

PLANNING COMMITTEE



Application Address	7 Bailey Drive Unit 8A Christchurch BH23 2BN
Proposal	Demolition of existing Class E(b) unit, construction of a replacement construction Class E(b)/Sui Generis (including take away) use, with associated car park and site alterations.
Application Number	8/21/0386/FUL
Applicant	St. James Place Property Unit Trust
Agent	Mr Kirill Malkin
Date Application Valid	14 April 2021
Decision Due Date	9 June 2021
Extension of Time Date (if applicable)	
Ward	Christchurch Town
Report status	Public
Meeting date	23 September 2021
Recommendation	Approve subject to conditions
Reason for Referral to Planning Committee	<p>Number of objections has exceeded the 20 trigger and it has been called in by Cllr Cox for the following reasons;</p> <ul style="list-style-type: none">- Contrary to NPPF 91c 'Planning policies and decisions should aim to achieve healthy, inclusive and safe places which.. enable and support healthy lifestyles' <p>Location of this outlet so close to 2 schools would cause long term and short term health and safety issues</p>
Case Officer	Sophie Mawdsley

Description of Development

1. The application seeks permission for the demolition of the existing Class E(b) unit, construction of a replacement construction Class E(b)/Sui Generis (including take away) use, with associated car park and site alterations.
2. The restaurant (McDonalds) and drive-through takeaway service would occupy 372 sqm and operate 24 hours a day. As part of the re-development there are 6m high lighting columns around the site; alterations to the parking layout and changes to the soft landscaping around the site.

Key Issues

3. Principle of the development
4. Health issues
5. Design, form, scale and layout
6. Trees and Landscaping
7. Access and highway arrangements
8. Impact on amenities
9. Contaminated land
10. Biodiversity

Planning Policies

11. Development Plan: **Christchurch and East Dorset Core Strategy 2014**
 - KS1: Presumption in favour of sustainable development
 - KS2: Settlement Hierarchy
 - KS9: Transport Strategy and Prime Transport Corridors
 - KS11: Transport and Development
 - KS12: Parking Provision
 - HE2: Design of New Development
 - HE3: Landscape Quality
 - ME1: Safeguarding Biodiversity and Geodiversity
- Saved policies of the Christchurch Borough Council Local Plan (2001)**
- ENV3 Pollution and existing development

Supplementary Planning Documents

- BCP Parking Standards SPD 2021
- Christchurch Character Assessment

The National Planning Policy Framework (2019)

12. Paragraph 11 sets out the presumption in favour of sustainable development.

'For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁷; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole⁹.

The relevant sections are;

Section 2 Achieving sustainable development

Section 8 Promoting healthy and safe communities

Section 12 Achieving well-designed places

Section 15 Conserving and enhancing the natural environment

Relevant Planning Applications and Appeals

- 8/95/0090 – 67 dwellings; restaurant, retail park for 7 non-food retail units in 2 blocks; industrial development (class B1) public open space inc former officers mess and access, parking and servicing'. Approved 12/1995

Condition 13 states; 'Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, there shall be no off-sales of hot food of any description from the Class A3 premises without the prior written consent of the Local Planning Authority'

Reason: To protect the amenities of the area

- 8/14/0223 – Erection of two A3 units within the car park. Approved September 2014

Public Section Equalities Duty

13. In accordance with section 149 Equality Act 2010, in considering this proposal due regard has been had to the need to –

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Representations

14. **97 objections** have been received on the following grounds;

Highways

- Barrack Road already heavily congested and not just at peak times
- Traffic chaos from queuing traffic
- Increased traffic results in more accidents
- Bailey Bridge roundabout is an accident hotspot
- Road infrastructure cannot support a drive-through/fast food outlet
- Greater risk to local children's safety
- Area dangerous around school run times
- Affect emergency vehicle access along Barrack Road
- Cyclists put at increased risk
- Cumulative impact with increased housing proposed in area
- Opening of Lidl's and McDonald's – car park and road even more congested
- Concern only one entrance into Retail Park
- Limited safe crossing places for pedestrians accessing the retail site
- No additional safe crossing proposed
- Traffic assessment carried out in lockdown so not representative and didn't take into account summer months
- Avenue Road is a cut through and proposal will exacerbate the issue

Health

- Adjacent to two schools
- Shocking to have fast food outlet opposite schools

- Encourage children to lead unhealthy lifestyles
- We have a national obesity crisis
- Unhealthy eating habits
- As a society and community we have a responsibility to safeguard the health of our children
- Undermine healthy living Christchurch Infant and Junior Schools promote
- Pizza hut not open for breakfast and children don't have time or funds to sit and order pizza
- We need community spaces, green areas and parks, not more fast food
- Health and Social Care Act 2021 – Local Authorities should embed public health functions into all their activities

Amenity

- Late night business result in disturbance to local residents
- Oppose 24 hour opening
- Increased noise
- Increased litter
- Impact on safety and well being of children
- Odours
- Food packaging waste pollution will increase
- Light pollution
- Detrimental to the school community

Other

- Congregation of youths and antisocial behaviour
- Loitering
- McDonalds already present at Somerford and Castle Point – another one is excessive
- Suited to less central location
- Christchurch has more than enough fast food options and cafes
- Existing businesses affected
- Affecting parking in rest of retail park
- Not serving local community
- Give independent businesses a chance
- Out of character

- Meant to be supporting climate change initiatives not allowing the ripping up of rainforest and increasing cattle numbers.
- No more employment than Pizza Hut
- Already sufficient consumer choice with Subway and Costa

15.5 **support** representations have been received on the following grounds;

- Alleviate congestion at McDonalds on Somerford Road
- Employees sent out to litter pick
- Employment
- Asset to the community
- Prime location
- Provision of a new healthier menu, can educate youth to eat healthier options.

Consultations

- **Wessex Water** – No objections. Provides information on new drainage and water supply connections and surface water management.
- **Dorset Police Crime Prevention Design Advisor** - None received
- **Bournemouth Airport Safeguarding** - No safeguarding objections to this development provided there are no changes made to the current application.
- **BCP Trees & Landscaping** – ‘The Officer has seen the Memorandum from the Arboricultural consultant, dated 29/07/21, in response to their initial tree and landscape comments. The Officer acknowledges the points made but remains concerned about the proposed works, cutting back of vegetation and turf lying were required, near to London Planes (34, 35, 37, 39 & 41). However, the Officer accepts details of this can be confirmed during the pre-commencement site meeting between the Tree and Landscape Case Officer, Site Manager and Arboricultural consultant.

The Officer notes the comments concerning the placing of the lighting columns. However, remains concerned about the future need to prune back the canopies of London Planes (37, 39 & 43) and questions whether all the light columns are required. Finally, the Officer would rather that London Planes are planted to replace the ones removed, in this case’.

- **BCP Environmental Health** – ‘The Noise Impact Assessment concludes that attenuation is required so as not to have a significant impact on residential properties. Therefore I recommend a condition securing the mitigation measures.

I have read the Odour Control Statement by CDM Partnership. Ref 210124. The proposed grease and odour control measures exceed the requirements.

A Demolition & Construction Method Statement needs to be submitted and agreed by the LPA before construction commences. It needs to detail how nuisances (noise, odour, dust, smoke) will be avoided. It should also detail the times of works on site.

Contamination – The Site is located within a historical military base and is classed by BCP Council as having a ‘High’ risk of historic contamination. Based on the drawings contained within the report, a single exploratory hole was progressed within the planning application Site. A gas risk assessment and controlled waters risk assessment was not carried out as part of the Voelcker Phase II report, and the human health, built environment and ecological risk assessments are now considered outdated. Due to the lack of coverage within the proposed development site it is considered that the environmental assessments to date are insufficient to appropriately establish the condition of the Site and the presence of pollutant linkages. Recommend land contamination condition’.

- **Christchurch Town Council** – None received
- **BCP Highways** – ‘Based on the submitted application form, the existing car park arrangement accommodates circa 397 car parking spaces including 25 disabled spaces and 3 spaces for parents, with additional car parking within the service yard.

Car Parking - The proposals include the creation of the drive-thru lane with a loss of 26 parking spaces thereby reducing the parking provision within the application site from 52 to 26 spaces. Subsequently, the overall provision of parking spaces within the retail park reduces to 371 spaces including 25 disabled spaces, 16 for parents with small children and 2 Grille Bays.

The accompanying Transport Statement (TS) includes survey details with an identified peak demand for up to 283 spaces at 1200 on the Saturday afternoon, equivalent to an occupancy of 71% on the baseline 397 spaces. This is well within a typically accepted margin of space availability.

The LPA adopted in January 2021 a BCP wide Parking Standards SPD (Parking SPD). The site is located within Zone B. This proposal results in a net increase of 117sqm of gross internal floorspace of Class E(b) & Sui generis (Hot food takeaway) use. As per Table 17 and Table 29 of the Parking SPD, on specific onsite parking provision is required for either use in this location, the use of public car parks is acceptable. Consequently, use of spaces within the wider retail park is expected and given that the submitted TS has demonstrated ample capacity is available despite a reduction in overall spaces then the proposed arrangement is considered to be acceptable.

It is noted that the parking spaces measuring 2.5m x 5m are now marginally substandard in width when considered against the Parking SPD standard width requirement of 2.6m. Whilst it would be beneficial to widen the spaces to the LPA's new SPD standard, the proposed spaces are considered to be useable and exceed the width of existing, adjacent spaces within the retail park and also exceed length requirements detailed within the new Parking SPD (4.8m). The spaces and adjacent pedestrian access routes are to be laid to tarmac without any physical segregation thereby providing an effective manoeuvring aisle of 6m for each parking space.

The provision of EV charging points would be beneficial however, given that this proposal is essentially re-arranging an existing parking arrangement without such provision, the proposed development is not considered to necessitate such provision to make the application acceptable in highway terms.

Trip Generation and Highway Capacity - The potential number of trips associated with the proposals has been estimated based on trip rates from the TRICS database and surveys at existing McDonald's restaurants with the flows distributed onto the local highway network pro-rata to flows recorded in May 2019 with reductions applied for secondary trips. Table 3.2 of the TS indicates that between 117 and 128 vehicles will arrive and depart the proposed development during peak hours (13:00-14:00) on a Saturday thus resulting in one vehicle entering/exiting the public highway approximately every 30 seconds.

In addition, the Barrack Road / Bailey Road 3 arm roundabout junction has been modelled using ARCADY, the standard tool for assessing the capacity of roundabouts. The results suggest that the roundabout currently operates within capacity with short queues on each of the approaches. Queue surveys indicate that queues of 20 or more vehicles were observed on the south-eastern arm between 0900 and 0915 and again between 1745 and 1830, albeit with shorter queues during the modelled peak hours. It should be noted that the queues are most likely a result of exit blocking with vehicles merging into one lane and a signalised pedestrian crossing a short distance to the north rather than as a result of the Bailey Roundabout itself. Table 3.6 of the TS summarises the results of the Development Scenario ARCADY capacity assessments which illustrate that proposals associated with this planning application would not affect the operation of the junction in its own right, with marginal increases in the ratio of flow to capacity (0.22-0.52) and no material changes in queues (max. 2 cars) during peak times. Consequently, this proposal would have minimal impact on the efficient operation of the road network and would not result in a detrimental impact on the safety of road users.

Given the size of the unit and the anticipated number of trips by customers and staff, the adoption of a Travel Plan is expected.

Servicing - The servicing arrangements remain unaffected by this proposal with both the existing and proposed units being serviced from the car park, as is common with retail park units across the country. It is anticipated that the restaurant would have on average 3 to 4 deliveries per week, all of which would be scheduled to avoid peak hours. Such details can be secured via condition.

Cycle Parking - There is current parking for at least 20 cycles in the form of 10 Sheffield stands within the Retail Park which includes 5 stands adjacent to Subway and 5 stands along the retail frontage. The proposals associated with the consented LIDL include the provision of 6 additional stands catering for 12 bicycles in the vicinity of the new LIDL thereby increasing the overall provision to 32. There is currently no cycle parking in the vicinity of the application site (Unit 8), as such, the proposals include parking for up to 8 cycles.

The external Sheffield type stands are of adequate design to serve visitors to the site and are positioned in a prominent, easy to access, location. The proposed 8 cycle spaces satisfy the benchmark requirement associated with 372 sqm of floorspace for the proposed uses, which require 1.5 spaces per 100sqm, Tables 17 and 29 of the Parking SPD refer.

RECOMMENDATION: The Local Highway Authority has no objection subject to the imposition of conditions'.

- **BCP Waste and Recycling** - 'McDonalds have highly organised refuse management plans with internal collections and contracts awarded to national operators, our main interest is in the details and scheduling and scope of the additional litter picking patrols. Submitted documents should contain a refuse management plan (RMP) and a neighbourhood litter patrol schedule detailing the requirements listed in the WCA response'.

Constraints

- SSSI Impact Risk Zone - 0.00m
- Highways Inspected Network - 6.33m
- Heathland 5km Consultation Area - 0.00m
- Airport Safeguarding - 0.00m
- Wessex Water Sewer Flooding - 0.00m
- Coastal Area (Open Spaces) - 179.06m
- Contaminated Land - High Risk - 0.00m
- Tree Preservation Order - 0.00m

Planning Assessment

Site and Surroundings

16. The site is currently occupied by a Class E premises, Pizza Hut on an existing Retail Park to the west of Christchurch town centre but within the Local Centre of Barrack Road in the urban area. Within the Retail Park, there is also a Subway and Costa Coffee.
17. The locality is characterised by a mix of uses, including retail, car sales, cafes, takeaways and residential. Access to the retail park is provided from Bailey Roundabout on the A35 (Barrack Lane) via Bailey Drive.

Key Issues

Principle of development

18. Paragraph 11 of the NPPF states that decisions should apply a presumption in favour of sustainable development. Having regard to 11d) it is considered that whilst development plan policies on the provision of housing are out of date given the five year housing land supply issues, the relevant policies in the determination of this proposal are not considered to be out of date. The potential adverse impacts of the proposal will be explored below.
19. Policy KS7 of the Local Plan identifies that Town and District Centres are to be the focal point of commercial, leisure and community activity including employment, retail and leisure. This Policy also states that a sequential assessment needs to be undertaken for main town centre uses that are not in an existing centre. Preference is given to the town centre, then edge of centre locations which are well connected to a centre by easy pedestrian access. The NPPF also states in paragraph 87;
'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'.
20. The applicant has undertaken a sequential assessment of the proposal and has provided details of their business model for this development which has an impact on the type and location of sites that are suitable for the McDonalds restaurant and drive through business. This includes; space for the drive-through lane and servicing facilities; the forecasted demand; location of the site with strong bypass traffic movement and the building would replace an existing Class E business on an existing retail park. The Planning Statement states; *'It is also important to note that the proposals are progressed on a locational specific basis. In order for a drive-through restaurant to be commercially viable, along with the identified fundamental*

business model requirements, it is essential for the proposed development to generate sufficient footfall’.

21. The applicant’s sequential approach has focused on Christchurch town centre. Whilst there are other town centres identified within the Local Plan in East Dorset, given Christchurch is now part of BCP Council it is considered that it would not be reasonable to consider these. 25 vacant premises have been identified within the High Street and Bargates. However, they have been discounted due to their inadequate size, lack of external space for the drive-element of the scheme.
22. Given the specific requirements for this type of restaurant with drive-through facility, the sequential approach and the results are accepted. The site is less than 500 metres from the town centre along one of the primary routes into Christchurch. Therefore, it is considered the sequential test has been passed and the proposal is in accordance with Policy KS7 of the Local Plan. Furthermore, given there is an existing Class E (restaurant) building that occupies the site, its replacement building for a similar E class building with the additional ancillary takeaway use is also considered to be acceptable.
23. Policy KS7 also refers to impact assessments; however this is not required in this instance as it specifically refers to retail developments over 1000 sqm of floor space and the proposal provides for 372 sqm of gross floor space.
24. The site lies along a Prime Transport Corridor (the A35) as defined in Policy KS9 in the Core Strategy which requires development will be located along and at the end of the Prime Transport Corridors in the most accessible locations. Objective 6 of the Local Plan advises that development will be located in the most accessible locations, focused on prime transport corridors and town centres.
25. The supporting Planning Statement confirms that the development would result in the creation of up to 65 full and part time employment opportunities. The documents also provides details on training courses, both internally and providing externally recognised qualifications. The closure of Pizza Hut, which occurred in September 2020 means the site is now vacant.

Health

26. The Local Plan does not have a Policy which specifically covers health and lifestyle issues and choices associated with Class E uses and takeaways. However, Paragraph 92 (c) of the NPPF states;
 - ‘Planning policies and decisions should aim to achieve healthy, inclusive and safe places which;
 - c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports

facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.’

27. It is clear from the representations received that there is a significant amount of concern about the provision of takeaway food from the proposed end user within close proximity to an Infant and Junior school and walking distance from the Secondary school. It is recognised that the impact on the healthy lifestyle choices and eating habits of children is of concern to many of the local residents. However, the NPPF does not prevent this form of development in these locations and there is no Local Plan policy to restrict such developments within a specific distance of a school. Whilst the previous occupier Pizza Hut did not provide a drive-through, this use fell within the same Class E use class as currently proposed.
28. Whilst the concerns are recognised and taken on board, it is not considered that this application could be refused for these reasons as there are no Local Plan policies or national guidance to base a refusal on. The proposed user (excluding the drivethru) could operate from the existing building on the site. If granted, the planning permission would be for the development as described in the proposals (Class E(b)/Sui Generis (including take away) and not specifically for McDonalds. Consequently the health impacts of the scheme are considered to be acceptable.

Design, scale and layout

29. The proposed building is a single storey flat roofed building with differing roof heights. The highest element would measure 6m. The external elevations would consist of an extensive area of glazing on the front (north-west) side of the building and to the south west where the takeaway/drivethru opening would be located. The building would consist of a mixture of timber effect cladding panels, grey cladding panels and dark grey bricks. The building would have a contemporary appearance but given its single storey height and existing backdrop of the retail park to the south west, it is not considered to harm the visual amenities of this mixed-use area or appear intrusive within the street scape. The landscaping around the site between the building and the highways will also provide a buffer and soften the impact of the development and specifically, the large areas of hard surfacing.
30. There are presently 12 lighting columns proposed around the site and currently there is only one within the application site for Pizza Hut within the Retail park. There are some concerns that this number of columns will create too much clutter on the site and it had been requested that the number of columns is reduced to a maximum of 8 to reduce the cluttered affect on the site and within the locality. However, the applicant has responded stating that the number of lighting columns has been driven by the need to provide appropriate lighting levels to ensure safety and security of staff and customers. On balance and given the location of the site within the Retail

Park and adjacent to the A35 it is considered the lighting scheme is just about acceptable.

31. The proposed layout and design form of the building is considered to be acceptable and given the proposed scale and the surrounding larger retail units, the scheme is considered to be in accordance with Policy HE2 as it is compatible with its surroundings.

Trees and Landscape

32. The site is surrounded to the north-east and south-east by existing landscaping adjacent to the highway and it is considered to provide a green buffer between Barrack Road and the adjacent Retail park within this urban location. This area is now also subject of a recent TPO (TPO 2021 No 9) which includes 11 x London Planes, 1 x Oak and 15 x Maple. Some of the existing landscaping along the south eastern boundary will be cut back to facilitate the development, specifically the drive-through access. There were some concerns from BCP Tree and Landscaping Officer regarding the proposed removal of landscaping within the root protection areas (RPAs), the proposed turf laying in the RPA's and lighting columns near the TPO trees. However, the applicant has responded to these concerns and it is now considered with appropriate conditions, that the existing landscaping and TPO trees would not be unduly harmed by the proposal.
33. There are 4 trees proposed to be removed as part of the proposal including a cedar gum in the north west corner, and 3 x London Planes along the southern boundary and main entrance. They have been categorised as B and C specimens. The loss of these 4 trees is accepted given the proposed landscaping includes replacement planting in the north west corner of the site; areas of new turf adjacent to the existing landscaped areas and new planting along the southern boundary of the site as you enter the site from Bailey Drive. However, an updated landscaping scheme is required to ensure the most appropriate species are planted and to secure the landscape management of the site. This can be secured by condition.
34. With these safeguards, the scheme is considered to have acceptable impacts on landscape features in the area and complies with Policy HE2 & HE3.

Highways impact

35. The site is located within the existing Christchurch Retail Park located off Bailey Drive. There is parking for up to 406 cars in the car park including 25 disabled spaces with access taken from Bailey Drive and 3 spaces for parents with small children. The car park is effectively split into two areas, with 152 spaces to the north of the southern terrace, and the remainder to the north of the main access aisle and south of the A35.
36. As highlighted by BCP Highways, the proposals include the reconfiguration of the parking in the vicinity of Unit 8 to create the drive-thru lane with a loss of

26 parking spaces thereby reducing the parking provision within the application site from 52 to 26 spaces. Subsequently, the overall provision of parking spaces within the retail park reduces to 371 spaces including 25 disabled spaces, 16 for parents with small children and 2 Grille Bays.

37. Having regard to the BCP Parking Standards SPD 2021 the site is located within Zone B. This proposal results in a net increase of 117sqm of gross internal floorspace of Class E(b) & Sui generis (Hot food takeaway) use. As per Table 17 and Table 29 of the Parking SPD, no specific onsite parking provision is required for either use in this location as the use of public car parks is acceptable. Consequently, use of spaces within the wider retail park is expected and given that the submitted TS has demonstrated ample capacity is available despite a reduction in overall spaces, then the proposed arrangement is considered to be acceptable. The proposed 8 cycle spaces satisfy the benchmark requirement of the SPD associated with 372sqm of floorspace for the proposed uses, which require 1.5 spaces per 100sqm.

38. A draft Travel Plan accompanies the application which aims to reduce unnecessary vehicular trips and increase the use of alternative more sustainable modes of transport. The measures to be introduced are;

- Welcome packs for staff on sustainable travel options
- Noticeboards with bus stop locations, car sharing, public transport opportunities and local facilities information
- Employment of a Travel Plan Co-ordinator

39. Objections have been received regarding the traffic flows associated with the drive-through given the existing levels of traffic on Barrack Road and the potential highway safety impacts, especially given the proximity of the Infant School and Junior School to the North East of the application site. There is a controlled Toucan pedestrian crossing to the east of the Bailey Bridge roundabout and an informal crossing to the west close to the western edge of the Retail park on Barrack Road.

40. The Transport Statement submitted with the application has assessed the current traffic flow rates and capacity assessments on Barrack Road and the Bailey Bridge roundabout. The Statement states;

‘The assessment illustrates that proposals associated with this planning application would as with the consented LIDL not affect the operation of the junction in its own right, with marginal increases in the ratio of flow to capacity and no material changes in queues’.

BCP Highways are satisfied with this conclusion.

41. It is recognised that this is a busy area, in particular at rush hour and at the start and end of school. The applicant is aware of the Lidl development within the Retail Park and data from their Transport Assessment has been taken into account. However, the evidence before us shows that Barrack Road has

the capacity to absorb the projected vehicle movements associated with the proposal and as such the proposal is considered to be in accordance with Policy KS11 by providing safe access onto the existing transport network and allowing safe movement of development related trips on the immediate network.

42. The proposal is considered to be in accordance with Paragraph 110 of the NPPF as it would not have a significant impact on the transport network and complies with the test in para. 111 as the residual cumulative impacts on the road network would not be severe. Sustainable transport modes will be promoted through the Travel Plan and given the sustainable location of the site and there is safe and suitable access to the site for all users. The scheme therefore has acceptable transport impacts.

Amenity

43. Policy HE2 states that development will be permitted if it is compatible with its relationship to nearby properties including minimising general disturbance to amenity. Saved Policy ENV2 states that a proposal for development which creates noise, discharges or emissions to the environment... will not be permitted if the health, safety or amenities of the users or occupants or nearby land will be materially harmed..., unless any potential pollution problems can be overcome by mitigation measures.
44. The site is within a mixed use locality, with both commercial and residential uses found along Barrack Road. The closest residential properties (75 to 91 Barrack Road) to the application site are positioned opposite the Retail Park in excess of 60 metres away from the proposed building. A noise assessment has been submitted as part of the application. The noise emission levels have been determined from the following sources; vehicles accessing the site and moving towards the drive-through kiosk; cars idling whilst queuing; ordering and paying; car leaving the site and the car park. The noise emissions from the proposed plant on top of the building's roof has also been considered.
45. The noise levels from vehicular site activity are below the WHO Guidelines' guideline values of 50 to 55 dB in the day and 45 dB at night. Therefore, based on a WHO Guidelines assessment, the site noise impacts can be assumed to be negligible, both during the day and night. However, the assessment concludes that there would be noise from mechanical services above background noise levels at night and as such the plant would have a significant impact at residential properties. Therefore, it is proposed that an in-line attenuator is installed at the discharge of the kitchen extract which would provide 15 dB attenuation. Furthermore, the roof mounted extract plant must be enclosed which will reduce levels by 20dB. BCP Environmental Health have considered this report and are satisfied with the conclusions and recommend a condition to secure the noise mitigation levels.

46. An Odour Assessment forms part of the submission given the nature of the use and the type of cooking associated with the anticipated end user McDonalds. The report concludes the overall odour risk rating of the restaurant is 'High'. This denotes that it would require a high level of odour control as defined by The Guides to minimise the risk of odour impacts in this situation. Therefore, a number of mitigation measures have been proposed including;

- Odour and grease abatement system
- Extract canopy filtration
- Electrostatic Precipitator (ESP) - 'fine filtration' for further removal of airborne grease particles
- UV-C In-Duct Ultra-Violet Treatment - oxidise the very small airborne grease particles having passed through the ESP filters
- Carbon filters
- The kitchen exhaust will terminate at the highest point of the building,

47. The report concludes; "The proposed grease and odour control measures exceed the requirements of 'Very High' control band and have demonstrated effective eradication of odours when used previously". BCP Environmental Health have again confirmed that the mitigation measures exceed the requirements but suggest conditioning the proposed measures as outlined above. With these mitigation measures in place, it is considered there would be an acceptable impact on the amenities of residential properties within the vicinity and users of the Retail Park.

48. Given the proposed 24 hours opening of the premises, the lighting from the 12 columns does raise some concerns. It is appreciated that this is a mixed use area and the lighting plan does indicate that the light levels reduces to 1 lux at Barrack Road. As stated above, the number of lighting columns is not being reduced by the applicant. They have confirmed that the lights will be controlled by a combination of photocells and timelocks so they will only be illuminated from dusk till dawn. This can be controlled through condition. It is considered their presence will have an acceptable impact on local residents.

49. Condition 13 of the original permission in 1995 prevented hot food takeaway from the site for amenity reasons. Since 1995, there have been material changes in the Development Plan and this proposal for a Suis Generis takeaway use has been considered against the current Development Plan, specifically policies HE2 and ENV3 as outlined above in this report. The mitigation measures proposed for the potential odour nuisance and noise associated with the extraction system have been mitigated and as such the proposal is considered to be in accordance with policy ENV3.

Contaminated Land

50. The site lies on former military land and as such is classified as contaminated land. The applicant has submitted a Preliminary Risk Assessment report to cover this matter; however it is dated 2012 and as such is not considered to be sufficiently up to date and not specific enough to the application site. Mabbett and Associates, on behalf of the Council have assessed this PRA report and given its age have recommended a full Contaminated Land condition including a Preliminary Contamination Risk Assessment (Phase I), Site Investigation, Remediation Scheme and Reporting of any unexpected contamination.
51. With these safeguards, the scheme is considered acceptable in this regard.

Waste Management

52. The Planning Statement puts forward that McDonalds waste management strategy is based on is based upon the hierarchy: Design, Reduce, Reuse, Recycle and Disposal. It has been confirmed that refuse and recycling bins will be stored within the corral as identified on the site plan and ground floorplan. The BCP Waste team have stated; they are confident with the policies and procedures that McDonald apply but wish to see a refuse management plan including litter patrol procedures. This can be secured by condition.
53. The representations have referred to an increased level of litter associated with the development and the management plan will ensure the company have in place adequate measures to minimise litter within the immediate area of the site. However, the behaviour of some customers with regards to the dropping of litter further afield is beyond their control and beyond the scope of conditioning through this planning application. With the above safeguards, the application is considered to be acceptable in this regard.

Biodiversity

54. The NPPF 2021 in paragraph 180 d) states; 'development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate'.
55. This proposal offers opportunities to provide biodiversity net gains and although not specifically identified on the submitted plans, a condition can be used to secure these enhancements. This will then comply with NPPF.

Summary and Planning balance

56. Having had full regard to the representations received and the concerns they raise and the consultation response, it is considered the scheme is

acceptable. The potential adverse impacts of the scheme including, the traffic generation; impact on healthy lifestyles and eating habits of children and young people; amenity issues from odour and noise and the impact on protected trees need to be balanced against the economic benefits of the scheme including the provision of employment; the social benefits of the development with the provision of training and qualification opportunities; and the environmental benefits of biodiversity enhancements being incorporated into the scheme; a well designed building on an existing Retail Park within a sustainable location and the provision of a Travel Plan.

57. It is considered the adverse impacts have been mitigated and the scheme complies with the Development Plan as a whole and overall, it is considered the proposal results in a sustainable form of development and is compliant with the NPPF. Therefore, the balance is weighted in favour of approving the application with a number of conditions.

RECOMMENDATION

APPROVE subject to the following conditions;

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: This condition is required to be imposed by Section 91 of the Town and Country Planning Act 1990. Approved plans

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

7707 Sa 8847 A101 Site Layout Plans Location Plan
7707 Sa 8847 P005 Proposed Building Elevations
7707 Sa 8847 A103 Site Layout Plans Existing Plan
7707 Sa 8847 P002b Site Layout Plans Block Plan
7707 Sa 8847 P006 Proposed Floor And Roof Plan
7707 8847 P010 Existing Building Elevations
7707 Sa 8847 P004c Site Layout Plans Proposed Site Plan
7707 Sa 8847 P007c Site Layout Plans Landscaping

Reason: For the avoidance of doubt and in the interests of proper planning.

3. The development hereby permitted shall be constructed entirely of the materials details of which are shown on plan No. 7707 Sa 8847 P005.

Reason: This is required to ensure the satisfactory visual relationship of the new development to the existing.

4. Contaminated land

1. Preliminary Contamination Risk Assessment (Phase I)

a. A Preliminary Contamination Risk Assessment (Phase I) specific to the site shall be submitted in writing to and approved by BCP Council. The Phase I should be produced in accordance with 'Land Contamination Risk Management' published by the Environment Agency. The report shall develop a preliminary Conceptual Site Model (CSM) and include a comprehensive risk assessment of the risks from contamination to all receptors such as human health, controlled waters, the built environment and sensitive ecology from the site condition in consideration of the proposed development. If the risk assessment identifies any unacceptable risks, further assessment comprising intrusive investigations will be required.

2. Site Investigation

a. If a Phase I has established potentially unacceptable risks to sensitive receptors from the site condition, then a detailed intrusive investigation (Phase II) in accordance with 'Land Contamination Risk Management' published by the Environment Agency should be undertaken. The scope of the proposed intrusive investigation should be provided to BCP for review and approval.

b. A Phase II report will be submitted and approved in writing by BCP prior to the commencement of any development works including demolition. The Phase II report will comprise an assessment of the risks from contamination to all receptors such as human health, controlled waters, the built environment, and sensitive ecology from the site condition in the context of the proposed development. i. A detailed site investigation comprising an assessment of soil, groundwater and ground gases / vapours to establish the extent, scale and nature of contamination on the Site (irrespective of whether this contamination originates on the Site).

The report shall be prepared by a suitably qualified and competent person and shall include:

- i. A detailed site investigation comprising an assessment of soil, groundwater and ground gases / vapours to establish the extent, scale and nature of contamination on the Site (irrespective of whether this contamination originates on the Site).
- ii. An updated Conceptual Site Model (CSM) should be included showing all potential pollutant linkages and an assessment of the potential risks to human health (Site end-users and construction workers), the built environment, controlled waters, and sensitive ecology.
- iii. If the risk assessment identifies any unacceptable risks, further site investigation may be required and a remediation strategy / plan will be submitted to and approved in writing by BCP and shall be implemented as approved.

3. Remediation Scheme

a. Remediation will be required if the Phase II establishes the presence of a significant pollutant linkage. If required, a remediation strategy / plan will be submitted to and approved in writing by BCP prior to development works. The report shall be prepared by a suitably qualified and competent person and the works thereafter will be carried out in full accordance with the remediation strategy / plan. No development works (other than investigative works) shall commence on-site until such a time as a detailed remediation scheme for the development site has been submitted to and approved in writing by BCP.

b. If required, the approved remediation scheme shall be carried out in accordance with its terms prior to the commencement of any development other than that required to carry out remediation, unless otherwise agreed in writing by BCP. BCP shall be notified in writing of the intended commencement of remediation works no less than 14 days before the works commence on-site.

c. Following completion of remediation works, a Verification Report which demonstrates the effectiveness of the completed remediation works, any requirement for longer-term monitoring of contaminant linkages, maintenance, and arrangements for contingency action, shall be submitted to and approved in writing by BCP.

4. Unless otherwise agreed by BCP, development shall not commence until conditions 1-3 have been complied with. The risk assessments should be undertaken by competent and suitably qualified persons to assess the nature and extent of contamination at the site in accordance with 'Land Contamination Risk Management' published by the Environment Agency.

5. Reporting of Unexpected Contamination

a. The presence of any previously unencountered contamination that becomes evident during the development of the Site shall be reported to BCP in writing within one (1) week, and work on the affected area shall cease with immediate effect. At this stage, if requested by BCP, an investigation and risk assessment shall be undertaken, and an amended remediation scheme shall be submitted to and approved by BCP prior to re-commencement works in the affected area. The approved details shall be implemented as approved.

b. Following completion of the above remediation works a Verification Report must be submitted demonstrating that the works have been carried out satisfactorily and remediation targets have been achieved.

Reason: In order to ensure the potential contamination of the site is adequately investigated and addressed to protect the site and wider locality.

5. Other than for the erection of tree protection, before any equipment, materials or machinery are brought onto the site, a pre-commencement site meeting between the Tree and Landscape Case Officer, Arboricultural consultant and Site Manager shall take place to confirm the methods of protecting trees on and adjacent to the site during development in accordance with the Arboricultural Impact Assessment and Tree Protection Plan, ref: TPP01, dated January 2021. The development hereby approved shall be carried out in accordance with the Arboricultural Impact Assessment and Tree Protection Plan, ref: TPP01, dated January 2021, unless otherwise agreed in writing with the Local Planning Authority and the Tree Protection shall be retained until the development is completed and nothing shall be placed within the fencing, nor shall any ground levels be altered or excavations made without the written consent of the Local Planning Authority.

Reason: This is required in the interests of tree protection.

6. Prior to the commencement of development, including demolition, a Demolition and Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The Statement must include how nuisances (noise, odour, dust and smoke) will be avoided and details of times of work on site. Works shall be carried out in accordance with the approved details.

Reason: To protect the amenity of local residents and the wider amenity of the area.

7. Notwithstanding the submitted Tree Plan, no development above DCP (damp proof course) shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include hard surfacing materials; means of enclosure; details of boundary planting, schedules of plants (noting species, plant sizes and proposed numbers/densities where appropriate).

All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development and the planting carried out in the first planting season following completion of the development or its first occupation, whichever is the sooner. Any planting found damaged, dead or dying in the first five years following their planting are to be duly replaced with appropriate species.

Reason: In the interests of the long term establishment, maintenance and landscaping of the site in order to preserve the amenity of the locality.

8. Surface water Management

Prior to any development above DPC (damp proof course), a surface water management plan shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to first use/operation of the building and thereafter retained.

Reason: To prevent sewer flooding and flooding and ensure Sustainable Urban Drainage Systems are incorporated into the scheme.

9. Prior to any development above DPC (damp proof course), a biodiversity enhancement plan must be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior the first use/operation of the building and thereafter retained.

Reason: To provide biodiversity net gains on the site

10. Prior to the erection of any external lighting on the site, a lighting scheme including the timing of the illumination and the measures to control this, design and height shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and retained as such thereafter.

Reason: To protect the amenities of the locality and local residents.

11. Access, Turning and Parking Construction

Prior to occupation of the development, the proposed vehicular and pedestrian access and vehicular parking and turning areas shall be constructed and laid out in accordance with approved plans and made available for these purposes. Thereafter, these areas shall be retained, maintained, kept free from obstruction and available for the purposes specified at all times.

Reason: To ensure the proper and appropriate development of the site and to ensure that highway safety is not adversely impacted upon.

12. Cycle parking

Notwithstanding the submitted plans, within 3 months, a scheme showing precise details of the proposed cycle parking facilities shall be submitted to and approved in writing by the Local Planning Authority. The approved parking must be provided prior to the commencement of the approved use and thereafter, must be maintained, kept free from obstruction and available for the purpose specified.

Reason: To ensure the proper construction of the parking facilities and to encourage the use of sustainable transport modes.

13. Delivery and Servicing Plan

Within 3 months of the commencement of development, details of a delivery and servicing plan (DSP) detailing servicing arrangements including location, times and frequency, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter operate strictly in accordance with the details so approved, shall be maintained as such thereafter and no change shall take place without the prior written consent of the Local Planning Authority.

Reason: In order to reduce or mitigate the impacts of the development upon the local highway network and surrounding neighbourhood by reducing reliance on the heavy goods vehicles for journeys to and from the site.

14. Travel Plan

Within 3 months of commencement of the development hereby permitted, a Travel Plan must be submitted to and approved in writing by the Planning Authority. The Travel Plan, as submitted, will include:

- Targets for sustainable travel arrangements.
- Effective measures for the on-going monitoring of the Travel Plan.
- A commitment to delivering the Travel Plan objectives for a period of at least five years from first occupation of the development.
- Effective mechanisms to achieve the objectives of the Travel Plan by the occupiers of the development

The development must be implemented only in accordance with the approved Travel Plan.

Reason: In order to reduce or mitigate the impacts of the development upon the local highway network and surrounding neighbourhood by reducing reliance on the private car for journeys to and from the site.

15. The development hereby approved must be carried out in accordance with the details in the Noise Impact Assessment McDonalds Drive-thru' Restaurant, Christchurch Retail Park, Bailey Drive, Christchurch, BH23 2BN of 4th February 2021. The following mitigation measure must be installed before the use commences and shall thereafter maintained as such;

- a 1500 mm long in-line attenuator is installed at the discharge of this kitchen extract
- the roof-mounted extract plant must be enclosed

The design specification of the above must achieve a rating level (calculated using BS4142) of 40.0dB LAeqT (night) or less, at the façade of the nearest noise sensitive residential property.

Reason: In order to protect residential and local amenity.

16. The development hereby approved shall be carried out in accordance with the odour and grease control measures as set out in the Odour Control Statement by CDM Partnership 21024 prior to first operational use and maintained as such thereafter.

Reason: In order to protect residential and local amenity.

Background Papers

The planning application file; submitted documents; consultation responses and representations can be found on the website under the planning reference number 8/21/0386.