support did not provide any explanatory comments relevant to planning

Consultation Responses

5.4 SCC Highways – Objection

There are concerns to the right turn movements when entering and leaving Hawkeswood Road. Although the records do not show any accidents relating to right turn movements, any increase of trip movements on the Hawkeswood Road arm could result in vehicles struggling to get out of this junction more and increase the risk of behaviours such as hard acceleration to fit between gaps of traffic whilst managing four lanes of traffic (as well as any traffic coming out of Quayside Road). The debate to be had is how large of an increase in right turn movements there are but even if the higher existing trip rates are used, any additional increase is of concern as we do not know the real impact or situation of this junction without the site having operated as a food retail. Therefore the development could be adding an impact to a junction which may have problems with right turn movements operating as a food retail. If the non-food retail trip rates are used, then the large overall increase on this junction will definitely be of concern.

5.4.1 Access and Parking

The access remains the same as the existing access towards the southern end of the site. The parking is slightly above the maximum parking standards but is only by two spaces. With a modest level of overprovision, a balanced decision can be made with regards to providing flexibility to meet commercial need and the amenity for the local residents who may be affected by any potential overspill.

5.4.2

There is a slight concern with regards to any potential traffic that gets queued back onto Hawkeswood Road as its proximity is close to BRW. However, the internal road layout does provide a good queue length for drive-thru customers. Therefore any potential queue backs would likely be related to infrequent scenarios such as equipment failure on one of the drive-thru lanes. The internal road layout can accommodate 16 vehicles and the predicted maximum queue for the drive thru is 13 (Saturday). However, when considering the non-drive thru customers, this would add onto this queue as they queue to park in the car park.

5.4.3

Will the car park be managed so that residents or visitors to other neighbouring units will not take up the onsite space for customers? If non-customers take up the car park spaces, then this could add onto the queue back effect of the internal road as customers either have to wait longer for a parking space or wait until they can turn around and exit the site.

5.4.4

In order to avoid the element of risk of impacting on to Hawkeswood road and then potentially BRW, the ingress can be on the northern access and egress on the southern access. Keep clear signs would be required on Hawkeswood Road to prevent vehicles waiting to join BRW blocking up the ingress route. However, the proposal will create other impacts mainly due to more vehicles being directed on a narrow section of road between the parking bays. For this reason, perhaps a sensitivity test can be looked at to see what the internal road layout would be if the ingress was to be on the northern end of the site.

5.4.5 Servicing

Tracking has been provided to demonstrate that the servicing vehicle can enter and leave the site in a forward gear. Following on from the above concerns of queue length, servicing would need to be managed so that it will avoid peak traffic and trading times as one servicing vehicle could take up a lot of the internal road capacity which will then impact on the highway.

Traffic

5.4.6 The TA has produced survey data of traffic along this junction. A notable point is the lack of queuing traffic along BRW in the peaks (except for the Southbound AM peak). Despite there being 2617 vehicles travelling (both directions) along here, the maximum queue observed within a 5 minute period was 7 and an average of 1 to 2 vehicles during the PM peak. This suggests that traffic was generally free flowing along here and this was what was observed during the site visit.

5.4.7 This adds further concerns to vehicles having to make the right turn movements when the priority traffic (BRW) is free flowing. There are scarce opportunities when the signals turn red on BRW in the junction just north. However, this scenario only occurs infrequently and will be for a limited time by the time the Southbound vehicles queue back towards the Hawkeswood Junction which is when vehicles are likely to give way to right turn out movements/or keep clear markings become effective. On the northbound, the gap would be subject to the amount of vehicles turning left out of the Industrial Estate as the only gap would be between northbound vehicles stopping for the red lights and vehicles from the industrial estate turning left reaching Hawkeswood Road.

5.4.9 There is not much room in the middle between the northbound and southbound at the BRW/Hawkeswood junction and therefore any vehicles waiting to turn right into Hawkeswood would likely obstruct one Southbound lane. This vehicle could also obstruct any vehicles wanting to right turn out of Hawkeswood Road if they extend further forward with no intention of giving way.

5.4.10 It is noted that there may be a typo in the TA with regards to the increase/decrease in trips in para.7.4. In absence of clarity, the trip rate figures for this assessment is shown on the tables at the end of this comment. Note that the Swathing trip rates have not been discounted. It is noted that there will be a portion of pass-by trips/diverted trips and as a result, these can be discounted against the overall network trip impact assessment. However, 'all' trips including pass-by trips will generate new turning movements into and out of the site as a result of development. As such, the level of traffic generated is considered to be acceptable in terms of the impact on the overall network. But there will still be the concern relating to the right turn movements.

5.4.11 It is worth noting that a traffic survey was conducted in 14/04/2016 by the Council where it shows the level of traffic movements on Hawkeswood Road arm to be a lot lower than if it was operating as a food retail (between 20-30 on peak hours). This is similar to the survey conducted by the applicant – although the Council survey showed higher level of traffic on the other arms. Considering general traffic growth since 2016, this is a little surprising as the difference is approximately 200-300 hourly trips on all arms.

5.4.12 Although it is to yet be decided as to whether the existing trip rates to be used are of a food retail or not, the fact that the site has not been operating as a food retail cannot provide good evidence to whether there will be issues with the higher level of traffic on this junction. Therefore the Highways team is not comfortable with adding further traffic to a situation which is not yet been realised. It is noted that accident data and surveys have been carried out but this is all on the basis that the site have either been vacant or operated as a non-food retail (which the 2016 survey shows lower trip figures).

5.4.13 Pedestrian/Cyclist Movement

There are concerns of pedestrians/cyclists coming from Quayside Road and Steuart Road direction will likely attempt to informally cross BRW by the Hawkeswood Road junction. There is a puffin crossing further south but this is some distance from the desire route.

5.4.14 Mitigation

No mitigation measures are proposed apart from a highway condition survey and minor works to the site access.

Note:- A full package of highway works improvements would have been sought if the scheme was otherwise acceptable.

5.5 **Natural England – Holding objection**

Request the following additional details in order to assess the effects on Lee-on-the Solent to Itchen Estuary SSSI:

- Assessment of impacts to water quality from surface water drainage and details of proposed mitigation to include Sustainable Urban Drainage Systems (SUDs); and
- A Construction Environmental Management Plan (CEMP)

Furthermore, the Local Planning Authority is required to undertake a Habitats Regulations Assessment to determine whether the proposal is likely to have a significant effect on any European site.

5.6 **SCC Ecology – Objection**

The application site consists of a building, an area of hard-standing and a number of scattered trees. The site is of very low biodiversity value with only the trees providing any suitable habitat.

5.6.1 The building is relatively modern with no obvious access points for bats. In addition the surrounding area has limited suitable foraging habitat and high night-time illumination. A bat survey will not be required. If the trees are removed to accommodate the development I would expect replacement planting of species that are of value to wildlife to be provided.

5.6.2 The site is located approximately 30m from a section of the Solent and Southampton Water Special Protection Area (SPA)/Ramsar site and the Solent and Dorset Coast potential SPA. The Solent and Dorset Coast pSPA is being proposed to protect tern foraging areas whilst the Solent and Southampton Water SPA/Ramsar site is designated for high populations of over-wintering waterfowl. Atlantic salmon, *Salmo salar*, which is a feature of interest of the River Itchen Special Area of Conservation (SAC), pass close to the site on route to and from spawning grounds in the upper sections of the Itchen.

- 5.6.3 Due to the distance involved the proposed development won't result in any direct impacts on the designated sites however, air quality and construction activities could lead to indirect impacts. According to section 4.13 of the Air Quality Assessment the background levels of nutrient nitrogen deposition and acidity already exceed the critical load. Additional emissions would further exacerbate this situation and are likely to lead to a significant effect upon the European site.
- 5.6.3 Construction activities including noise disturbance arising from piling, concrete breaking and machinery; release of contaminants; spillage of oils and other chemicals; dust; and polluted surface water run-off could all lead to significant effects. A draft Construction Environmental Management Plan (CEMP) setting out measures to minimise construction impacts was requested at the pre-application stage but has not been provided.
- 5.6.4 An additional impact that could affect the designated sites is the problem of litter. The Chessel Bay Local Nature Reserve, which includes part of the Southampton Water Special Protection Area (SPA)/Ramsar site and the Solent and Dorset Coast pSPA and is located approximately 450m to the east of the development, already experiences high levels of litter. The proposed development poses the risk of a significant increase in litter levels which would adversely affect the designated sites.

Officer Response – Design solutions can be secured to achieve appropriate surface water drainage and construction environment. A Habitats Regulations Assessment has not been carried out because the scheme is recommended for refusal. Had the application been recommended for approval, regard would need to be had to the negligible increase in nitrogen dioxide concentrations set out within the submitted air quality assessment and that litter management is controlled under the Environmental Protection Act 1990 Part IV. Further delegations would be sought.

5.7 **Environmental Health (Food Safety/Noise) – No objection**

Environmental Health Service has no objections to the proposed development provided that the recommendations of the Environment Noise Assessment produced by Acoustic Associates South West Ltd, dated 28 February 2019, are all carried out. It is also recommended that a follow up report is submitted if the application is successful to confirm that they have indeed all been carried out. The proposals in relation, refuse / recycling arrangements, plant noise and odour filtration / extraction are supported. Furthermore conditions are recommended to secure a Construction Environment Management Plan, a lighting scheme and Delivery and servicing vehicle use to be restricted to 9 am - 7 pm 7 days per week.

Officer Response – Environmental Health legislation covers statutory noise nuisance. Other forms of noise nuisance and disturbance can be harmful to residential amenities of neighbouring occupiers (controlled under planning policy and legislation) and can differ from statutory nuisance.

National Planning Practice Guidance on noise indicates:

Local planning authorities' plan-making and decision taking should take account of the acoustic environment and in doing so consider:

- *whether or not a significant adverse effect is occurring or likely to occur;*
- *whether or not an adverse effect is occurring or likely to occur; and*
- *whether or not a good standard of amenity can be achieved.*

It is considered that the noise and disturbance from car parking activity, drive-thru-traffic, outdoor seating during the proposed hours of 6am-midnight would have a significant adverse effect on adjacent residents within Hawkeswood Road. Furthermore the introduction of a 2m height acoustic screen would be out of keeping with the Hawkeswood Road street scene. It is accepted that lighting design and servicing can be controlled by condition.

5.8 **Archaeology – No objection subject to conditions**

The site has archaeological potential. It lies within a Roman fort/settlement probably known as Clausentum (MSH297), the main Roman settlement in the Southampton area. Much Roman evidence has been found both on the application site and on other sites in the vicinity. The application site also lies within an Anglo-Saxon cemetery (MSH298), known from archaeological evidence. In the medieval period, the application site was in the grounds of Bitterne Manor House. Conditions requested to secure:

- Archaeological damage-assessment;
- Archaeological evaluation investigation;
- Archaeological evaluation work programme;
- Archaeological investigation (further works); and
- Archaeological work programme (further works).

5.9 **Urban Design Manager:**

It's difficult to comment positively from an urban design perspective given the obvious anti-urban nature of this car born business model. From an urban design perspective the most appropriate use of this site would be for a contemporary terrace of houses responding to the traditional terrace opposite, generating an appropriately scaled residential street.

In urban design terms this proposal fails to define Bitterne Road West (primary frontage) or Hawkeswood Road (secondary) with any active frontage being setback far into the site to allow for the arrangement of a Drive-Thru and associated restaurant car park.

Essentially if deemed an acceptable form of development, then design will be more a consideration of landscaping to the boundaries, to which end I object to the loss of trees to the Hawkeswood Road frontage and would instead like to see the wide central grassed strip between the restaurant car park and the drive-thru operation removed or reduced in order to allow for a wider strip of planting in front of the acoustic fence to Hawkeswood Road, to allow for retention of the trees and a more biodiverse/interesting approach to the planting opposite the existing terrace of housing. Greater tree planting should be provided to the Bitterne Road West frontage.

Also questions the logic of the use of relatively small areas of grass around the site and feel from a biodiversity and maintenance point of view that these areas should be planted up. There is currently only a palisade security fence between this site and the site to the west and there appears insufficient space to create a planted screen between these two sites. The broad landscape strategy should allow for a glimpsed view of the site from Bitterne Road West, but along Hawkeswood Road the approach should be to screen the site from the residential properties by means of an appropriate shrub planted understorey and retained tree boundary.

Officer Response – With the exception of the acoustic fence, the proposed layout is not considered to constitute poor design when assessed against the existing site arrangement. Landscape improvements could be secured by condition.

5.10 **SCC Land Contamination:** No objection subject to conditions to secure remediation, monitoring for unsuspected contamination and no contaminated fill.

5.11 **Sustainability: No objection**
As the proposal is part conversion, there is no requirement for a BREEAM assessment.

5.12 **Environmental Health (Air Quality) – Objection**

The Air Quality Assessment undertaken to support this scheme reports that there is a negligible increase in nitrogen dioxide concentrations in 2020 with the proposed scheme. The impact on EU compliance receptors is reported as a 0.1 ug/m³ increase in nitrogen dioxide annual average.

5.12.1 However, the proposal is located in a particularly sensitive area. It is situated adjoining an Air Quality Management Area and adjacent the EU receptor location that recorded the highest annual average for nitrogen dioxide in our Local NO₂ Plan (as required and subsequently approved by the Secretary of State). Locations within the AQMA still exceed the UK Objective for NO₂ and we are concerned that improvements that are being achieved within the city are being used to accommodate further emissions and thereby reducing the effectiveness of the City's Clean Air Strategy. Additionally, the Local NO₂ Plan has made certain assumptions concerning local air quality in future years. If SCC does not make such efforts to protect those assumption and safeguard the anticipated outcome (from single or cumulative impacts) there is a concern that we could be considered as being complacent in our duty and / or in breach of the requirements of the EU Directive and Ministerial Directions our NO₂ Plan supports. We should not be supporting any scheme that compromises our statutory duty to achieve compliance.

5.12.2 The proposal's business model is based on encouraging road vehicles to use a drive thru facility and idle their engines in the process. Such activity is not commensurate with the expectations of an Air Quality Management Area and/or securing the anticipated outcome of the NO₂ Plan. We do not consider such a business model to offer any effective mitigation measures to negate the detrimental impact and so we recommend that the application be refused.

Officer Response – Air Quality is not recommended for refusal due to the negligible impacts cited and the need to ensure the site remains capable of some form of redevelopment in the future.

5.13 **Southern Water** – No objection subject to conditions to secure protection of public sewer. The applicant should be advised that a wastewater grease trap should be provided on the kitchen waste pipe or drain installed and maintained by the owner or operator of the premises. Informatives also requested regarding connecting to the sewer and water supply. Southern Water have raised no concerns regarding existing foul capacity.

5.14 **Hampshire Constabulary** – Comments received:

The application is supported by a document entitled "Guidance for Managing Anti-Social Behaviour". Section 1.a, of this document, CCTV minimum standards, states that, "Franchisees are advised to adopt the McOpCo CCTV standards and principles to help protect people as well as the premises." To ensure that the CCTV system is to a standard to support a prosecution we would ask that should planning consent be given, the CCTV standards are conditioned so that those standards applying to a McDonalds owned restaurant apply to this restaurant regardless of the owner.

- 5.14.1 This is a residential street and to reduce the opportunities for anti-social behaviour we ask that the trading hours are reduced from midnight to 10pm. Within the building a WC lobby is shown, there is no natural surveillance of this area from within the restaurant, this increases the vulnerability of this space to crime and anti-social behaviour. To reduce the vulnerability of this space to crime and anti-social behaviour, a CCTV camera should be deployed within the WC lobby.
- 5.14.2 Care should be taken with the design of the building to ensure that features such as rain water down pipes and canopies do not facilitate easy access to the roof. The plans show a play area within which will be a covered piece of children's play equipment. We do have two reports concerning homeless people from within Hawkeswood Road, and there are further reports of rough sleepers using the park in Vespasian Road. This piece of equipment will provide an accessible place within which rough sleepers might spend the night. To reduce the opportunities for rough sleepers gathering and spending the night in the piece of play equipment, this type of play equipment should be omitted from the approved plan. If play equipment is to be fitted consideration should be given to fitting equipment that cannot be used to shelter within.

*Officer Response – The proposal seeks hours from 6am-midnight which is considered harmful to the residential amenities of neighbouring occupiers having regard to the nature of the use and proposed site arrangement.
It is considered unreasonable to remove/amend the children's play equipment because the merits of delivering play equipment is considered to outweigh any risks of rough sleeping.*

5.15 **SCC Trees** – No objection

A majority of the trees on site are of a fair to poor condition and the tree officer would find it difficult to argue the retention of the trees, however the Norway maple that is nearest to the Bitterne Road West junction is of a good quality and, as a well-established tree, this should remain within any design proposal for the site.

- 5.15.1 From the design submitted, there is an indication that there will be a good number of trees planted on site, but it does lack trees along the boundary of Bitterne Road West. As this is a busy road, it is vital to increase canopy coverage and understory planting in this area to help with pollution from the main road.
- 5.15.2 An arboricultural method statement should be secured for work within the root protection area of the retained trees and a landscape plan to show the size, location and large canopy species trees that will be planted on a 2 for 1 basis.

Further details on planting pit dimensions and design along with a programme of maintenance will also be required.

Officer Response – The proposal does not have an adverse tree impact having regard to the identified fair to poor condition of those trees to be removed and proposed replacement planting. The proposal does not result in any loss of trees along the Bitterne Road West frontage.

5.16 **Environment Agency** – No objection subject to condition to secure the following flood mitigation measures as set out within the submitted Flood Risk Assessment:

- As stated on page 5, finished floor levels shall be set no lower than 3.75m AOD (metres Above Ordnance Datum); and
- As stated on page 6, flood resilience measures will be incorporated into the design and conversion of the building to a minimum level of 4.18m AOD.

6. **Planning Consideration Key Issues**

6.1 The key issues for consideration during the determination of this planning application are:

- the principle of the development
- the impact on neighbouring residential amenities;
- highway safety;
- air quality impact;
- litter impact; and
- impact on public health

Principle of Development

6.2 The site does not have a site specific policy allocation and is situated just outside of the Centurion Industrial Estate employment allocation. The site was historically occupied for the sale of Caravan and Camping Equipment for trade customers only with authorised trading hours of 8am-6pm Mon to Fri, 8am-7pm Saturday and 10am-5pm on Sundays and recognised Public Holidays. A lawful use certificate was granted in 2017 for continued use of the site for A1 retail use without the trade customer restriction.

6.3 The National Planning Policy Framework defines drive-thru restaurants as a main town centre use and requires Local planning authorities to 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. The NPPF indicates that 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. 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 are required to

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.

- 6.4 Saved policy RE17 of the Local Plan Review which indicates that proposals involving Food and Drink uses (classes A3, A4 and A5 use) will be permitted in city, town, district, local centres providing that:
- (i) Appropriate planning conditions are imposed to prevent any undue noise or other forms of nuisance;
 - (ii) Any adverse impact on the amenities of neighbours can be prevented by the installation of sound attenuation by appropriate conditions;
 - (iii) The securing of appropriate measures to prevent adverse cooking odour; and
 - (iv) Acceptable measures are put in place to control litter.
- 6.5 The inclusion of the drive-thru element does limit the availability of sites of a suitable scale. Having reviewed existing nearby centres on the eastern side of the city, there does not appear to be any other sequentially preferable sites available. The Former Local Housing Office and car park, adjacent to the Itchen Bridge Toll Bridge in Woolston, cannot be included because planning permission has already been refused for a proposed McDonald's restaurant/drive-thru on that site. The appellants submission indicates that a 2012 Supreme Court Judgement [Tesco Stores v Dundee City Council (2012)] found that it was inappropriate to direct applicants towards smaller available town centre sites.
- 6.6 Therefore the proposed drive-thru restaurant is not considered to conflict with the NPPF requirements in relation to site selection having regard to the nature of use and the lack of availability of suitable sites within existing centres.

Impact on neighbouring residential amenities

- 6.7 The site is authorised for retail warehousing and/or retailing with the hours of use restricted to 8am-6pm Mon to Fri, 8am-7pm Saturday and 10am-5pm on Sundays and recognised Public Holidays, to protect the amenities of nearby residents.
- 6.8 The area has a mixed commercial and residential character. The site is situated outside of the employment land allocation to the south (policy RE10 v – Centurion Industrial Park) and is located in close proximity to residential housing and flats on the opposite side of Hawkeswood Road to the north. Hawkeswood Road is a narrow secondary street with a limited 10m separation distance between front boundaries of neighbouring housing and the boundary of the proposal site.
- 6.9 The nature and layout of the proposed restaurant drive-thru has different characteristics to the authorised retail warehouse use with a likelihood of increased noise and disturbance having regard to the proposed hours of use (6am-midnight), increased level of vehicular and pedestrian trips, drive-thru traffic and the introduction of an external dining and play area. These new impacts would be harmful to the residential amenities of neighbouring occupiers, particularly during the morning and evening when background noise levels are lower.

- 6.10 The submitted noise report by Acoustic Associates South West Ltd suggests that noise from drive-thru traffic and car parking activity (vehicle door slam and turning vehicles on/off) could have a greater noise level than existing background noise levels.
- 6.11 The supporting Transport Assessment by ADL Traffic Engineering Ltd indicates that the predicted busiest day of the week is Saturday for the proposed Restaurant and Drive-Thru showing a total of 908 drive-thru vehicles and a total of 618 separate vehicles using the car park between the hours of 6am-11pm. The maximum noise events from drive-thru and car parking traffic are likely to exceed the background noise levels on a regular basis, particularly during early mornings and late evenings, to an extent that is likely to cause sleep disturbance and would harm the residential amenities of neighbouring occupiers. Events such as vehicle door slam has a noise level of 88db LAeq, T and drive-thru-orders with engines idle have a noise level of 75db LAeq, T. These noise events should be considered in context with the predicted frequency of events and also having regard to background noise levels which are shown to be mid 40s db during the night and mid 50's db during the day.
- 6.12 Furthermore the nature of the proposed use can lead to instances of anti-social behaviour. Noise and disturbance arising from instances of anti-social behaviour such as raised voices or noise from car radios would represent an unreasonable imposition on neighbouring occupiers. The submitted noise report does not cover such events. The application is supported by management arrangements to tackle instances of anti-social behaviour. However the time lag between McDonalds staff and or Police dealing instances of anti-social behaviour, is likely to lead to events of noise and other disturbance that could disrupt sleep patterns and would be harmful to residential amenities of neighbouring occupiers.
- 6.13 The proposed introduction of a 2m height acoustic screen to mitigate against noise impact is considered out of keeping with the Hawkeswood Road street scene which conflicts with the sense of openness or natural surveillance within the street. The provision of landscaping to the front of the fence would not offer sufficient mitigation to screen the fencing and doesn't improve natural surveillance.
- Highway safety
- 6.14 The A3024 Bitterne Road West is a classified road and connects Southampton City Centre and Port with the M27 Junction 8 (in Hampshire). It is a key cross boundary multi-modal corridor that serves the wider Southampton Travel to Work area covering the residential areas of Southampton of Bitterne, Sholing and Thornhill and the housing and economic activities in Hedge End, Botley and Hamble. Highways England and Southampton City Council are implementing a package of highway junction improvements aimed at boosting productivity and supporting delivery of housing and jobs by easing congestion and improving journey time for all modes along the A3024 in Southampton.
- 6.15 The proposal will lead to a significant increase in right turn movements into/out of Hawkeswood Road. The existing junction design and traffic flows provide infrequent opportunities for right turn movements, particularly when exiting Hawkeswood Road. There are scarce opportunities when the signals turn red on BRW in the junction just north.

However, this scenario only occurs infrequently and will be for a limited time by the time the southbound vehicles queue back towards the Hawkeswood Junction which is when vehicles are likely to give way to right turn out movements or keep clear markings become effective.

- 6.16 On the northbound, the gap would be subject to the amount of vehicles turning left out of the Industrial Estate as the only gap would be between northbound vehicles stopping for the red lights and vehicles from the industrial estate turning left reaching Hawkeswood Road.
- 6.17 The difficulty in making these right turn movements would lead to increased risk taking by drivers and obstruction to traffic flows on Bitterne Road West. Therefore the proposal would have an unacceptable impact on highway safety and the residual cumulative impacts on the road network could be severe, contrary to saved Local Plan policy TI2 and paragraph 109 of the NPPF.
- 6.18 It is noted that the submitted Transport Assessment has placed significant weight on the fall-back position of a permitted change to food retail within use class A1. The existing site is vacant and was previously occupied for non-food retail. It is acknowledged that guidance on the preparation of Transport Assessments indicates that where the site is vacant or partially vacant, the person trips which might realistically be generated by any extant planning permission or permitted uses become relevant (see section 4.7 of DCLG Guidance on Transport Assessments). It is considered that the Transport Assessment should have been based on baseline data for non-food retail, to clearly show the new transport impacts from the proposal on the highway. The TRICS database can provide information on different retail types (food or non-food retail) not just a worst case scenario.
- 6.19 The weight to give to the suggested fall-back position of A1 food retail is a matter for the decision maker. To be given weight there should be a prospect of the fall-back position occurring. The Courts have determined that the basic principle is that for a prospect to be a real prospect it does not have to be probable or likely, a possibility will suffice (see (Mansell v. Tonbridge & Malling Borough Council [2017] EWCA Civ 1314).
- 6.20 The possibility of the site coming forward for A1 food retail has been considered against the existing hours of use controls which do not reflect the trading hours generally sought by food retailers in the Transport Assessment. Tesco, Sainsbury's and Co-Op generally seek hours of 7am-10pm Mon-Sat and 10am-5pm Sundays. Planning permission for increased hours of use on this site is not a given because the existing hours of use were imposed to protect the residential amenities of neighbouring occupiers. In light of the existing hours of use controls, it is considered that reduced weight should be given to the fall-back position for food retail. Furthermore it is noted that the TRICS data in the Transport Assessment appears to be based on trading hours of 7am-11pm which provides an unrealistic picture in terms of the assessment is an unrealistic picture of the historic transport impacts. The submission does not provide any analysis of the proposed trips against the historic non-food retail situation to enable a fair assessment to be made.

6.21 The new impacts arising from increased right turn movements into and out of Hawkeswood Road, when assessed against historic non-food retail trips or the trips associated with food retail with restricted hours, would have an unacceptable impact on highway safety. On request, TRICS data has been provided to show the vehicle trip rates for non-food retail. This data shows 46 vehicle in movements during the Saturday peak (13:00-14:00). The proposed drive-thru restaurant is shown to generate approximately 237 in movements during the same period. Therefore the proposal would lead to a significant increase in right turn in/out movements at the Hawkswood Road/Bitterne Road West junction

6.22 It is noted that the submitted Transport Assessment recommends no mitigation measures other than a highway condition survey to ensure that any damage of the highway arising from construction works is remedied. Had the scheme been acceptable in all aspects officers would have sought to seek highway mitigation measures through a S106 legal agreement

Air Quality Impact

6.23 The Air Quality Assessment undertaken to support this scheme reports that there is a negligible increase in nitrogen dioxide concentrations arising from the proposed scheme, as agreed by the Council's Scientific Officer. However whilst outputs from the scheme are shown to be negligible there is concern regarding the cumulative impact on air quality, given the site is adjacent to an existing air quality management area (AQMA 2 - Bitterne Road West).

6.24 It is not considered possible to substantiate a reason for refusal based on air quality from one individual development where nitrogen dioxide output is shown to be negligible. The cumulative impact of a number of small developments on air quality will need to be tackled strategically through the new local plan. National Planning Practise Guidance on Air Quality indicates that Local Plans may need to consider the potential cumulative impact of a number of smaller developments on air quality as well as the effect of more substantial developments. The Local Plan can affect air quality in a number of ways, including through what development is proposed and where, and by encouraging sustainable transport.

6.25 The proposal is not considered contrary to saved policy SDP15 (air quality) of the City of Southampton Local Plan Review (March 2006) because this proposal would not contribute significantly to an exceedance of National Air Quality Strategy Standards.

Litter Impact

6.26 Planning permission cannot be refused for litter impact, providing provision has been made for litter bins on the premises as required by saved policy RE17 (iv). The site plan indicated that provision has been made for 6 litter bins and therefore the scheme is compliant with development plan policy. The impact of litter outside of the application site is controlled specifically under the Environmental Protection Act 1990 Part IV, rather than through planning legislation or policy. The planning application is supported by a Litter Management Plan which indicates that litter collections up to 100m from site up to 3 times a day and collections from residents gardens (by agreement) may be undertaken, subject to a management assessment.

6.27 Impact on Public Health

Planning is responsible for land use and planning permission cannot be refused based on health concerns associated with fast food. The Council does not currently have any adopted planning policies which control the location of new fast food outlets on health grounds (including where such uses are close to schools the nearest in this case being Bitterne Manor Primary School, located 0.5miles to the east).

6.28 Habitat Regulations

The application site is in close proximity to the following protected sites:

- Lee-on-the Solent to Itchen Estuary SSSI
- Solent & Southampton Water SPA & Ramsar

In the event the application was to be approved, the decision maker would need to include an Appropriate Assessment under Regulation 63(1) of The Conservation of Habitats and Species Regulations 2017. This has not been undertaken because the application has been recommended for refusal.

7 Summary

7.1 The proposed restaurant/drive thru by reason of its close proximity to residential neighbours in Hawkeswood Road, and the proposed late night/early morning use (6am-midnight) will lead to harmful noise and disturbance arising from the outdoor seating/play area, general comings and goings and from car parking and drive-thru activity, to the detriment of the residential amenities of nearby occupiers. Furthermore the proposed 2m acoustic fence/ to mitigate against noise and visual impact would be out of keeping with the character and appearance of Hawkeswood Road street scene.

7.2 The proposal would lead to a harmful intensification of vehicular trips to/from the site. The increased right turn movements into and out of Hawkeswood Road would prejudice highway safety and lead to severe obstruction to traffic flow on Bitterne Road West, a main arterial route which has been identified by Highways England as requiring major improvements to improve traffic flow. Therefore, the proposal would have an unacceptable impact on highway safety and the residual cumulative impacts on the road network would be severe.

7.3 In reaching this decision, regard has been had to the possibility of the fall-back position for A1 food retail. Reduced weight is given to the fall-back position given the existing hours of use controls and this fall-back position is not considered to negate the public safety risk arising from the proposed traffic increase.

8 Conclusion

8.1 The positive aspects of the scheme in terms of economic growth and bringing the site back into use are not considered to outweigh the negative residential amenity and highways impacts arising from the proposed drive-thru restaurant and as such the scheme is recommended for refusal.

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

1 (a) (b) (c) (d), 2 (b) (c) (d), 4 (f) (g), 6 (a) (c), 7 (a), 9 (a) (b)

AG for 04/06/2019 PROW Panel

POLICY CONTEXT

Core Strategy - (Amended 2015)

CS3	Town, District and Local Centres, Community Hubs and Community Facilities
CS6	Economic Growth
CS7	Safeguarding Employment Sites
CS13	Fundamentals of Design
CS18	Transport: Reduce-Manage-Invest
CS19	Car & Cycle Parking
CS20	Tackling and Adapting to Climate Change
CS25	The Delivery of Infrastructure and Developer Contributions

City of Southampton Local Plan Review – (Amended 2015)

SDP1	Quality of Development
SDP4	Development Access
SDP5	Parking
SDP9	Scale, Massing & Appearance
SDP10	Safety & Security
SDP16	Noise
HE6	Archaeological Remains
REI7	Food and Drink Uses

Supplementary Planning Guidance

Planning Obligations (Adopted - August 2005 and amended November 2006)
Parking Standards 2011

Other Relevant Guidance

The National Planning Policy Framework (2019)
The Southampton Community Infrastructure Levy Charging Schedule (September 2013)