

North Northamptonshire Area Planning (Kettering) Committee 30/11/2022

Application Reference	NK/2022/0333
Case Officer	Alan Chapman
Location	Stanier Retail Park (land at), Stanier Close, Northfield Avenue, Kettering
Development	Full Planning Permission: Erection of a drive through cafe/restaurant with car parking, landscaping, external seating and associated works
Applicant	HB Pearce Contractors Ltd
Agent	R Williams Lichfields
Ward	Northfield
Overall Expiry Date	19/07/2022
Agreed Extension of Time	02/12/2022

All plans and documents can be viewed using the application reference number at <https://www.kettering.gov.uk/planningApplication/search>

Scheme of Delegation

This application is brought to committee because it falls outside of the Council's Scheme of Delegation because a part of the planning application site is owned by North Northamptonshire Council and there are unresolved, material objections to the proposal.

1. Recommendation

1.1 That planning permission be GRANTED subject to conditions.

2. The Proposal

- 2.1 Full Planning Permission: Erection of a drive through cafe/restaurant with car parking, landscaping, external seating, and associated works
- 2.2 The application site (excluding the private road from it to Northfield Avenue) measures 1715sqm, and where the gross internal floor area of the proposed building is circa 167sqm.
- 2.3 The facility is to provide parking for up to 20 cars (including two accessible spaces). The drive thru lane will have capacity for eight cars before the pick-up window. Two additional order/grille bays will be located at the end of the drive thru lane where customers can wait to receive their order. The drive thru lane functions in a clockwise fashion with the entrance on the west of the unit and the access on the south east. Parking is proposed for up to eight bicycles at the front of the unit through the provision of four Sheffield stands.
- 2.4 The proposed drive-thru building will be located on the east of the site to maximise visual interest from the road whilst forming a high quality public realm with a forecourt as a buffer to Stanier Close including outside seating.
- 2.5 The site will be accessed from a new crossover on Stanier Close via a priority junction. Egress from the car park will be via an existing crossover. Stanier Close, accessed directly from Northfield Avenue (A6003), is a private road which facilitates access to the site along with McDonalds and the retail units. The proposed accesses will incorporate pedestrian facilities in the form of dropped kerbs with tactile paving.
- 2.6 Background
- 2.7 Pre-application advice on this proposal was sought prior to the making of this planning application and advice was given on the 03 March 2022, where the principle for this type of retail development at this location was agreed and subject to the identified matters being satisfactorily addressed then the advice concluded that such a proposal would likely receive a recommendation for approval.
- 2.8 Amended plans and additional information/details (red/blue line plans, biodiversity check, parking, tracking, ev-charging, traffic, land ownership *et al*) were submitted in response to concerns raised.
- 2.9 It is acknowledged that there is an encampment of people living on NNC owned land on the turning head of Stanier Close just outside the application site boundary and adjacent to the site's proposed access point off Stanier Close.
- 2.10 The Agent has verbally advised that the Agent and the relevant persons/teams at NNC have held discussions on how to address the careful relocation of the encampment of people in the event that planning permission is granted and prior to development commencing. It should be noted that this specific matter falls outside the LPA's powers.

3. Site Description

- 3.1 The application site is a small area of disturbed and undeveloped land within the Stanier Retail Park, on which planning permission had previously been granted for the construction of a retail unit as part of the wider retail park. The site is approximately 500m north-west of the town centre, is due west of Northfield Avenue, is immediately west of the McDonalds Drive-Thru restaurant and is opposite to and north of the Dunelm retail unit.
- 3.2 To the north of the site is an established employment estate with a mix of uses, to the west of the site runs the main railway line from London to Sheffield, to the south extends the Stanier Retail Park, and at approximately 136m to the east and beyond Northfield Avenue and Slade Brook is an established residential area.
- 3.3 The site is currently fenced-off, partly overgrown with vegetation and has an assortment of open-air storage containers/racking with what appears to be wheeled-containers and scaffolding.
- 3.4 Constraints:
Outside Town Centre Boundary.
Within the Nene Valley Nature Improvement Area (NIA) Boundary.
Adjacent to railway line/land.
Section 38 Highways Agreement (Non-planning. Concerning adoption of private highway).
Permitted development rights removed by Condition 12 of Planning Permission KET/2010/0433 which reads:

12. There shall be no internal mezzanines other than a permitted maximum of 1720m² mezzanine floorspace. Including this, the total gross floor space hereby permitted, shall not exceed 7,059m²; plus 490 square metres in Use Classes B1 or B2 and for no other purpose. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order with or without modification) no change of use permitted by Class B of Part 3 of Schedule 2 of the Order shall take place on the application site.
REASON: In recognition of PPS1 para 27 (vi); PPS 4 Policies EC15, EC16, EC17; East Midlands Regional Plan (2009) Policy 22; North Northants Core Spatial Strategy (CSS) 2008 Policies 1, 6, 9, 12, 13c; and emerging Kettering Town Centre Area Action Plan (AAP) Policies 1,2,3,15. and to define this permission.

4. Relevant Planning History

- 4.1 List all previous planning applications as follows:

Application No	Decision	Date	Address	Description
KET/2015/0980	Approved	21/03/2016	Stanier Retail Park, Stanier Close,	Variation of Condition 9 of KET/2010/0433, in

			Kettering	respect of external lighting
KET/2013/0083	Approved	22/06/2020	Stanier Retail Park, Stanier Close, Kettering	Development of bulky goods, non-food retail units, and class B1 and/or B2 units and associated parking

KET/2010/0433	Approved	18/04/2011	Stanier Close (Land at), Kettering	Variation of Conditions 3 (to vary the range of goods) and 12 (to install a mezzanine floor) of KET/2007/0252
KET/2007/0252	Approved	10/02/2010	Stanier Close (land at), Kettering	Development of bulky goods, non-food retail units, and class B1 and/or B2 units and associated parking
KET/2004/1171	Refused	17/01/2005	Stanier Close, Northfield Avenue, Kettering	Outline permission for residential development
KET/2002/0903	Withdrawn	11/06/2004	Northfield Avenue, Kettering	Erection of retail park
KET/2001/0491	Refused – allowed on Appeal?	17/05/2004	Northfield Avenue, Kettering	Erection of retail park

5. Consultation Responses

A full copy of all comments received can be found on the Council's website at:

<https://www.kettering.gov.uk/planningApplication/search>

Consultation responses below reflect the most recent following re-consultations on amended plans/details. Where applicable all responses to original and amended proposal are included.

5.1 Kettering Town Council

- Will cause highway congestion into and from Northfield Avenue.
- Condition be imposed to achieve BREEAM standards.
- Condition to mitigate ecological impact of the development.
- Electric vehicle charging points provided – but adversely effects disabled parking.

- Traffic & pedestrian flows/routes on-site seem un-workable.
- Insufficient car/cycle parking.

5.2 Neighbours / Responses to Publicity

2nos. OBJECTION letters have been received from: 27 Bracken Close, 18 Bellway Close. The issues raised are summarised below:

- Traffic congestion at Stanier Close / Northfield Avenue junction.
- Travellers on site.
- Use of site after closing hours for nuisance car driving.
- Appearance of area will be harmed.
- Increase in noise/air pollution.
- TTP Consulting's Transport Statement is inadequate re: traffic flow/volumes data.

2nos. (COMMENTS) letters have been received from: McDonalds (Stanier Close); KGC (Kettering Gymnastics Club) Brunel Close; No.1 (Team Work Trust) Stanier Close. The issues raised are summarised below:

- Loss of open-air storage for existing businesses leading to loss of high-skilled jobs in the area.
- Proposed café/restaurant should be a town centre first location.
- Loss of retail space within a retail park.
- Encourages car usage.
- Discourages healthier life-styles & sustainable modes of transport (walking, cycling).
- Traffic congestion at Stanier Close / Northfield Avenue junction.
- Air pollution from traffic & café/restaurant operations would increase.
- Noise (from increased traffic & café/restaurant operations).
- Health impacts – air pollution impacts to children/staff at nearby schools (Spencer/Grafton Street).
- Fire risks increased – restaurant near to warehouses.
- Users of the foodbank/adult services facility may be affected.
- Waste control measures.

1no. letter of SUPPORT has been received from: 38a High Street, Rushden. The issues raised are summarised below:

- Additional drive-thru would break McDonalds' monopoly on the market.
- Provides additional market choice to the public.
- Would improve the site's appearance.
- Improving the pedestrian crossing between Stanier Close and Grafton would be welcomed.

5.3 Environmental Care (Waste Services)

Have no comments to make.

5.4 Environmental Protection (Health)

Suggested Conditions:

- To deal with unexpected land contamination.
- Construction & Demolition Method Statement.
- Noise Management Plan.
- Air Quality Management Plan.
- Working hours of construction.

5.5 Local Highway Authority (LHA)

5.5.1 FIRST RESPONSE:

Stanier Close not adopted/public highway – clarification required whether site can access Northfield Avenue.

5.5.2 LPA must satisfy itself as regards servicing of the site. The tracking in Appendix H of the Transport Statement (April 2022, TTP Consulting) is of a 3-axle vehicle. A 4-axle refuse vehicle operates in Kettering.

5.5.3 LPA must take a view on the delivery proposals. Should a delivery vehicle occupy the parking bay as shown in Appendix H of the Transport Statement (April 2022, TTP Consulting), it may be difficult for another vehicle to pass-by to leave the parking area (tracking may clarify this). The delivery vehicle would also block access/egress capabilities to the disabled parking bays.

5.5.4 LHA would suggest the drive-thru route is tracked by the largest vehicle likely to use it to ensure it can negotiate the road.

5.5.5 Car parking spaces require minimum dimensions of 2.5m wide by 5m in length. Lay-by bays require dimensions of 2m wide by 6m long presuming they are used by cars. Disabled parking bays require overall dimensions of 3.6m wide by 6.2m in length.

5.5.6 The cycle parking should be secure and covered, laid out in accordance with the diagram below with minimum 1.2m clear access including gate widths.

5.5.7 Electric Vehicle Parking should be provided at 10% of the parking spaces with infrastructure in place to retrofit the remaining spaces in the future.

5.5.8 SECOND RESPONSE: – on amended proposals

5.5.9 Stanier Close [access road from site to Northfield Avenue] is NOT public status or adopted highway. It is subject to a [Highways Act] section 38 agreement for any modifications to the private highway.

5.5.10 Amended Red Line Plan now shows vehicle route from the site and connectivity to the public highway (Northfield Avenue).

5.5.11 LPA must satisfy itself with the delivery [vehicles] proposals.

5.6 Environment Agency

Proposal does not match our criteria for responding to planning applications.

5.7 NNC Nature Development (Ecology)

The site appears to be vegetated, is near to semi-natural habitats (with connections to woodland), on previously developed (brownfield) land, near to a watercourse (200m of Slade Brook) and is in an amber zone for Great Crested Newts (GCNs).

An assessment to demonstrate that biodiversity net gain can be delivered is required in accordance with JCS Policy 4, NPPF paragraph 174. A net gain assessment should be provided using the Defra 3.1 or small sites metric as appropriate.

On receipt of the submitted Biodiversity Net Gain Assessment the Nature Development responded thus:

The biodiversity net gain assessment indicates that a net gain could be delivered on site, although it also includes additional delivery on land offsite but within the same ownership. Given the scale of the application and nature of the on-site habitats I would not be inclined to push for the off-site enhancement unless the applicant specifically wishes it.

To secure the on-site net gain, the soft landscaping will need to be conditioned.

In this case the net gain is being delivered via urban trees, so I think a LEMP condition is not ideal. I suggest a tree management plan condition be imposed to secure the net gain identified.

5.8 NNC Traveller Liaison Officer

Are aware of travellers adjacent to site access.

5.9 Network Rail

Have no comments to make.

5.10 NCC Interim Development Surveyor (under Ass. Director of Assets & Environment)

Acknowledgement of receipt of Article 13 Notice [notifying NNC landowner of proposed development on their land].

5.11 NNC Ass. Director of Highways & Waste

Article 13 Notice [notifying NNC landowner of proposed development on their land] received. Needs to be checked with our NNC property colleagues.

6. Relevant Planning Policies and Considerations

6.1 Statutory Duty

Planning law requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

6.2 National Policy

National Planning Policy Framework (NPPF) (2021)

Policy 1: Introduction

Policy 2: Achieving sustainable development

Policy 4: Decision-making

Policy 6: Building a strong, competitive economy

Policy 7: Ensuring the vitality of town centres

Policy 8: Promoting healthy and safe communities

Policy 9: Promoting sustainable transport

Policy 11: Making effective use of land

Policy 12: Achieving well-designed places

Policy 14: Meeting the challenge of climate change, flooding and coastal change

Policy 15: Conserving and enhancing the natural environment

National Planning Practice Guidance (NPPG)

National Design Guide (NDG) (2019)

6.3 North Northamptonshire Joint Core Strategy (JCS) (2016)

Policy 1: Presumption in Favour of Sustainable Development

Policy 4: Biodiversity and Geodiversity

Policy 5: Water Environment, Resources & Flood Risk

Policy 6: Development on Brownfield Land

Policy 8: North Northamptonshire Place Shaping Principles

Policy 9: Sustainable Buildings

Policy 11: The Network of Urban and Rural Areas

Policy 12: Town Centres and Town Centre Uses

Policy 20: Nene and Ise Valleys

Policy 22: Delivering Economic Prosperity

Policy 23: Distribution of New Jobs

6.4 Kettering Site Specific Part 2 Local Plan (Adopted 01 December 2021)

LOC1: Settlement Boundaries

EMP1: Safeguarding Employment Land

TEC4: Application of the Sequential Test

TEC5: Locally Set Impact Assessment Threshold

NEH1: Local Flood Risk Management

6.5 Other Relevant Documents

Kettering Town Centre Delivery Plan (2018-2025)

7. **Evaluation**

The key issues for consideration are:

- Principle of Development

- Character and Appearance
- Impact on Living Conditions
- Highway Matters
- Environmental Matters
- Flood Risk and Drainage
- Biodiversity and Landscaping
- Nene Valley Nature Improvement Area
- Waste Management
- Sustainable Buildings
- Pre-commencement Conditions

7.1 Principle of Development

- 7.1.1 Policy 6 of the National Planning Policy Framework (NPPF) sets out policy guidance aimed at creating the conditions in which businesses can invest, expand, and adapt.
- 7.1.2 Policy 7 of the NPPF sets out policy guidance aimed at positively promoting and enhancing competitive town centres and supporting their vitality and viability. Proposals for main town centre uses should be located within existing town centres, which are considered the most sustainable locations for such uses. The NPPF sequentially prioritises sites within existing centres, rather than edge-of-centre or out-of-centre sites for these uses. Where development proposals involving main town centre uses located outside of town centres are made, the NPPF requires applicants to supply a Sequential Assessment.
- 7.1.3 JCS Policy 11 directs retail development to the growth town of Kettering. JCS Policies 6 and 22 prioritises the re-use of previously developed land for new development. JCS Policy 22 seeks “Prioritising the enhancement of existing employment sites and the regeneration of previously development land.”
- 7.1.4 North Northamptonshire Joint Core Strategy (JCS) Policy 22 seeks a net increase in jobs in North Northamptonshire and seeks in “Applying the sequential and impact tests set out in the NPPF to the assessment of retail development and other town centre uses that are proposed outside the defined town centre areas).”
- 7.1.5 Policy TCE4 of the Part 2 Local Plan states that development proposals for main town centres uses not located within a defined town centre, shall be accompanied by a sequential assessment, unless the proposal relates to: (a) a small-scale rural office use or small-scale rural development; (b) the creation of local centres to meet the day to day needs of residents in Sustainable Urban Extensions; or (c) a small-scale retail, leisure, entertainment, or recreation use located to serve its immediate local area of a limited scale and type limited to local significance only.

- 7.1.6 Policy TCE5 of the Part 2 Local Plan sets local impact assessment thresholds for proposals for retail, leisure and office development located outside of the defined town centre. For Kettering, the threshold is 750sqm. The policy states that where the resulting floorspace of a proposed use/development falls below the threshold in the respective town, then an impact assessment will not normally be required. In some instances, proposals will still require an impact assessment, where it is evident that cumulative impacts are likely to give rise to significant harm to the vitality and viability of a town centre.
- 7.1.7 The site is an out-of-centre (circa. 500m) location, in an established retail location. The gross internal floorspace of the proposed drive thru restaurant is circa. 167sqm and so falls well below the locally set (Policy TCE5) threshold of 750sqm that would require an impact assessment. Nonetheless a sequential test to site identification and assessment was undertaken and submitted with the planning application.
- 7.1.8 The proposed unit is intended to primarily serve existing customers to the Stanier Retail Park and the surrounding retail/commercial area by improving services available to them. It has been designed as an ancillary/complementary facility to the retail park. The proposals seek to meet the demand created by the growth in food and non-food retail uses within the local area, as retail developments seek to broaden their attraction to compete with the rise of internet shopping.
- 7.1.9 The sequential test and assessment considered potential sites in the town centre, their availability and site size requirements. The assessment concluded that of the potentially available sites in and on the edge of Kettering town centre, none were found to be sequentially preferable sites that could accommodate the proposed development.
- 7.1.10 The site is within the Stanier Retail Park where the retail sale of goods is permitted and such use falls within the new Class E (commercial, business and services) of the Use Classes Order, and this new Class E now includes the sale of food and drink and its consumption on the premises.
- 7.1.11 It is opined that the proposed restaurant is likely to cater for customers visiting the wider retail park in which it is set, some residents from the nearby dwellings and from passing motorists, such that many customers are likely to be those that were not generally on destination to a restaurant offering located within the town centre and/or restaurant quarter. On this basis, it is opined that the proposal would not materially harm the vitality of town centre based restaurants.
- 7.1.12 On balance the principle of Class E (for the sale of food and drink and its consumption on the premises) development on 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.

7.1.13 Red/Blue Line Plans

7.1.14 It is understood from communications with the Agent and the NNC Departments for Highways and Property, that the footways along Stanier Close that form the site's southern boundary are contained within the planning application redline site plan but these footways are under the ownership of North Northamptonshire Council (NNC) hence this application coming before the Planning Committee. Accordingly, the Agent served a 'Town and Country Planning (Development Management Procedure) (England) Order 2015 Notice under Article 13 of Application for Planning Permission' (dated 17/05/2022) on NNC. Both NNC Assistant Directors of Highways & Waste (Highways) and of Assets & Environment (Property) acknowledged receipt and awareness of the above Article 13 Notice.

7.1.15 For the reasons given, the principle of this retail use at this sustainable location is acceptable, and accords with Policies 6 and 9 of the NPPF, Policies 12, 22 and 23 of the JCS, Policy 3 of the KTCAA, and Policies TCE4, TCE5 of Part 2 Local Plan. The development is further assessed below for compliance with the other development plan policies.

7.1.16 Employment Creation

7.1.17 The development will create approximately 12-15 jobs based upon the comparison with other café/fast food restaurants of this size, as detailed in the submitted Planning & Retail Statement, 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 JCS Policy 15 which gives preference to locations that are accessible by a choice of sustainable modes of transport. It is within proximity to the town centre, within easy walking and cycling distance, and is also served by regular bus services which utilise the 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 6 of the NPPF) and will support the aim of JCS Policy 22 that seeks a net increase in jobs in North Northamptonshire in the period 2011-31.

7.2 Character and Appearance

7.2.1 Policy 8(d)(i) of the North Northamptonshire Joint Core Strategy requires new development to respond to the site's immediate and wider context and local character.

7.2.2 As described the site is currently not in active use and has an untidy appearance from being partly overgrown and an assortment of materials stored on it. It is currently enclosed with unsightly temporary security fencing and litter has been accumulating on the site. It is located within an active

retail park where the other commercial/retail units are all generally kept in good order giving the area a pleasant appearance of a vibrant and well-functioning commercial site.

- 7.2.3 The drive thru facility will be positioned in the north western corner of the existing Retail Park. This will create a point of interest and help improve the visual appearance of the overall estate. The unit and outdoor seating area are to be carefully positioned on the east of the site to ensure that they are clearly visible from the main entrance and approach into the site off Northfield Avenue. Car parking is to be positioned on the west to minimise its visual presence. The drive thru lane will be positioned to the rear of the unit and so will be well screened by the building. The proposal will provide additional visual interest and activity on what is currently a vacant and underutilised site.
- 7.2.4 The existing banks along the west and south west of the site will be slightly modified with appropriate improvements as detailed in planning drawings such as retaining walls and some planting of new trees. A high-quality public realm and external space will be achieved through level access car parking, landscaping islands and an external seating area.
- 7.2.5 The scale, massing, design, and cladding materials will be complementary to that of the McDonalds drive-thru restaurant adjacent to the proposed scheme. This ensures that the new proposal is in keeping with the overall aesthetic of the existing retail park. The building will be fully accessible to persons with accessible needs and wheelchair users.
- 7.2.6 The building will feature modern, contemporary materials with wall cladding and contrasting blue and grey colour panels in horizontal patterns. The extensive glazing, wrapping around the key frontages facing east and south, creates clear active frontages and visual interest for customers and visitors to the park.
- 7.2.7 The building offers carefully considered signage feature walls at various locations, as well as roof mounted signage, with all signage integrating with the building design whilst responding to the distance it is seen from. The Agent advises that the intended end user of the development has not been determined, but the exact signage details would be later assessed by the making of an application for advertisement consent.
- 7.2.8 A bin store for the facility is to be screened in its own enclosure positioned nearby the western elevation, facing away from the public realm. The enclosure will be built from high quality materials to be consistent/integrated with the main building to maintain a high-quality appearance.
- 7.2.9 Subject to condition for the proposed development to be built in accordance with the submitted materials and design details and for the reasons given it is considered that the proposal will preserve the character and appearance of the buildings and their settings and, therefore, accords with Policy 8 of the North Northamptonshire Joint Core Strategy.

7.3 Impact on Living Conditions

- 7.3.1 Policy 8(e)(i) of the North Northamptonshire Joint Core Strategy seeks to ensure that development prevents harm to the residential amenities of neighbouring properties, such as by reason of noise, vibration, loss of light or overlooking.
- 7.3.2 The proposed drive thru is to be located within an existing and active retail park where it would be to the west of the McDonalds drive thru and where the residential estate comprising Bellway Close is to the east of McDonalds, thereby the proposed drive thru being some 136 metres west of Bellway Close. Due to the intervening distances and existing commercial buildings then it is opined that the proposed development would not give rise to any significant impacts on residential amenity by reason of noise, vibration, smell, other pollution, loss of light or overlooking.
- 7.3.3 However, as recommend by Environmental Health conditions shall be imposed to control the hours of construction and for the submission of a construction and demolition management plan, to limit impacts of dust and noise upon surrounding occupiers to satisfactory levels.

- 7.3.4 Whilst it is stated on the planning application form that the hours of operation are not relevant to the proposal, it is noted that the neighbouring McDonalds drive thru had operational hours imposed (see Planning Permission KET/2013/0060) to limit unacceptable issues by way of noise or light disturbance on the nearby residents. It is therefore considered fair and reasonable that such a condition also be imposed on this drive thru development, where it cannot be open to the public between midnight and 06:00 hours on any day.
- 7.3.4 The suggested conditions for a noise management plan and an air quality management plan are considered not to be fair or reasonable for this small-scale development that is located some 136 metres away from the nearest residents. However, the suggested conditions for hours of construction, operational hours and a construction management plan would be sufficient to address any material impacts associated with noise, air quality and dust that may arise.
- 7.3.5 It is acknowledged that any proposed external lighting of the development could give rise to nuisance to occupiers of the dwellings east of the site, as security/flood lighting if poorly installed and set-up could cause unwarranted glare to occupiers. As commented by Environmental Health no assessment of the impact of any external lighting was submitted. Considering the foregoing and to prevent nuisance to occupiers, a condition shall be imposed for the submission of external lighting details such that all reasonable mitigation measures can be assessed and implemented.
- 7.3.6 For the reasons and conditions given above it is considered that the proposal accords with Policy 8 of the North Northamptonshire Joint Core Strategy in that it does not result in an unacceptable impact on the amenities of future and surrounding occupiers.

7.4 **Highway Matters**

- 7.4.1 Policy 8(b)(ii) of the North Northamptonshire Joint Core Strategy seeks to ensure a satisfactory means of access and provision for parking, servicing, and manoeuvring in accordance with adopted standards.
- 7.4.2 The application is accompanied by a full Transport Statement which considered the sustainable modes of transport, likely traffic movements, highway safety at the Northfield Avenue / Stanier Close junction, parking capacity on site, and path analysis of service vehicles accessing/egressing the site.
- 7.4.3 Due to the concerns raised by respondents and the Local Highways Authority (LPA) amended plans and additional information was submitted to address the concerns. The LHA were then re-consulted and have not objected to the proposal and considered the Transport Statement and the additional information and responded to clarify their final position on the proposal with only two observations: (1) written agreements between the

LHA and the landowner of Stanier Close will be required to facilitate any modifications to this private road, (2) LPA to consider the delivery proposals.

7.4.4 Parking

7.4.5 The proposal will provide 20 car spaces (including 2 disabled spaces and 2 electric vehicle (EV) charging spaces), and 2 'grill bay' laybys, with dimensions that comply with the LHA's technical requirements. Sufficient cycle parking is also to be provided where there would be two separate cycle stores/parking areas to serve staff and customers.

7.4.6 The matter of the disabled spaces being temporarily blocked by delivery vehicles is noted. The Agent responded as follows:

7.4.7 "It is acknowledged that deliveries using a 10m rigid vehicle as illustrated on Drawing 2021-4311-AT-107 [contained in Appendix H of TTP Consulting Ltd.'s Transport Statement (April 2022)] would obstruct access to the disabled spaces. The practice of deliveries via the car park is commonplace throughout the UK, including the McDonald's to the east of the application site, where operators typically schedule deliveries at a time of day deemed least disruptive to their trading patterns. It should also be noted that typically we would expect on average 3 to 5 deliveries per week."

7.4.8 Based upon the above, it is considered that there would only be occasional nuisance to disabled parked cars on the relatively few occasions when a delivery vehicle blocks the spaces when in use or not. Furthermore, it is expected that the site operator would take all reasonable measures to assist its customers in managing delivery vehicles to limit the occasions when the spaces are blocked, e.g., by delivery drivers being instructed to pause whilst disabled drivers are assisted in entering/egressing the spaces.

7.4.9 Electric vehicle charging

7.4.10 On amended Drawing Number: 0466-A12-P02-D, two electric vehicle parking/charging points are to be provided representing 10% of the total number of parking spaces. This provision is considered reasonable and acceptable. Their provision and being available for use shall be conditioned to this effect as a contribution in helping to mitigate climate change, improve air quality, and the promotion of more sustainable modes of transport.

7.4.11 Traffic

7.4.12 The LHA have not objected to this proposal on highway safety grounds concerning traffic congestion on their highway network. However, it is considered reasonable to attach a construction and demolition management plan condition the application to ensure no adverse highway implications result during construction.

7.4.13 Vehicle tracking

7.4.14 The amended details (Annex B and C of the Agent's Response to Highway Comments, received 25th July 2022) - which amends Appendix H of the submitted TTP Consulting Limited's Transport Statement) regarding vehicle

tracking (swept path analysis for a large refuse 4-axle vehicle egressing/accessing the site and a 3.5 tonne panel van using the drive thru route, as requested by the LHA. The LHA have subsequently responded requesting no further details. Accordingly, the proposed development would provide satisfactory turning and manoeuvring space for service/delivery vehicles.

7.4.15 Red line plan, access and works on NCC owned land

7.4.16 The revised site layout plan now demonstrates that the red line boundary of the site includes the connection from the restaurant, along Stanier Close (private & unadopted highway) to the public highway of Northfield Avenue. The LHA has subsequently confirmed they are satisfied with these details.

7.4.17 For the above reasons and conditions, the proposal would accord with JCS Policy 8(b).

7.5 **Environmental Matters**

7.5.1 Policy 6 of the JCS states that where development is on a site with a likelihood of contamination then remediation strategies to manage potential contamination will be required.

7.5.2 Due to the site's history then a condition shall be imposed that where if unexpected contamination is found at any time then this be reported to the LPA and a scheme for mitigation be submitted for approval and the approved measures are fully implemented to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policies 6 and 8 of the North Northamptonshire Joint Core Strategy.

7.5.3 For the reasons and conditions given, the proposal would accord with JCS Policy 6.

7.6 **Flood Risk and Drainage**

7.6.1 The site is within flood zone 1 (low probability) where the risk from flooding is very low and all types of development are considered appropriate. As the site area is under 1 hectare at approximately 1500sqm, then the Environment Agency have considered the proposal and have no observations or condition requirements.

7.6.2 Accordingly, the development is acceptable and in accord with Policy 14 of the NPPF.

7.7 **Biodiversity and Landscaping**

7.7.1 The Wildlife and Countryside Act 1981 affords the statutory protection for wildlife species.

- 7.7.2 Policy 15 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by (sub-para. d) minimising impacts on and providing net gains for biodiversity...and (sub-para. f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land where appropriate.
- 7.7.3 National Planning Practice Guidance (PPG) states that section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on public authorities to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of decision making.
- 7.7.4 Policy 4 of the JCS seeks to secure a net gain in biodiversity from development, and where the Biodiversity SPD (2015) is a supporting background document to this policy.
- 7.7.5 This SPD explains how biodiversity shall be integrated into the development process to ensure that legislation and policy requirements are met, and best practice standards are achieved. It offers a standardised approach which all applicants should follow. The SPD expands on the main principles set out in the National Planning Policy Framework and relevant local planning policies and should be used together with expert ecological assessment of the details of each specific case. The SPD sets out a methodology for assessing, surveying, mitigating, and enhancing biodiversity on/off sites where the initial step is undertaking a survey/Biodiversity Checklist.
- 7.7.6 Policy 20 of the JCS identifies the site as being within the Nene Valley Nature Improvement Area (NIA), where it, and accompanying text, seeks development to take account of the natural environment, ecological connections through and around the site to the wider habitat networks to strengthen biodiversity.
- 7.7.7 As identified above the site is partially vegetated, is near to some semi-natural habitats (with connections to woodland), is on previously developed (brownfield) land, and near to a watercourse (200m of Slade Brook) and is in an amber zone for Great Crested Newts (GCNs).
- 7.7.8 An assessment to demonstrate that biodiversity net gain can be delivered on site was undertaken as required in accordance with JCS Policy 4, NPPF paragraph 174. The assessment shows that the net gain to be delivered on site consists of 16 trees around the perimeter of the site to include native species of Hawthorn (*Crataegus monogyna*), Hazel (*Corylus avellana*), Blackthorn (*Prunus spinosa*), Field Maple, Silver Birch, Holly, Rowan and London Plane.
- 7.7.9 Consultations on the submitted details found these measures to be acceptable in terms of providing a level of biodiversity net gain and to ensure that they are delivered and maintained to ensure they survive then conditions are to be imposed for soft landscaping and tree management.

7.8 **Nene Valley Nature Improvement Area**

7.8.1 The application site is within the NIA boundary.

7.8.2 It is considered that the small-scale nature of the development and its temporary nature will have minimal impact on existing wildlife or upon the character and quality of the Nene Valley improvement area.

7.9 **Waste Management**

- 7.9.1 Environmental Health and Environmental Care were consulted on this proposal have had no observations or conditional requirements concerning the management of waste on site and litter that may arise.
- 7.9.2 Details have been submitted to show that a bin store is to be provided and is to be built out of the same high-quality materials as the restaurant building and will be detached from the restaurant building and positioned to the north-western elevation, facing away from the public realm.
- 7.9.3 Accordingly, the waste receptacles would then be securely stored and visually obscured from view. A condition shall be imposed requiring the development to be built in accordance with the approved plans that include the bin store.
- 7.9.4 Comments concerning the management of litter on the site and on land outside applicant's control are noted. In considering whether a condition be imposed to require the removal of litter from a particular area, either on a routine or an ad hoc basis could resolve the concerns. However, such a condition would need to meet the legal tests. Considering there is no compelling evidence to conclude littering would be a nuisance and being mindful that section 94 of the Environmental Pollution Act 1990 offers, through litter control notices, a mechanism whereby the Council (through its environmental protection and non-planning powers) could address a litter nuisance should one arise, then such a condition would not comply with the legal tests and is not to be imposed.

7.10 **Sustainable Buildings**

- 7.10.1 Policy 9 of the JCS encourages good design, energy efficiency and for developments over 1000 square metres in floorspace should meet the BREEAM recognised standards. Policy 12 of the NPPF stresses the aim for new development to be of a design that is high quality and to create beautiful places.
- 7.10.2 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 9. 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, low water consumption systems, installation of EV charging points, and installation of water flow control devices and water metre to building regulation requirements.
- 7.10.3 As the building will be 167 sqm, it is significantly below the locally set threshold and so there is no policy requirement for the unit to achieve BREEAM 'very good' rating.

7.10.4 The information submitted is considered to accord with Policy 9 of the JCS.

7.11 Pre-commencement Conditions

- 7.11.1 As a pre-commencement condition (Condition 5 – Demolition and Construction Management Plan) is recommended to be imposed, then under the provisions of the Town & Country Planning (Pre-Commencement Conditions) Regulations 2018, then the local planning authority had to serve notice on the applicant that should the above application be permitted it will be subject to the pre-commencement condition, and give the applicant 10 working days from 03 November 2022 in which to provide a substantive response or written agreement to the terms of the proposed pre-commencement condition.
- 7.11.2 If a substantive response is not received in time the Local Planning Authority may impose the pre-commencement conditions listed above as deemed necessary. If the applicant disagrees with the imposition of any pre-commencement condition the Local Planning Authority will consider whether the condition is necessary to grant planning permission. If the condition is deemed to be necessary to make the proposed development acceptable then planning permission may be refused if the condition cannot be imposed.
- 7.11.3 As there are no structures/buildings to be demolished on site, and there would only be site clearance operations, then by mutual agreement (on 14 Nov. 2022) the applicant and the LPA it was confirmed that Condition 5 be revised to read:
- 7.11.14 *Prior to the commencement of development a Site Clearance and Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and the approved measures shall be retained for the duration of the site clearance and construction works. REASON: Details are required prior to the commencement of development because site clearance and construction work occur early in the construction process and in the interests of safeguarding highway safety and residential amenity in accordance with Policy 8 of the Northamptonshire Joint Core Strategy.*

8. Other Matters

- 8.1 Neighbour comments:
- Traffic & highway safety
 - Travellers
 - Character & appearance
 - Noise
 - Operational hours
 - Loss of jobs
 - Loss retail space
 - Town centre impacts
 - Health and well-being
 - Sustainable transport
 - Air quality

Fire risk
Litter
Impact on adult services
Enhances retail choice/offering

8.2 Equality:

8.2.1 Should the application be recommended for approval the standard 3 years to commence condition would be required. Commencement would not be linked to the travellers although the development/use could not start without the access being available. NNC as landowner would need to sensitively address the presence of the travellers.

8.2.2 Concerns regarding access to the adult services place and food bank at the far southern end of Stanier Close should not be readily harmed by the development as during construction the management plan to be submitted and approved by planning condition would in part contain measures to keep the private footways/road safe for normal use. It is hoped that all vulnerable adults visiting the facility would use the footway on the opposite side of Stanier Close from the development site and which leads all the way round from the adult facility, around the Dunelm unit and into the wider Stanier Retail Park.

8.3 Health Impact Assessment:

Policy 8 (Paragraph 92) of the NFFP states planning policies and decisions should aim to achieve healthy, inclusive, and safe communities and, specifically, criterion c) of this seeks to enable and support healthy lifestyles, for example, through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts which encourage walking and cycling. At this stage of the development process the Applicant has not determined who the end user will be and, therefore, it is not known what access there will be to healthier food. As the site is within easy walking and cycling distances from the surrounding residential areas and provisions are being made on site for safe pedestrian/cycling access and cycle parking then it is considered that the proposal subject to this application will enable many of these aims to be achieved and therefore it is considered acceptable on health impact grounds.

9. Conclusion / Planning Balance

9.1 The proposed drive-through restaurant is acceptable in principle and in terms of living conditions, design & appearance, biodiversity, waste management, environmental matters, highway safety, operational hours, employment, town centre uses. Therefore, it is recommended that planning permission be granted.

10. Recommendation

10.1 That planning permission be GRANTED subject to conditions

11. Conditions

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 hereby permitted shall not be carried out other than in accordance with the approved plans and details listed below.

REASON: In the interest of securing an appropriate form of development in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

3. Notwithstanding the hereby approved Drawing Number: 0466-A12-P02-D (Drive-Thru Ground Floor Plan as Proposed) the electric vehicle charging points shall be installed and made available for use before the drive through restaurant is opened for trade with the public.

REASON: In the interests of promoting sustainable transport and to help the reduction in carbon dioxide emissions in accordance with Policy 1 of the North Northamptonshire Joint Core Strategy and Chapters 9 and 14 of the NPPF.

4. In the event that unexpected contamination is found at any time when carrying out the development hereby approved, it must be reported immediately to the Local Planning Authority. Development works at the site shall cease and an investigation and risk assessment undertaken to assess the nature and extent of the unexpected contamination. A written report of the findings shall be submitted to and approved by the Local Planning Authority, together with a scheme to remediate, if required, prior to further development on site taking place. Only once written approval from the Local Planning Authority has been given shall development works recommence.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policies 6 and 8 of the North Northamptonshire Joint Core Strategy.

5. Prior to the commencement of development a Site Clearance and Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and the approved measures shall be retained for the duration of the site clearance and construction works.

REASON: Details are required prior to the commencement of development because site clearance and construction work occur early in the construction process and in the interests of safeguarding highway safety and residential amenity in accordance with Policy 8 of the Northamptonshire Joint Core Strategy.

6. Construction works at the site shall not exceed the following times unless with the written permission of the Local Planning Authority or Environmental Health. Monday to Friday 08.00 to 18.00 hrs, Saturday 08.30

to 13.30 and at no time whatsoever on Sundays or Public/Bank Holidays. This includes deliveries to the site and any work undertaken by contractors and sub contractors.

REASON: In the interests of safeguarding residential amenity in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

7. The premises shall not be open for trading to the public between midnight and 06:00 hours on any day.

REASON: In the interests of amenity in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

8. No external lighting of the car park or buildings shall be constructed or affixed to the buildings or erected on the site unless it accords with a scheme submitted to and approved in writing by the Local Planning Authority. There shall be no external illumination outside the hours of 05:30 and 00:30.

REASON: In the interests of visual amenity and highway safety in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

9. The building hereby permitted shall not be occupied until the refuse storage facilities have been provided in accordance with the approved Drawings. These refuse storage facilities shall thereafter be retained as approved in perpetuity.

REASON: In the interests of amenity in accordance with Policy 8 of the North Northamptonshire Joint Core Strategy.

10. Prior to first occupation of the development a scheme of soft landscaping which shall specify species, planting sizes, spacing and numbers of trees and shrubs to be planted and any existing trees to be retained shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be carried out in the first planting and seeding seasons following the occupation of the building unless these works are carried out earlier. Any newly approved 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: In the interest of achieving biodiversity net gain in accordance with Policy 4 of the North Northamptonshire Joint Core Strategy.

11. Prior to the first occupation of the development hereby approved, a tree management plan shall be submitted to, and approved in writing by, the Local Planning Authority. The management plan should be prepared by a qualified and experienced forestry or arboricultural consultant and should include the following elements:

a) Type and frequency of management operations to achieve and sustain canopy, to achieve at least 'moderate' condition as set out in the Biodiversity Metric 3.1, and to provide reinstatement including planting where tree loss or vandalism occurs.

b) Frequency of safety inspections

c) Confirmation that the tree pruning work is carried out by suitably qualified and insured tree contractors to British Standard 3998 (2010).

d) Special measures relating to Protected Species or habitats, e.g., intensive operations to avoid March to June nesting season or flowering period.

e) Inspection for pests, vermin and diseases and proposed remedial measures.

f) Confirmation of cyclical management plan assessments and revisions to evaluate the plan's success and identification of any proposed actions.

The approved plan will be implemented in accordance with the approved details.

REASON: Required to ensure that trees are satisfactorily safeguarded, managed and maintained in the long term / in perpetuity in the interest of achieving biodiversity net gain in accordance with Policy 4 of the North Northamptonshire Joint Core Strategy.

12. Informatives

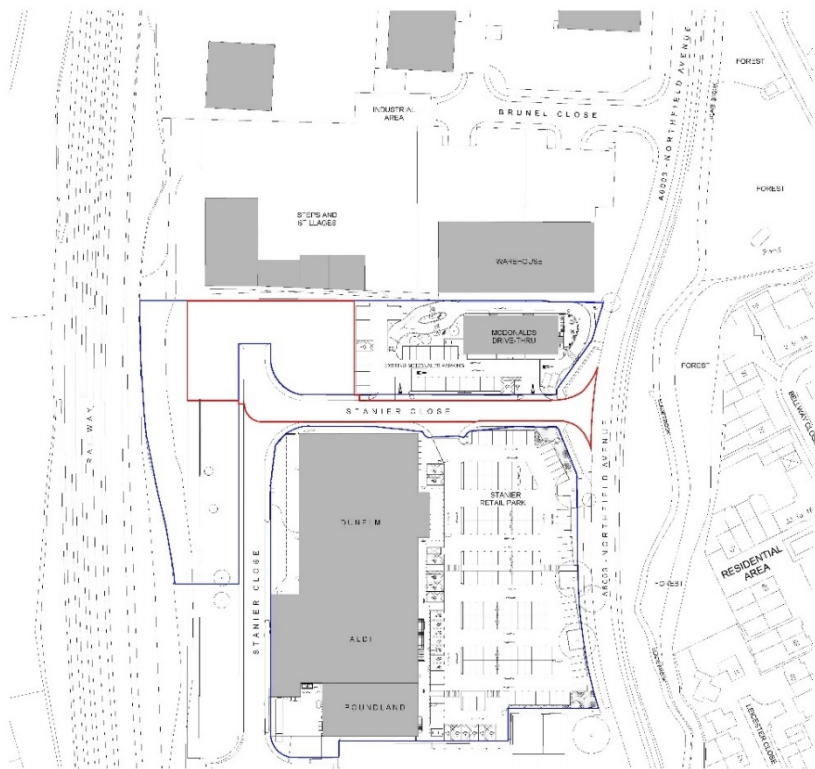
Positive/Proactive - amendments
Building Regulations consent required

List of plans

The plans and documents, some of which may have been subsequently referenced by the LPA, are set out below and form the basis for this decision:

Title	NK Ref.	Agent's Ref	Received Date
Proposed elevations & sections		0466-A12-P04A	24/05/2022
Design & Access Statement		0466-A12-PGB-01	18/05/2022
Covering Letter		06748_01_NG_RW_2 0960097v1	18/05/2022
Planning Statement	NK/2022/0333/1		18/05/2022
Sustainable Design SPD Checklist	NK/2022/0333/2		18/05/2022
Transport Statement	NK/2022/0333/3		18/05/2022
Contamination Assessment		D107003	22/06/2022
Location plan		0466-A12-X01C	25/07/2022
Site plan		0466-A12-P01D	25/07/2022
Proposed ground floor plan		0466-A12-P02D	25/07/2022

Proposed roof plan		0466-A12-P03D	25/07/2022
Agent response to Highways Comments	NK/2022/0333/4		25/07/2022
Agent response to Consultation (3 rd parties) comments	NK/2022/0333/5		25/07/2022
Biodiversity Checklist Complete	NK/2022/0333/6		02/08/2022
Preliminary Ecological Appraisal (Nov 2022)	NK/2022/0333/7		10/11/2022
Biodiversity Metric 3.1 PDF	NK/2022/0333/8		10/11/2022
Biodiversity Metric 3.1 XLS	NK/2022/0333/9		10/11/2022



1 SITE PLAN AS EXISTING
1:500

1:500
 DATE: 15/03/2022
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 PROJECT NO: [Number]
 SHEET NO: [Number]

NO.	DATE	BY	REVISION
1	15/03/2022	[Name]	ISSUE FOR PERMIT

LEGEND:
 [Blue Line] SITE BOUNDARY
 [Red Line] PROTECTION BOUNDARY

0 5m 10m 20m 30m
MountfordPigott
 Northfield Avenue
 Kettering
 Drive: THE LOCATION PLAN
 AS 2022 REV. C
 04/26/17/2024-C
 15/03/2022