

## BOROUGH OF KETTERING

<b>Committee</b>	<b>Full Planning Committee - 04/12/2012</b>	<b>Item No: 5.4</b>
<b>Report Originator</b>	<b>Richard Marlow Development Officer</b>	<b>Application No: KET/2012/0518</b>
<b>Wards Affected</b>	<b>Northfield</b>	
<b>Location</b>	<b>Stanier Retail Park, Northfield Avenue, Kettering</b>	
<b>Proposal</b>	<b>Full Application: Drive-thru restaurant (mixed A3/A5 use) with associated car parking</b>	
<b>Applicant</b>	<b>H B Pearce (Contractors) Ltd</b>	

### **1. PURPOSE OF REPORT**

- To describe the above proposals
- To identify and report on the issues arising from it
- To state a recommendation on the application

### **2. RECOMMENDATION**

THE DEVELOPMENT CONTROL MANAGER RECOMMENDS that this application be APPROVED, subject to advice from the Environment Agency regarding flooding and a S.106 OBLIGATION being completed on or before 4 February 2013 (2 months from committee date) and subject to the following conditions, or if not completed by that date the application then be determined by the Development Control Manager under delegated powers:-

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.

REASON: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended) and to prevent an accumulation of unimplemented planning permissions.

2. The development shall not be carried out other than in accordance with the approved plans, 0466-X06 received 21.08.12, 0466-P58 received 12.11.12, 0466-P55 received 12.11.12, 0466-P52 received 15.08.12, 0466-P57 received 12.11.12 by the Local Planning Authority.

REASON: In the interests of amenity in accordance with Policy 13 of the North Northamptonshire Core Spatial Strategy.

3. Notwithstanding the details shown on the approved plans, no development shall commence on site until details of the types and colours of all external facing and roofing materials to be used, together with samples, have been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved details.

REASON: In the interests of the visual amenities of the area in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

4. Unless otherwise agreed by the Local Planning Authority, development other

than that required to be carried out as part of an approved scheme of remediation must not commence until parts a to d have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition d has been complied with in relation to that contamination.

#### A. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11 (or any model procedures revoking and replacing those model procedures with or without modification)'.

#### B. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

#### C. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms

prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

#### D. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition a, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition b, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition c.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'(or any model procedures revoking and replacing those model procedures with or without modification.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with paragraph 120 of the National Planning Policy Framework.

5. Prior to the commencement of the use hereby approved the cooking equipment installed shall have an associated air extraction and odour control system; details of which shall first have been submitted to and approved in writing by the Local Planning Authority. The scheme and any required works shall thereafter be retained in accordance with the approved details.

REASON: In the interest of residential amenity with regard to odour in accordance with Policy 13 of the North Northamptonshire Core Spatial Strategy.

6. Prior to the commencement of the use hereby approved a scheme for the sound insulation of the kitchen extraction system to prevent the emissions of noise affecting surrounding noise sensitive premises shall be submitted to and approved in writing by the Local Planning Authority. The scheme approved by Local Planning Authority shall be fully implemented in accordance with the approved details before the use, the subject of this consent, commences. The scheme and any required works shall thereafter be retained in accordance with the approved details.

REASON: In the interest of residential amenity with regard to noise in accordance with Policy 13 of the North Northamptonshire Core Spatial Strategy.

7. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping which shall specify species, planting sizes, spacing and numbers of trees and shrubs to be planted. The approved scheme shall be carried out in the first planting and seeding seasons following the occupation of the building. Any trees or plants which, within a period of 5 years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

REASON: To improve the appearance of the site in the interests of visual amenity in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy

8. No development shall take place on site until a scheme for boundary treatment has been submitted to and approved in writing by Local Planning Authority. The development shall not be occupied until the approved scheme has been fully implemented in accordance with the approved details.

REASON: In the interests of visual amenity of the development in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

9. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) the building hereby permitted shall be used only for A3/A5 uses as defined within the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any statutory instrument revoking and re-enacting that Order with or without modification and for no other purposes whatsoever.

REASON: In the interests of amenity and protecting the character of the area in accordance with Policy 13 of the North Northamptonshire Core Spatial Strategy.

10. The premises shall not be open to the public between midnight and 07:00 hours on any day.

REASON: In the interests of amenity in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

11. Deliveries and servicing of the premises shall not take place between the hours of midnight and 07:00 hours on any day.

REASON: In the interests of highway safety and residential amenity in accordance with Policy 13 of the North Northamptonshire Core Spatial Strategy.

12. No development shall commence on site until details of the materials to be used for hard and paved surfacing have been submitted to and approved in writing by the Local Planning Authority. The approved surfacing shall be completed before the building is first occupied.

REASON: In the interests of visual amenity in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

13. There shall be no external illumination on the site at any time other than in accordance with a detailed scheme which shall first have been submitted to and approved in writing by the Local Planning Authority. There shall be no external

illumination outside of the hours of 07:00 and 00:00 midnight.

REASON: In the interests of the amenities of the area and adjoining residential properties in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

14. Prior to the first occupation of the building hereby approved a CCTV system shall be installed and operational in accordance with a scheme which shall have been submitted to and approved in writing by the Local Planning Authority.

REASON: In the interests of the designing out crime by applying the Secured by Design principles in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

15. The development hereby permitted shall not be occupied until the access and vehicle parking area has been constructed, surfaced and marked out in accordance with the approved plan 0466-P57 and with give way lines at the entrance to the site, and that area shall thereafter be reserved solely for the parking, loading and unloading of vehicles.

REASON: In the interests of highway safety in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

16. The building hereby permitted shall not be occupied until refuse storage facilities have been provided in accordance with the approved plans 0466-P55 and 0466-P57. These shall thereafter be retained as approved in perpetuity.

REASON: In the interests of amenity in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy

17. Notwithstanding the details shown on the approved plans, prior to the use hereby permitted commencing, cycle storage shall be provided in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority, and shall thereafter be retained as approved for that purpose in perpetuity.

REASON: To encourage the use of sustainable modes of transport in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

18. Prior to the commencement of any part of the development hereby permitted, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include and specify the provision to be made for the following:

- i. Overall strategy for managing environmental impacts which arise during construction;
- ii. Measures to control the emission of dust and dirt during construction;
- iii. Control of noise emanating from the site during the construction period;
- iv. Hours of construction work for the development
- v. A daily log of all vehicles attracted to the site shall be kept and made available for inspection at the request of the local planning authority.
- vi. Contractors' compounds, materials storage and other storage arrangements, cranes and plant, equipment and related temporary infrastructure within the site;
- vii. Designation, layout and design of construction access and egress points;
- viii. Directional signage (on and off site);
- ix. Provision for emergency vehicles;

- x. Provision for all site operatives, visitors and construction vehicles loading and unloading plant and materials solely within the site
- xi. Provision for all site operatives, visitors and construction vehicles for parking and turning within the site during the construction period;
- xii. Details of measures to prevent mud and other such material migrating onto the highway from construction or demolition vehicles;
- xiii. Storage of plant and materials used in constructing the development within the site;
- xiv. The erection and maintenance of security hoardings;
- xv. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.

The approved Construction Management Plan shall be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

REASON: In the interests of highway safety in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

19. Notwithstanding the air source heat pumps, the techniques of sustainable construction and energy efficiency, the provision for waste reduction and recycling and the provision for water efficiency and recycling, shall be carried out in accordance with the submitted Sustainable Design Statement received by the Local Planning Authority on 15th August 2012. Further information with regards to the proposed air source heat pumps shall be submitted to and approved in writing prior to commencement of development. Development shall be carried out in accordance with the approved details.

REASON: In the interests of energy efficiency and sustainable construction in accordance with policy 14 of the North Northamptonshire Core Spatial Strategy.

20. Notwithstanding approved plan 0466-P57 received by the Local Planning Authority 12.11.12 details of the bollards, street furniture, fencing of the outside seating area and bins shall be submitted to and approved in writing by the Local Planning Authority, prior to the commencement of development. There shall be no bollards, street furniture, fencing of the outside seating area and bins on site other than in accordance with the approved details.

REASON: In the interests of the visual amenities of the area in accordance with policy 13 of the North Northamptonshire Core Spatial Strategy.

Notes (if any) :-

- Further guidance on Contaminated Land investigations can be found in the Northants Contaminated Land Group Developers Guide. This document is downloadable at [http://www.kettering.gov.uk/downloads/developers\\_guide\\_may\\_04.pdf](http://www.kettering.gov.uk/downloads/developers_guide_may_04.pdf)

In submitting schemes for the control of fume, odour and noise the developer shall have regards to the 'Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems', a report prepared by Netcen on behalf of the Department for Environment, Food and Rural Affairs, and published in January 2005.

The provisions of the sound insulation scheme for the kitchen ventilation system shall include physical controls, operational restrictions and administrative controls, where appropriate. The noise survey informing the scheme shall be carried out in accordance with BS4142:1997 and shall ensure that the rating level of the noise emitted from the proposed kitchen extraction equipment shall be lower than the "night-time" existing background noise level by at least 5 dB (and shall have no significant tonal component within any 1/3 Octave Band Level. Where any 1/3 octave band level is 5 dB or above the adjacent band levels the tone is deemed to be significant) between 23:00 and 07:00 hours daily, and shall not exceed the existing "daytime" background noise level at any time (and shall have no significant tonal component within any 1/3 Octave Band Level. Where any 1/3 octave band level is 5 dB or above the adjacent band levels the tone is deemed to be significant) between 07:00 and 23:00 hours daily, by measurement or calculation. The scheme shall include proposals for ensuring that the guideline levels set out in British Standard 8233:1999 for residential accommodation are complied with.

This Decision Notice must be read in conjunction with a Planning Obligation completed under the terms of Section 106 of the Town and Country Planning Act 1990 (as amended). You are advised to satisfy yourself that you have all the relevant documentation.

The applicant is reminded that this planning permission does not give any indication of any consent necessary under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 which may or may not be required nor any indication that such consent will be forthcoming.

This planning permission is subject to "pre-commencement" conditions which require details/drawings to be submitted to and approved in writing by the Local Planning Authority before ANY development may lawfully commence. Any development commenced in breach of these "pre-commencement" conditions will be unauthorised, a breach of planning control, and liable to immediate Enforcement and Stop Notice action.

### **Justification for Granting Planning Permission**

The proposal is in accordance with national and local policies as set out in policies 1, 2, 4, 7, 10 of the National Planning Policy Framework, policies 2, 3, 22, 35 and 39 of the East Midlands Regional Plan, policies 1, 6, 8, 9, 11, 13 and 14 of the North Northamptonshire Core Spatial Strategy, policy 3 of the Kettering Town Centre Area Action Plan, policy 58 of the Local Plan for Kettering Borough and the Sustainable Design Supplementary Planning Document. There are no other material considerations that indicate against this proposal.

## Officers Report

### 3.0 Information

#### **Relevant Planning History**

There is no relevant planning history within the red line. However the following planning applications covered the red line and the wider area around Stanier Close:

KET/2012/0248 – S73 Variation of condition 2 of KET/2010/0433 (reserved matters to be submitted). PENDING.

KET/2010/0433 Section 73 Variation of conditions 3 (to vary the range of goods) and 12 (to install a mezzanine floor) of KET/2007/0252 APPROVED 18/4/11, S106 Deed of Variation signed 18/4/11

KET/2010/0434 Approval of Reserved Matters: External appearance, siting and scale relating to proposed retail buildings and layout condition 2 of KET/2007/0252 Development of bulky goods, non-food retail units and Class B1 and/or B2 units and associated parking in respect of KET/2007/0252, APPROVED 10/3/11

KET/2007/0252 (Outline – access only) Development of bulky goods, non food retail units, and class B1 and/or B2 units and associated parking APPROVED 10/2/10.

S106 signed 19/1/10

KET/2004/1171 Outline permission for residential development REFUSED 17/1/05

KET/2002/0903 Erection of retail park with replacement premises for car wash and teamwork and creation of industrial plot with demolition of existing buildings and partial truncation of Stanier Close WITHDRAWN

KET/2001/0491 Erection of retail park with replacement premises for car wash and teamwork and creation of industrial plot with demolition of existing buildings and partial truncation of Stanier Close REFUSED 17/5/04

KET/1997/0008 Outline for B1 (business), B2 (general industrial) and B8 (storage and distribution) APPROVED 11/2/97

#### **Site Description**

Officer's site inspection was carried out on 01/10/2012.

The site which covers approximately 0.25 hectares is located at the corner of Stanier Close and Northfield Avenue, and lies 435 metres to the northwest of Kettering town centre. The site forms part of a wider area which is currently being developed under a permission granted in April 2011 (KET/2010/0433) for predominantly retail use. It is a level brownfield site that previously formed part of the cattle market and at the time of the site visit was being utilised for



storage and construction paraphanelia in association with the Dunelm Mill development. The site currently has permission for a 1269m<sup>2</sup> gross internal area A1 retail floorspace restricted to bulky non-food goods (DIY/garden good and furniture, carpets and floorcoverings, bulky electrical goods and related goods) with 52 car parking spaces including 4 disabled and 12 cycle spaces as part of the outline for the wider site approved through application KET/2007/0252.

### **Proposed Development**

The application proposes the erection of a drive-through restaurant (class A3/A5) comprising 374m<sup>2</sup> gross internal area with associated car parking which will generate approximately 65 jobs. The building would measure approx. 13.3m (w) x 33m (d) x 5.m (h) and would be sited to the north of the site. It would be accessed off Stanier Close and provide a clockwise drive through lane wrapping around the proposed A3/A5 unit. A total of 25 car parking spaces are to be provided, including 2 disabled spaces and 2 grill parking bays.

### **Any Constraints Affecting The Site**

A Road  
Flood Zone 2

## **4.0 Consultation and Customer Impact**

### **Highway Authority**

Following the submission of additional information by the applicant the Highways Authority has confirmed that they have no objection to the proposal and have requested a travel plan. In addition, a financial contribution of £24,531 will be required comprising of a Pooled Developer Contribution for the carrying out of transport mitigation measures across the Borough.

### **Northamptonshire Police**

No objection subject to conditions or informatives, requiring CCTV and lighting details to be submitted prior to commencement of development to ensure appropriate security measures on site.

### **Environmental Health**

No objection subject to requiring conditions relating to a contaminated land assessment, hours of trading, kitchen ventilation and extraction and refuse have been recommended together with informatives about the acceptable noise levels from the extraction system.

### **Environment Agency**

No comments received.

### **Neighbours**

No comments received.

## **5.0 Planning Policy**

**National:**National Planning Policy Framework

Policy 1 Building a strong competitive economy

Policy 2 Ensuring the vitality of town centres.

Policy 4 Promoting sustainable transport

Policy 7 Requiring good design

Policy 10 Meeting the challenge of climate change, flooding and coastal change.

**Local:**East Midlands Regional Plan

Policy 2 Promoting better design

Policy 3 Distribution of new development

Policy 22 Regional priorities for town centres and retail development

Policy 35 A regional approach to managing flood risk

Policy 39 Regional priorities for energy reduction and efficiency

MKSM SRS Northamptonshire 4

Saved Local Plan policies:

58 - Employment: Within Towns

Core Strategy policies:

1 Strengthening the network of settlements

4 Enhancing local connections

6 Infrastructure delivery and developer contributions

8 Delivering economic prosperity

9 Distribution & location of development

11 Distribution of jobs

12 Distribution of retail development

13 General sustainable development principles

14 Energy efficiency and sustainable construction

**Kettering Town Centre AAP**

Policy 3 Primary Shopping Area

Town Centre Boundary

**Supplementary Planning Documents**

Sustainable Design SPD

**6.0 Financial/Resource Implications**

Section 106 - The proposed development would result in an increase in the traffic using the highway network. The Highways Authority has therefore requested a contribution of £24,531 towards improving the highway infrastructure in Kettering Borough. The applicant has agreed to pay this contribution. The Section 106 will also include provision for a green travel plan.

The Section 106 obligation is currently being drafted.

**7.0 Planning Considerations**

The key issues for consideration in this application are:-

1. Principle of development
2. Employment Creation
3. Design and visual impact
4. Impact upon neighbours and amenity
5. Highway safety and access
6. Flood Risk
7. Contaminated Land
8. Noise
9. Waste
10. Sustainability

#### 1. Principle of development

At the heart of the National Planning Policy Framework (NPPF) is a presumption in favour of sustainable development which establishes that proposals which accord with the development plan should be approved without delay. The National Planning Policy Framework through paragraphs 6 and 7 details that the purpose of the planning system is to contribute to the achievement of sustainable development which has economic, social and environmental dimensions. The Government's commitment to ensuring economic growth is detailed at paragraph 19 of the NPPF which states that planning should operate to encourage and not act as an impediment to economic growth.

The application site is within the town boundary of Kettering, as defined by Policy 58 of the Local Plan. The application site is a brownfield site on the western side of Northfield Avenue, part of an existing area of commercial and retail activity that has formerly been used for light industry. The site is however not an allocated site or located within the town centre and is instead an out of centre location. Paragraph 17 of the NPPF encourages the effective use of land by reusing land that has been previously developed. This is amplified by Policy 9 of the North Northamptonshire Core Spatial Strategy which requires the maximisation of the use of brownfield land for new development; and Paragraph 3.81 prioritises the reuse of suitable brownfield sites within urban areas. Policies 1 and 9 of the North Northamptonshire Core Spatial Strategy (CSS) and Policy 3 of the East Midlands Regional Plan (EMRP) state that development and economic activity should be directed towards the growth town of Kettering.

The application proposes a 374 sqm (GIA) unit (A3/A5) that is located 435 metres from the nearest point of the Primary Shopping Area (PSA), as defined by policy 3 of the Kettering Town Centre Area Action Plan (AAP). The site is therefore, outside of the defined town centre, and outside of the boundary of the area covered by the AAP and categorised as an out of centre location through the NPPF, being in excess of 300m from the Primary Shopping Area. The proposed A3/A5 use is defined as economic development and main town centre uses in the NPPF. Such uses proposed outside existing centres and not in accordance with an up to date development plan should usually be directed

to town centres, unless it can be demonstrated that there are no sequentially preferable sites which are available, viable and suitable and that the proposal would not have a significant adverse impact upon the town centre.

The NPPF provides policy guidance on ensuring the vitality of town centres. Paragraph 26 of the NPPF requires an impact test if the proposal exceeds 2500sqm. Due to the size of the proposal, an impact test is not required.

Paragraph 24 states that the application will need to demonstrate the sequential approach, i.e. that sites for the proposed development are not available in the town centre, or other edge of centre locations. If the application fails the sequential assessment, paragraph 27 advises the application should be refused. Further guidance on undertaking the sequential assessment is set out in the document 'Planning for Town Centres - Good Practice Guidance on need, impact and the sequential approach' (CLG December 2009).

The applicants consider the role of the proposed drive-through restaurant is to provide a complementary facility for the customers visiting the adjacent retail units along Northfield Avenue who will undertake a linked trip to the A3/A5 unit. The sequential assessment submitted with the application considers whether there are any sequentially preferable sites within Kettering town centre and considers each of the 8 quarters within the town centre in turn, with reference to practice guidance. The applicants however consider that the aim of the proposal is to meet local need and demand and therefore if the proposal was accommodated in the town centre then it would not meet this identified demand. They have also drawn attention to McDonalds as the proposed occupier who currently operate from a unit in the town centre. This proposed unit is seen as complementary to the town centre offer and they consider it would make no commercial sense for them to open another unit in the town centre. They therefore consider that this is an appropriate location for the proposal and have supplied a sequential analysis to support this proposition.

The sequential analysis is based on a comparative assessment of potential drive-through locations and McDonalds minimum site requirement of 0.2 hectares, to allow for car parking spaces which would be required as part of any scheme. The submitted assessment makes reference to a total of 36 sites within the town centre including all quarters established within the KTCAAP and their allocated sites, together with consideration of vacant units at the time of submission. It explains why the sites are unavailable or unsuitable for the proposed development but does not explicitly consider viability of the sites, given that all sites are discounted as unsuitable and therefore viability is not a consideration. It is considered that the lack of detailed viability assessment in this instance does not undermine the findings of the applicant's sequential analysis. Viability is concerned with judging whether there is a reasonable prospect that development will occur on a site and given that the alternative sites are judged as unsuitable then there is no prospect that the development proposed in the application will occur on these sites.

It is considered that the applicant has demonstrated compliance with the

sequential approach and has successfully demonstrated that there are no sequentially preferable town centre sites which could accommodate the proposed development, without compromising residential amenity or conflicting with existing site allocations. No edge of centre sites were put forward by the applicant but having undertaken a map based analysis looking for edge of centre, sequentially preferable sites, it is apparent that at the present time no suitable sites are available within such locations which meet the applicants methodology and in particular the minimum site size. The analysis considered all sites that were outside of the KTCAAP plan area, assessed by the applicants, but within 435 metres of the primary shopping area, the distance of this application. It is apparent that the proposed site is in a sustainable location for the proposed use which is well served by public transport and less than 500 metres from the town centre.

There is an extant permission for a 253 m<sup>2</sup> A3/A5 unit (KET/2011/0157) on a nearby site off Northfield Avenue that was approved on appeal on the 8/2/12 which is a material planning consideration in this application. The approved site however differs from this application in two respects. Firstly it is approximately 100m closer to the primary shopping area and is therefore considered to be an edge of centre location sequentially, and secondly the unit itself is not a drive through and as such is smaller in size than this proposal. The appeal site at 0.13ha falls below the site threshold and scale requirement of the applicant and therefore does not provide a sequentially preferable site for the A3/A5 drive through unit proposed in this application.

When considered together the two proposals would result in permission for a total of 627m<sup>2</sup> of A3/A5 use to the west of Northfield Avenue, in addition to the existing ancillary in store café of up to 140 m<sup>2</sup> within the Dunelm Mill unit. In total there are at present 10 retail units (6 bulky goods and 4 A1 use) to the west of Northfield Avenue running north from its junction with Rothwell Road. In addition there are extant permissions for another 4 units on Stanier Retail Park one unit of which would be lost by this application. This is supplemented by a range of commercial uses to the north of the site which culminates in the Asda superstore to the north. The result is an accumulation of uses which would generate a demand for eating establishments and takeaway facilities in this locale, coupled with some passing trade from the A6003.

The KTCAAP and CSS is silent on mixed A3/A5 drive-through proposals and neither precludes nor accommodates development of this type within Kettering town centre. Officers are mindful of the diversity of uses on Northfield Avenue and as a shopping destination it is already having an impact on the town centre. It is recognised that a further use, as proposed in this application, will have a cumulative impact on the town centre vitality and viability. However, the presumption in favour of sustainable development detailed at paragraph 14 of the NPPF states that:

*“where the development plan is silent [decision takers] should grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF when taken as a whole or where specific policies in*

*the framework indicate development should be restricted”.*

There is no evidence that this application would have a significant adverse impact on Kettering town centre which continues to perform well and has vacancy rates below the national average as evidenced in the August 2012 Kettering Town Centre Healthcheck. Officers are however aware that the area of large bulky good retail units to the west of Northfield Avenue is a popular destination for consumers which is having an impact on the town centre and will need careful monitoring in the future, to ensure it doesn't tip the balance of viability for the town centre and its allocated schemes. The Roger Tyms 2011 North Northamptonshire Retail Capacity Update noted that across the sub-area there has been a loss of comparison retail market share from town centres to out of town retail parks. However, it is considered that this application, which cannot be accommodated on a sequentially preferable site, will create jobs for the local economy and will not have a significant adverse impact on the town centre in isolation or cumulatively.

On balance the principle of A3/A5 development of this site, which is within the growth town of Kettering, on accessible brownfield land in a sustainable location for this use, is therefore established. It is considered that there are no sequentially preferable sites and the proposal will not result in a significant adverse impact on planned investment in Kettering town centre, the vitality and viability of the town centre or the trade within the town centre or wider area. The proposal therefore accords with paragraphs 14, 24 and 27 of policy 1 the NPPF, policy 3 of the East Midlands Regional Plan (EMRP) and policies 1 and 9 of the CSS.

## 2. Employment Creation

The development will create approximately 65 jobs, with a mix of full and part-time jobs and positions at varying skill and experience levels. The site is capable of being accessed by a choice of transport modes and thus is consistent with CSS policy 9 which gives preference to locations that are accessible by a choice of means of travel. It is within close proximity to the town centre, within easy walking and cycling distance, and is also served by regular bus services which utilise the recently created bus stops adjacent to the site on Northfield Avenue. The creation of employment will be beneficial to the local economy and as such the proposal accords with the Government's commitment to securing economic growth (policy 1 of the NPPF) and will support the aim of CSS policy 8 that seeks a net increase in jobs in North Northamptonshire in the period 2001-21.

## 3. Design and visual impact

Good design is promoted by policy 7 'Requiring Good Design' of the National Planning Policy Framework and Policy 2 of the East Midlands Regional Plan. Policy 13(h) of the North Northamptonshire Core Spatial Strategy requires that development is of a high quality of design and respects and enhances the character of its surroundings.

The proposed development is in keeping with the design principles and character of neighbouring commercial buildings and reflects that of the existing

approved bulky goods retail development off Stanier Close and the setting of neighbouring units to the south. The proposed unit is a rectangular structure which has been designed to reflect the brand image of McDonalds who are the preferred operator. It utilises wood effect laminate panels, vertical timber battens, aluminium framed glazing and a composite aluminium Reynobond roof cap. Details of the proposed materials have been indicated on the plans but to ensure these are appropriate for the site and the wider street scene a condition requesting details of materials and samples shall be applied to any subsequent approval.

The A3/A5 unit is to have parapet walls mainly topped by mansard roofs. The plans indicate that the proposal will measure 5.6 metres to the top of the feature mansard roofs and 5m to top of the flat roof. The building is located away from the approved units on Stanier Close and therefore a difference in style, signifying its different use, is an acceptable design approach in this instance. The pallet of materials include white and timber effect coated cladding, random faced grey bloc, blue engineering brick plinth, mansard roofs in timber effect horizontal rails and dark green vertical cladding, natural timber cladding and powder coated aluminium framed windows. Fenestration is proposed on three of the elevations, however the feature windows that provide visual interest to the building have been provided on the most prominent south and east elevations which are highly visible from Northfield Avenue.

The A3/A5 drive through restaurant has been orientated east/west so that one of the longer elevations of the building faces north onto the adjacent builders merchant which also serves to obscure most of the drive through lane from view. The glazed restaurant seating area, and external seating area both face east and south onto Northfield Avenue and Stanier Close providing active frontages to these roads and visual interest. The proposed unit is set back from the eastern boundary of the site with the drive through lane wrapping around the unit allowing some space for landscaping which can be secured through condition. The site will be visible when viewed from approaches on Northfield Avenue to the south, but will mask unattractive views across to the unsightly rear of the existing building merchants unit to the north. It will be largely masked from the north by existing commercial buildings.

It is considered that the siting of the building, set back from the eastern boundary of the site allowing space for landscaping, and the scale of the building which would be modest compared to the adjacent retail units to the west and south, would ensure that the development would not detract from the existing street scene. Furthermore, the development would make good use of an existing vacant site which at present does not have a positive impact upon the wider area.

Northamptonshire Police have no objection to the principle of the development or the layout of the proposed development; however they did express some concern about the lack of natural surveillance over the proposed car park. The applicant has provided some supplementary information and has submitted details of the lighting scheme and a CCTV camera that will resolve many of the security concerns raised. Whilst the lighting details are considered by the

Police to be appropriate to address security concerns, these details and the CCTV should be secured through condition to ensure that these measures help to design out crime from the inception of the scheme and do not result in adverse amenity impacts for neighbouring properties.

The proposal is, therefore, considered positively in design and character terms and is in accordance with the requirements of criterion h of Core Spatial Strategy Policy 13 and section 7 of the NPPF.

#### 4. Impact upon neighbours and amenity

Policy 13(l) of the Core Spatial Strategy requires that development does not result in an unacceptable impact on the amenities of neighbouring properties, by reason of noise, vibration, pollution, loss of light or overlooking.

The A3/A5 unit is located to the north-east of the site, adjacent to Northfield Avenue and the industrial unit to the north, within an existing commercial area on an existing commercial site, with existing or approved retail (restricted goods) units to the south and west. Environmental Health have confirmed that they have no objection to the application but have recommended that conditions relating to contaminated land, kitchen ventilation and extraction are attached to the application to ensure that the risks to future users of the site and the residential amenity of neighbouring dwellings is maintained through these proposals.

There are residential properties on the opposite side of Northfield Avenue, on Bellway Close, but these would be a minimum of 60 metres from the proposal and separated by a busy A road, mature planting and the Slade Brook. Given the distance between the proposal and the elevated position of the neighbouring residential properties the proposal would not have an overbearing impact upon neighbours or result in a loss of light. The scale of the development with a maximum height of 5.6m is limited and due to the distance between the proposal and the neighbouring dwellings and the screening provided by existing planting along the Slade Brook the proposal would not have an unacceptable impact in terms of overlooking.

The proposed A3/A5 unit will be open between the hours of 07:00 and 00:00 midnight but is secluded from residential development and as such will not cause unacceptable issues by way of noise or light disturbance, subject to the imposition of appropriate conditions which secure these elements prior to the development commencing.

The lighting details submitted with the application are considered appropriate in security/safety terms by the police, provided the lighting is installed as per the layout submitted. There is however some ambiguity as to the exact lighting scheme and in particular the height of the lighting columns to be installed and therefore a condition requesting full lighting details to be submitted and approved prior to installation should be attached to the application. Given the proposed opening hours between 07:00 and 00:00 midnight, it is also considered appropriate to impose a condition restricting external illumination to trading hours.



It is therefore considered that due to the siting of the proposed development, a considerable distance from the neighbouring dwellings, the scale of the proposed building and subject to conditions the proposal would not have an unacceptable impact upon the amenity of neighbours or the wider area. The proposal therefore accords with criterion l of Policy 13 of the North Northamptonshire Core Spatial Strategy.

#### 5. Highway Safety and access

Criterion (n) of CSS Policy 13 states that development should not have an adverse impact on the highway network and will not prejudice highway safety.

The application site would be accessed off the existing Stanier Close access road that links with Northfield Avenue. The Highways Authority has not raised an objection to the application and is content that the internal arrangements on the site will not prejudice highway safety.

The application was accompanied by a full transport assessment, as the County Council Highways consider that the A3/A5 use will act as a stand alone attractor in addition to the remainder of the uses in the area. The initial data was not sufficient to fully assess the impact of the proposal upon the highway network. Additional information and modelling was submitted to demonstrate that the proposed development would not result in impact on the highway network and in particular Northfield Avenue and that safe access by cars and service vehicles can be maintained.

Twenty five appropriately sized parking spaces are to be provided on the site, including two disabled bays and two grill parking bays. The level of parking provision is considered appropriate for the proposed use and the Local Highway Authority has not objected to this level of provision. Cycle hoops providing parking for 6 cycles are shown on the west of the unit in an area that is not under natural surveillance. As such and through discussions with Northamptonshire Police a condition will be attached to the application to secure these spaces in a more appropriate location towards the front of the unit.

The Highways Authority have no objection, however in order to mitigate the impact of the proposed development upon the highway network a contribution towards highway improvements is required and a green travel plan to maximise walking and cycling to be secured through a S106 to be agreed. A sum of £24,531 has been requested by the Highways Authority and the applicant has agreed to pay this contribution. They have also requested that a construction management plan condition is attached to the application to ensure no adverse highway implications result during construction.

Based on the above, it is considered that subject to the imposition of a S106 and conditions securing appropriate cycle parking and a construction management plan, the proposal accords with criteria d, k and n of CSS Policy 13.

## 6. Flood Risk

Policy 13(q) of the CSS states that new development should not increase the risk of flooding on the site or elsewhere. The application site lies within Flood Zones 1 and 2 with restaurants and takeaways classified in the Technical Guidance to NPPF as development that is less vulnerable flood risk. Such less vulnerable development is considered to be compatible and appropriate with flood zone 2 and due to the size of the proposal (operational development less than 1 hectare) should be considered under the Environment Agency's standing advice. The standing advice indicates in this instance that a Flood Risk Assessment (FRA) is required. The applicant considers that the FRA undertaken for the outline permission for the wider site under KET/2007/0252 meets these requirements. Confirmation from the Environment Agency is awaited and will be included in the committee update.

Subject to the confirmation from the Environment Agency the proposed development is considered acceptable in terms of flood risk impact in accordance with policy 13(q) of the CSS, policy 35 of the East Midlands Regional Plan and section 10 of the NPPF.

## 7. Contaminated Land

The Contaminated Land Assessment submitted with application ref. KET/2007/0252 for the wider retail park has been resubmitted with this application to inform the determination process. The application site was historically a cattle market and the desk top study submitted with the application identifies that there is potential for ground gas migration which requires further investigation. The Environmental Health Department has confirmed that the proposal is acceptable in principle, however a condition is required to ensure that further investigations are carried out and any necessary remediation required is secured. The proposal therefore accords with paragraph 120 and policy 11 of the NPPF.

## 8. Noise and odour

The application should not give rise to any significant adverse impacts on health and quality of life from noise or odour. The Council's Environmental Health Team has not requested that a Noise Impact Assessment be submitted with the application. Instead they consider that the imposition of conditions relating to trading hours, delivery hours, kitchen ventilation and extraction will ensure that noise and odour levels are controlled within acceptable levels. As such the proposal is considered to accord with criterion I of CSS policy 13 which seeks to protect neighbouring amenity in relation to noise or smell.

## 9. Waste

The design of the proposed unit includes an external yard to the south west which provides adequate storage facilities for large 1100 litre waste bins and therefore there has been no objection to the waste storage facilities proposed. The Highway Authority has also considered the refuse vehicles that will collect the waste as part of the transport assessment of the site. Again there is considered to be appropriate space to accommodate such vehicles within the proposed layout and as such the proposal is acceptable in this regard. The proposal will not result in pollution, noise, smell or other pollution and as such

is in accordance with criterion I of CSS policy 13.

#### 10. Sustainable Construction & Design

A Sustainable Design Statement and checklist was submitted with the application which considers measures to minimise negative impacts upon the environment in accordance with policy 14(b) of the CSS. This details how the development will incorporate techniques of sustainable construction and energy efficiency, provide for waste reduction and recycling and provide for water efficiency. This includes the use of solar gain, air source heat pumps, low energy lighting and low water consumption systems. Details of McDonalds waste management strategy are also highlighted including, the recycling of packaging materials and cooking oil which is used as Biodiesel by McDonalds delivery vehicles. The Energy Assessment of the future development considers that approximately 40% of the building's energy demand will be achieved through low-carbon technologies and principally the use of air source heat pumps.

Information has been submitted which meets the requirements of policy 14(b) of the CSS. However the applicant is proposing the use of air source heat pumps which may have amenity issues. A condition is therefore recommended to ensure that a Sustainable Construction and Energy Efficiency Scheme is submitted prior to development commencing and that the development is carried out in accordance with the approved details.

#### Conclusion

The proposed development is acceptable in principle and in accordance with relevant policies of the development plan and the NPPF. The development is recommended for approval subject to conditions and completion of a S106 obligation.

#### **Background Papers**

Title of Document:

Date:

Contact Officer:

Richard Marlow, Development Officer on 01536 534316

#### **Previous Reports/Minutes**

Ref:

Date:

## SITE LOCATION PLAN

Stanier Retail Park, Northfield Avenue, Kettering  
Application No.: KET/2012/0518



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