

FAKENHAM – PF/24/1079 - Erection of a drive-thru restaurant, car parking, landscaping and associated works, including Customer Order Displays at land to the rear of Lidl, Fakenham, NR21 8JG

Minor Development

Target Date: 11.07.24

Extension of Time: 13.03.25

Case Officer: Jamie Smith

Full Planning Permission

RELEVANT SITE CONSTRAINTS

The site is located in the designated Settlement Boundary in planning policy terms

The site is designated as an Employment Area in planning policy terms

The site may contain contaminated land

The site lies within an area considered to have a risk of surface water flooding as defined by the Environment Agency (EA)

The site falls within the Zone of Influence of a number of European sites

The site is location in the Nutrient Neutrality area

RELEVANT PLANNING HISTORY

PF/22/0111 – Lidl, Holt Road, Cromer - Extension to food store with associated car park reconfiguration – Approved.

PF/07/0744 - Former Rainbow Supermarket, Holt Road, Fakenham – Erection of A1 Retail Food store, Non-Food Retail Units and Pharmacy and Associated Access and Services – Approved.

THE APPLICATION

Site Description:

The site is located to the rear of the Lidl supermarket car park off Holt Road, Fakenham. It is currently fenced off and unused, albeit with an extant 2007 planning permission covering the site. Industrial/commercial land uses, including buildings are present immediately adjacent to the eastern and western boundaries of the site, and further south. There is a section of land to the north of the site for which planning permission for an extension to the existing Lidl store including increased car parking provision was granted in 2022 (PF/22/0111).

Proposal

This application proposes a new McDonald's restaurant and drive-through. The restaurant would comprise a single storey building with drive-through lanes, customer parking, landscaping and associated works including customer order displays (COD). Access would be via the existing access to Holt Road serving the Lidl store. Holt Road is one of the main routes into Fakenham town centre.

The site has an area of approximately 0.7 hectares and the proposed building would have a gross external floor area of 377 sqm (GIA 356sqm), with a dining area of approximately 92 sq. metres. Fifty-five car parking spaces are proposed to include 2 accessible spaces and 2 grill bays (waiting bays for takeaway if food is not ready). Ten cycle parking spaces and 2 EV charging bays are also proposed.

The restaurant will provide 79 seats for customers, with take-away available from both the counter and the drive-through lane. A patio area with external seating is proposed to the side of the building.

Cycle and pedestrian access points have been included within the design, to ensure the safe passage from the surrounding footpath network.

REASONS FOR REFERRAL TO COMMITTEE

The application has been referred to committee at the request of Cllr Liz Vickers for the following reasons:

- The application raises considerations relating to, noise, disturbance and traffic/pedestrian danger. It has attracted representations raising competing issues.

HUMAN RIGHTS IMPLICATIONS

Article 8: The Right to respect for private and family life.

Article 1 of the First Protocol: The right to peaceful enjoyment of possessions.

Having considered the above matters, approval of this application as recommended is considered to be justified, proportionate and in accordance with planning law.

CRIME AND DISORDER

The application raises no significant crime and disorder issues.

EQUALITY AND DIVERSITY ISSUES

The application raises no significant equality and diversity issues.

LOCAL FINANCE CONSIDERATIONS

Under Section 70(2) of the Town and Country Planning Act 1990 the council is required when determining planning applications to have regard to any local finance considerations, so far as material to the application.

Local finance considerations are not considered to be material to this case.

CONSULTATIONS

Fakenham Town Council: No objection but concerns regarding potential highways issues and traffic along Holt Road, especially speeding, the route through the car park and impact on shoppers parking for Lidl as well as concerns over additional litter.

Economic and Tourism Development Manager. Support - economic benefits are recognised and would be derived by such a proposal, in particular the creation of permanent jobs as well as jobs in the construction phase. It is also recognised that the area to the rear of Lidl is not in use at present, therefore, the redevelopment of the land for commercial usage would be an improvement on its current usage.

Environmental Health: No objection regarding odour control, litter management, CEMP,

lighting and noise (associated with deliveries, collections, reversing alarms, plant, machinery and customer noise), subject to appropriate conditions. An objection would remain if 24-hour opening was proposed.

Landscape (NNDC): No objections, subject to conditions.

Planning Policy Manager NNDC. No objection - having regard to the existing permissions on site, the scale of the proposal and emerging Local Plan (ELP) policy, including limited availability of specific sites identified in the ELP and, the sequential test which is considered proportionate for the application at this time.

County Council Highways (Cromer): No objection, subject to conditions.

NCC Flood & Water Management (LLFA) – No comments – as the development is below the size threshold.

Norfolk Fire and Rescue Service. No objection - require a minimum of one fire hydrant to be installed, in a location agreed by Norfolk Fire & Rescue Service to ensure adequate firefighting water provision.

REPRESENTATIONS

Four representations received raising **objections** on the following summarised grounds:

- Increase in traffic and impact upon road safety.
- Increase in lorry deliveries.
- Increase in pollution and air quality.
- Speeding.
- Increase in potential accidents due to increased traffic, to include junctions at Holt Road and Greenway Lane.
- Risk to pedestrian safety.
- Increase in light pollution.
- Increase in noise and odour impacts.
- Increased litter.
- Increased signage would increase visibility.
- Potential for flooding due to increased hard surfacing.
- Out of town fast food restaurant would not benefit the town centre.
- Impact on existing small business, competition.
- Direct impact on properties adjacent the site.

RELEVANT PLANNING POLICIES

North Norfolk Core Strategy (September 2008):

Policy SS 1: Spatial Strategy for North Norfolk

Policy SS 5: Economy

Policy SS 6: Access and Infrastructure

Policy SS 8: Fakenham

Policy EN 2: Protection and Enhancement of Landscape and Settlement Character

Policy EN 4: Design

Policy EN 6: Sustainable Construction and Energy Efficiency

Policy EN 9: Biodiversity and Geology

Policy EN 10: Development and Flood Risk
Policy EN 13: Pollution and Hazard Prevention and Minimisation
Policy EC 5: Location of retail and commercial leisure development
Policy CT 2: Developer Contributions
Policy CT 5: Transport Impact of New Development
Policy CT 6: Parking Provision

Material Considerations:

Supplementary Planning Documents:

North Norfolk Design Guide (December 2008)
North Norfolk Landscape Character Assessment (January 2021)
North Norfolk Landscape Sensitivity Assessment (January 2021)

National Planning Policy Framework (NPPF):

Chapter 2: Achieving sustainable development
Chapter 4: Decision-making
Chapter 6: Building a strong, competitive economy
Chapter 7: Ensuring the vitality of town centres
Chapter 8: Promoting healthy and safe communities
Chapter 9: Promoting sustainable transport
Chapter 12: Achieving well-designed places
Chapter 14: Meeting the challenge of climate change, flooding and coastal change
Chapter 15: Conserving and enhancing the natural environment

Other material documents/guidance:

Emerging North Norfolk Local Plan
Norfolk Green Infrastructure and Recreational Impact Avoidance and Mitigation Strategy -
Habitats Regulations Assessment Strategy Document (2021)
Natural England's letter to local authorities relating to development proposals with the potential
to affect water quality resulting in adverse nutrient impacts on habitats sites (March 2022)

OFFICER ASSESSMENT

Background

The site is located to the rear of the Lidl car park. The existing Lidl store was granted planning permission through application (PF/07/0744). This also included permission for the erection of three retail units on what is the current application site. These have not been constructed, but as the Lidl store forming part of permission has been constructed, the permission remains extant such the retail units could still be built. The total floorspace of the three units is 1,545 sq. metres.

The extant permission for the three retail units is a material consideration to which significant weight should be attached particularly as the overall floorspace is three times more than that currently proposed.

Main Issues for consideration:

- 1. Principle of Development**
- 2. Impact upon Character and Appearance and design**
- 3. Access, Parking and Highways Safety**
- 4. Ecological Impacts**
- 5. Arboricultural impacts**
- 6. Environmental Considerations (including Residential Amenity, Litter, Noise and Odour)**
- 7. Flood Risk**
- 8. Renewable energy**
- 9. Conclusion and planning balance**

1. Principle of development

The site is situated within the settlement boundary of Fakenham, which is defined as a Principal Settlement under Core Strategy (CS) Policy SS 1 which sets out the spatial strategy for the District. Principal Settlements are considered to be the most sustainable settlements within the spatial strategy and, therefore, are to be the focus of the majority of residential and commercial growth through the plan period.

The site is allocated as an Employment Area within the adopted CS. CS Policy SS 5 states that in Employment Areas only employment generating proposals will be permitted. 'Employment generating development' is defined within footnote xviii of CS Policy SS 5 as being 'use class B1, B2, and B8, petrol filling stations, car / vehicle hire, the selling and display of motor vehicles and builder's yards'. Proposals for other industrial, business, or commercial uses will be considered on their merits in accordance with relevant plan policies.

CS Policy SS 8 considers the context of Fakenham and how it sits within the settlement hierarchy for North Norfolk, where the fourth bullet point of the policy stating that '*approximately 52 hectares of land already in use for employment purposes will be identified and retained for employment generating development and a further 7 hectares will be made available as part of the northern expansion of the town*'. Whilst CS Policy SS 8 does not specify the Use Classes which would make up 'employment generating purposes', it is considered that as this cross-refers to CS Policy SS 5 the definition of employment generating purposes is considered to be those within Class B of the Town and Country Planning (Use Classes) Order 1987 (as amended).

This is complimented by the supporting text at paragraph 2.7.18 of CS policy SS 5 which states: '*Given the strategic location of Fakenham, it is anticipated that the Fakenham area will enjoy continued economic growth in the future. The Core Strategy proposes significant new housing at Fakenham and this requires the provision of additional employment land to support the balanced development of the town*'.

This proposal is for a restaurant with a drive through and does not fall within a specified Use Class. Although the proposal will create jobs and will be located on a designated Employment Area, as they would not be jobs associated with a Class B use, the proposal does not strictly comply with CS Policies SS 5 and SS 8. The proposal therefore represents a departure from the Development Plan.

Whilst the proposal represents a departure from the Development Plan, the site at present has extant permission for retail units as referred to above, which is a significant material consideration in this respect as those units would not be used for purposes within Class B

Sequential Test

The proposal for a restaurant with drive-through is defined as a commercial leisure facility within footnote xlix of CS Policy EC 5. Paragraph 3.4.17 of CS Policy EC 5 states that Fakenham is considered one of the most appropriate locations for large scale leisure development in the district. This proposal is for approximately 377 sq. metres. of new floor space. In accordance with paragraph 91 of the NPPF and CS Policy EC 5, there is a requirement to undertake a sequential assessment to determine whether there are any sequentially preferable sites to accommodate the proposed development. The order of priority is set out in the NPPF and comprises of the Town Centre first, then Edge of Centre, and finally, an accessible location out of centre. It is considered that the application site is an accessible location, out of centre.

Whilst it is acknowledged that this proposal would therefore be a departure from CS Policy EC 5, in that the site is outside of Fakenham's town centre, it is further stated in the policy that a departure from this must demonstrate the following:

- *A need exists within the catchment area for the scale and type of development proposed; and*
- *No sequentially preferable site is available, suitable and viable (starting with town centre, edge of centre sites, then out-of-centre locations); and*
- *The proposed development would not have a significant adverse impact on the vitality and viability of existing town centres or nearby service villages or coastal service villages; and*
- *The proposed development would be accessible by a choice of means of transport including public transport, walking, cycling and the car.*

It should be noted that the first and the third criterion above as set out in CS Policy EC 5 are not in strict conformity with the guidance contained in the NPPF. As a result, in considering any proposal for the site regard must be had to Chapter 7 of the NPPF.

In regard to 'need' in the first criterion above, Planning Policy Statement 6 (now withdrawn) set out that a Needs Assessment would be required to support the application of retail and leisure proposals looking at both quantitative and qualitative considerations. This assessment of need was not carried forward into the NPPF.

In relation to the impact of new leisure and retail applications, the NPPF now sets a default threshold in Paragraph 94 of 2,500sq.m. This application falls far short of this threshold and would therefore not need to demonstrate impact. It should also be noted that the emerging North Norfolk Local Plan (NNLP), to which only very limited weight can be given currently, is proposing an even lower threshold of 1,000 sq. m for Fakenham within Policy E4, which the current proposal fall well below.

Footnote *liv* of CS Policy EC 5 refers to the sequential test being undertaken in accordance with PPS6 giving priority to Town Centre, followed by Edge of Centre, then Out of Centre Sites. Following the adoption of the CS, the Government published the NPPF with Paragraph 91 of the current version stating that local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre, nor in accordance with an up-to-date plan. This proposal would fall within the definition of being a 'Main Town Centre Use' as defined within the glossary of the NPPF.

In accordance with the NPPF, there is a requirement to undertake a sequential assessment to determine whether there are any sequentially preferable sites to accommodate the proposed development. The order of priority is set out in the NPPF and comprises of the Town

Centre, Edge of Centre, and accessible location out of centre. It is considered that the application site is an “accessible location out of centre”.

The application is supported by a Sequential Assessment (April 2024) in order to demonstrate compliance with national policy. The Assessment only considers sites which are suitable and can accommodate the whole of the development proposed - in this case, sites that will provide a total 377sq. metres of gross floorspace with associated car park and drive through-lane.

Whilst the Assessment places emphasis on the Local Planning Authority for identifying other sites, as set out in national guidance, it is for the applicant to demonstrate that the requirements of the sequential test have been met. Officers, have however, considered the proposal and acknowledge that equivalent town centre sites for the proposal are limited and mainly comprise of existing town centre car parks, which may not be available or suitable to remove from town centre car parking provision. It is also observed that the existing retail site allocation in the centre of Fakenham town centre (ROS6) within the Core Strategy has not been carried forward into the NNLP. Additionally, land close to the River Wensum, which is a Special Area of Conservation (SAC), could be unsuitable for development. National Planning Practice Guidance goes on to advise that the application of the test will need to be proportionate and appropriate for the given proposal and in line with paragraph 92 of the NPPF. Only if suitable sites in town centre or edge of centre locations are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

In terms of location, the site is considered to be ‘out of centre’ but is contained within the existing urban area and the existing development boundary. The applicant’s Assessment provides a breakdown of the retail impacts and requirements set out in national policy including the floor area. This states that the dining/ancillary public area is 129 sq.m while the back of house will measure 227 sq.m. The 2017 Retail study identified at the time, a projection of up to 228 sq. metres of food and beverage floor space which could be supported by expenditure growth. Essentially, this is a projection of future capacity for food and beverage floor space within Fakenham, where the proposed development would contribute to this.

The Assessment indicates that no alternative sites within and on the edge of the town centre are available. Officers agree with this conclusion and on that basis, the sequential test is considered to be passed.

In terms of other material planning considerations, the extant planning permission for three retail units carries significant weight for the provision of floorspace not falling within Class B that could be built on what is a designated Employment Area.

The application states that up to 120 jobs would be created which has been supported by the Council’s Economic Growth Team on the basis of the level of employment offered. This proposal would, therefore, provide a significant economic benefit to the town and to the wider district in terms of the number of jobs created.

The application has also made the case that disaggregation, i.e. the splitting up of the site, would not be appropriate in this case and this is supported by case law. Further, it is stated, in paragraph 4.6 of the Sequential Assessment, that the drive-through element of the development accounts for on average 50% of all transactions. In this case, it is considered that disaggregation of the site for the purposes of the Sequential Test would not be appropriate.

Summary of the principle of development

A drive through restaurant is considered a Main Town Centre Use (as defined in the glossary of the NPPF). It would therefore represent a departure from the Development Plan, in particular CS policy SS 5 in terms of the provision of drive through restaurant on land designated for B class employment uses. However, a sequential assessment has been provided where the proposed site has been considered sequentially acceptable. Additionally, weight must be attached to the extant retail permissions on site.

Whilst it is acknowledged that the proposal does represent a departure from the Development Plan, it is considered that the applicant has satisfactorily demonstrated that disaggregation of the uses or building proposed should not be applied in this case and, on this basis, it is considered there are no sequentially preferable sites. In addition to this, the proposal would result in the creation of up to 120 jobs for the community.

It is therefore considered that; the economic benefits of the scheme and the extant permission are sufficient to outweigh the loss of designated employment land.

2. Impact on character of the area and design

Paragraph 131 of the NPPF states that the creation of high-quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. CS Policy SS 4 requires all development proposals to contribute to the delivery of sustainable development, ensuring protection and enhancement of natural and built environmental assets and geodiversity. Open spaces will be protected from harm, and the restoration, enhancement, expansion and linking of these areas to create green networks will be encouraged.

CS Policy EN 4 also requires all development to be designed to a high quality, reinforcing local distinctiveness. Innovative and energy efficient design will be particularly encouraged. Design which fails to have regard to local context and does not preserve or enhance the character and quality of an area will not be acceptable.

Industrial land uses, including buildings, are present immediately adjacent to the eastern and western boundaries, and further south of the application site.

The application proposes a more contemporary structure that would sit comfortably within an area consisting of other more modern and industrial/commercial buildings. The form of the development is considered to respond to the context of the area, and it is considered that the proposed building is appropriate in terms of general form and scale and as such would be appropriate in the site's context. The proposed materials are a combination of timber vertical cladding, horizontal grey cladding and grey brick, which is the applicant's general corporate approach to its developments.

It is considered that the scheme complies with the requirements of CS Policies SS 4 and EN 4.

3. Access, parking and highway safety

New development will need to be appropriate in terms of highway safety and infrastructure having regard to the NPPF. Paragraph 109 of the NPPF sets out that transport matters should be considered from the earliest stages of development proposals so that, amongst other matters, the potential impacts of development on transport networks can be addressed, opportunities to promote walking, cycling and public transport use are identified and pursued, and the environmental impacts of traffic and transport infrastructure can be identified,

assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains.

Paragraph 116 of the NPPF states that “*development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts, following mitigation on the road network would be severe*”.

CS Policy CT 5 states that development will be designed to reduce the need to travel and to maximise the use of sustainable forms of transport appropriate to its particular location. Development proposals will be considered against the following criteria:

- the proposal provides for safe and convenient access on foot, cycle, public and private transport addressing the needs of all, including those with a disability.
- the proposal is capable of being served by safe access to the highway network without detriment to the amenity or character of the locality.
- outside designated settlement boundaries the proposal does not involve direct access on to a Principal Route unless the type of development requires a Principal Route location.
- the expected nature and volume of traffic generated by the proposal could be accommodated by the existing road network without detriment to the amenity or character of the surrounding area or highway safety; and
- if the proposal would have significant transport implications, it is accompanied by a transport assessment, the coverage and detail of which reflects the scale of development and the extent of the transport implications, and also, for non-residential schemes, a travel plan.

CS Policy CT 6 (Parking Provision) states that adequate vehicle parking facilities will be provided by the developer to serve the needs of the proposed development. Development proposals should make provision for vehicle and cycle parking in accordance with the Council's parking standards, including provision for parking for people with disabilities.

Comments have been received from the Highway Authority in response to consultation. These comments have considered the effects of the proposed development and also have regard to the extant planning permission (PF/07/0744) and the for the three retail units totalling an additional 1545 sq. metres of floor space. Although not built out, they could still be and as such would generate additional traffic and vehicle movements at nearby junctions. Off-site highways improvement works have been proposed, namely dropping kerbs and tactile paving adjacent to the site including a proposed kerb build out which will improve safety for pedestrians crossing Greenway Lane.

The Highway Authority, therefore, have no objection to the proposals on highway safety grounds and consider that the proposal would not affect the current traffic patterns or the free flows of traffic.

The parking provision proposed would comply with the current adopted standards in Appendix C, of the CS.

It is therefore considered that the proposal is in accordance with CS Policies CT 5 and CT 6 of the Core Strategy.

4. Ecological Impacts

Paragraph 187 of the NPPF identifies the need to enhance the natural and local environment through a number of objectives including minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. Paragraph 193 advises local authorities to ensure that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

CS Policy SS 4 states that areas of biodiversity interest will be protected from harm, and the restoration, enhancement, expansion and linking of these areas to create green networks will be encouraged.

CS Policy EN 2 states that development should protect, conserve and, where possible, enhance distinctive landscape features, such as woodland, trees and field boundaries, and their function as ecological corridors for dispersal of wildlife.

CS Policy EN 9 States that all development should protect the biodiversity value of land and buildings and minimise the fragmentation of habitats, maximise opportunities for restoration, enhancement and connection of natural habitats and incorporate beneficial biodiversity conservation features where appropriate. Proposals which cause a direct or indirect adverse effect to nationally designated sites, other designated areas or protected species will not be permitted unless:

- they cannot be located on alternative sites that would cause less or no harm;
- the benefits of the development clearly outweigh the impacts on the features of the site and the wider network of natural habitats and prevention, mitigation and compensation measures are provided

It appears that the site has remained vacant since the demolition of the Rainbow Supermarket to make way for the Lidl store which was approved in 2008 and as such, has lain way to scrub and trees now being present on this former site. Priority Habitat Deciduous Woodland lies adjacent to the east of the site. The application has been supported by a Preliminary Ecological Appraisal Report (PEAR) (April 2024), a Reptile Survey Report (July 2024), and a Bat Activity Survey Report (September 2024).

Officers raise no objection on ecology grounds subject to the imposition of appropriate conditions requiring mitigation and enhancement measures for biodiversity as detailed in the Ecology Report. It is therefore considered that the scheme would accord with the requirements of Policies SS 4 and EN 9 of the Core Strategy and Section 15 of the NPPF.

Biodiversity Net Gain (BNG)

The application is supported by a completed copy of the Council's Biodiversity Gain Statement (BGS) template and Statutory Metric. The proposed development is subject to mandatory Biodiversity Net Gain. The Council's Landscape Officer has confirmed that they are satisfied with the baseline calculations. The requirement to meet the 10% net gain will be secured through the statutory biodiversity gain condition which requires submission of a Biodiversity Gain Plan and Habitat Monitoring and Management Plan.

Nutrient Neutrality

This application has been assessed against the conservation objectives for the protected habitats of the River Wensum Special Area of Conservation and the Broads Special Area of Conservation and Ramsar site concerning nutrient pollution in accordance with the Conservation of Species and Habitats Regulations 2017 (as amended) (Habitats Regulations).

The proposal will not result in additional overnight accommodation and is located outside the catchment areas of the River Wensum Special Area of Conservation and the Broads Special Area of Conservation and Ramsar site and does not involve foul or surface water drainage into those catchment areas. As such, it is not likely to have a significant effect on the conservation objectives either alone or in combination with other projects and there is no requirement for additional information to be submitted to further assess the effects. The application can, with regards nutrient neutrality, be safely determined with regards the Conservation of Species Habitats Regulations 2017 (as amended).

Demonstration that the development is nutrient neutral is not required and as such the proposals comply with CS Policies SS 4 and EN 9

5. Arboricultural Impacts

CS Policy EN 2 states that development should protect, conserve and, where possible, enhance distinctive landscape features, such as woodland, trees and field boundaries. CS Policy EN 9 seeks to maximise opportunities for restoration, enhancement and connection of natural habitats.

Paragraph 187 of the NPPF states that decisions should recognise the intrinsic character and beauty of the countryside, including the benefits associated with trees and woodland.

There are a number of shrubs/small trees within and around the site which could be impacted upon as a result of the proposed development. The application has been submitted with a Tree Survey (dated April 2024), including an Arboricultural Method Statement and Tree Protection Plan. The conifer hedgerow along the east of the site which is considered important is also being retained as a green link from the woodland site to the south. Subject to the imposition of appropriate conditions to protect retained trees, the scheme is considered to comply with CS Policies EN 2 and EN 9.

6. Environmental considerations (including residential amenity, litter, noise and odour)

CS Policy EN4 requires that proposals should not have a significantly detrimental effect on the residential amenity of nearby occupiers.

CS Policy EN13 states that proposals will only be permitted where, individually or cumulatively, there are no unacceptable impacts on; the natural environment and general amenity; health and safety of the public; air quality; surface and groundwater quality; land quality and condition; and the need for compliance with statutory environmental quality standards.

Paragraph 3.3.10 of the North Norfolk Design Guide states that existing residents should also be kept free from excessive noise and unwanted social contact.

Noise

Noise Assessments have been submitted as part of the application which have considered noise from fixed plant and equipment, drive through and car parking activity, customer noise (car, shouting, music), deliveries and collections. The Environmental Health Officer has confirmed that the information contained within the noise assessments is now satisfactory and adverse impact from noise is unlikely.

Environmental Health however remained concerned regarding the potential for detriment to residential amenity from increased activity resulting from traffic and people visiting the area at

night, using their own transport, on foot and their presence in the vicinity of residential dwellings if the development was proposed to be open on a 24-hour basis.

The agent has confirmed that they would agree to restrict the operating hours to between 6 am to 12 midnight, 7 days a week to alleviate these concerns regarding the impact of noise on nearby residential properties.

On that basis the following conditions are recommended.

- Opening hours for the public restricted to the hours of 06:00 to 00:00 Monday to Sunday.
- Servicing (delivery and waste collection) shall be restricted to the hours of 06:00 to 00:00 Monday to Sunday with no deliveries or waste collection on Sundays and Bank / Public Holidays.
- Any additional ventilation, air conditioning, refrigeration or mechanical extractor system or any plant equipment to be installed will need to specify measures to control noise/dust/odour.

Subject to the above conditions it is considered that the proposal is in accordance with CS Policy EN 13.

Air Pollution and Odour

An Odour Control Assessment was submitted as part of this application. The assumptions set out within the Air Quality Assessment are supported by Environmental Health Officers who raise no objections to the proposal, subject to a condition requiring details of the kitchen extractor system (to include measures to control odour from it) to be approved:

In regard to air pollution and odour, it is therefore considered that the proposal is in accordance with CS Policy EN 13.

Litter

Concern has been raised with regards to the issue of litter. The applicant has set out that a Litter Management Plan will be set up prior to the restaurant first opening and this will then be reviewed on a weekly basis for the first four weeks and then every six months or sooner if necessary. Store Managers will take the following steps in regard to litter management.

- Get to know the area around the restaurant
- Assess needs – where litter is building up in a minimum of 100m around the restaurant
- Plan and document – Set out the route and frequency of patrols
- Implement Patrols- schedule crew on a shift basis and provide the necessary equipment to undertake the patrols.
- Review the litter plan every 6 months or sooner if there is a major change.

It is set out that patrols will usually take place three times a day. All litter will be removed from within the site boundary and all McDonald's litter will be removed from the litter patrol area. In addition to this, the proposal sets out that a total of 10 bins will be provided across the application site.

Subject to conditions requiring that the Litter Management Plan is carried out, it is considered that the proposal would be in accordance with CS Policies EN 13.

Planning Obligations

Additionally, in accordance with CS CT 2, the agent has confirmed that they are willing to enter into a legal agreement to provide a financial contribution towards the provision of litter bins including maintenance / emptying for 15 years (outside of the application site). Officers are awaiting confirmation from the Environmental Protection Officers in respect to the quantity of

bins, monies and location. The Committee will be updated orally in respect of the financial contribution expected.

Lighting

The lighting design uses combination of 11 LED luminaires on 5m high columns which are set at zero degrees and 12 LED bollards which are 1.1m high. The correlated colour temperature (CCT) adopted for this site is 2700K for the luminaires and 3000K for the bollards. This provides the correct mitigation measures for the known bat corridor directly over the eastern boundary.

Environmental Health Officers raised concerns regarding the assessment of vertical lighting and the potential impact upon neighbouring properties. As a result of this, the applicant submitted an updated Lighting Report that looked at both horizontal and vertical lighting and no concerns were highlighted in reference to nuisance from artificial lighting. Environmental Health no longer raise any objection to the proposal in regard of light pollution. As such this design is not envisaged to impact on residential amenity. Additionally, the Landscape Officer raises no further concerns in relation to impacts upon ecology and lighting. A condition is suggested relating to this scheme and its implementation.

It is considered that the proposal is in accordance with CS Policy EN 13.

7. Flood Risk and Drainage

CS Policy EN 10 requires that appropriate surface water drainage arrangements for dealing with surface water run-off should be submitted with applications for new development. The use of SuDs will be preferable unless, following an adequate assessment, soil conditions and/or engineering feasibility, dictate otherwise. Consequently, SuDs have also been recommended in new development by the Lead Local Flood Authority.

The proposed use falls within the NPPF definition of a 'less vulnerable use' and is situated within Flood Zone 1. It is also noted that the site is proposed under 1ha in size. EA mapping shows that surface water flooding exists on land to the south of the site and on the Fakenham Road to the north of the site. The drainage strategy submitted with the application states that there is a very low risk of surface water flooding and limited potential for ground water flooding.

The Drainage Strategy recommends that Sustainable Drainage Systems be used particularly the use of permeable paving around the proposed building, and also on car park and drive-through. The Drainage Strategy proposes a ground infiltration with an overflow into a basin. Foul water will connect to the mains and no flooding from foul water is expected. The sustainable surface water drainage system is designed to accommodate a 1:100-year event plus the appropriate climate change allowance for this site without flooding

It is considered that the proposal is in accordance with Policy EN 10 of the adopted Core Strategy

8. Renewable Energy

CS Policy EN 6 states that new development will be required to demonstrate how it minimises resource and energy consumption and how it is located and designed to withstand the longer-term impacts of climate change. All developments are encouraged to incorporate on site renewable and / or decentralised renewable or low carbon energy sources, and regard should

be given to the North Norfolk Design Guide in consideration the most appropriate technology for the site.

It is proposed to provide PV panels on the roof of the proposed building, along with the provision of an air source heat pump. Additionally, the building will be constructed with improved building fabric and air permeability compared to the minimum standards in the current Building Regulations, including water efficiency saving measures, amongst other sustainability credentials. This approach is considered to be consistent with CS Policy EN 6. A condition requiring the provision and maintenance these measures is recommended.

9. Conclusion and Planning Balance

The site forms part of a designated Employment Area. Policy SS 5 seeks to retain land in such an area for Class B1, B2 and B8 uses. The proposal is therefore a departure from the Development Plan. Notwithstanding this, the site has an extant permission for retail units, and it has been demonstrated that sequentially there are no suitable alternative sites within Fakenham that could accommodate the proposed scheme.

Furthermore, the proposed application would create more than 120 additional full and part time jobs and that this could potentially be more than or equal to B Class uses and also offer linked-trips and benefits to nearby businesses. Similar to the Cromer store, these consist of staff within the restaurant, supply chain and jobs within the wider area. There are therefore clear economic benefits that would be delivered by the scheme proposed.

The Highway Authority raise no objection in terms of parking, nor wider highways issues.

The Environmental Health Officer raises no objections regarding impacts upon light and odour. The operating hours have also been restricted to alleviate concern regarding the impact of noise on nearby residential properties.

In undertaking an overall balance of the competing aspects of the proposal, it is considered that the identified policy conflict would be outweighed by the economic benefits and other material considerations in favour of the development. Therefore, APPROVAL of the application is recommended.

RECOMMENDATION:

APPROVAL subject to:

- 1. The completion of an agreement under section 106 of the Town and Country Planning Act 1990 to secure:**
 - **The provision of off-site litter bin(s)** [Quantity to be confirmed] **and a financial contribution towards the cost of maintenance / emptying the off-site bins for 15 years** [Financial contribution to be confirmed]
- 2. The imposition of appropriate conditions including those summarised below (plus any amendments to these or other conditions considered to be necessary by the Assistant Director of Planning); and**
- 3. If the Section 106 Obligation is not completed and the permission is not issued within 3 months of the date of this Committee meeting then the Director for Planning and Climate Change will consider whether the application resolution**

remains appropriate and in doing so will take account of the likelihood of the Section 106 being completed and permission issued in the near future (i.e. within another month) and will consider whether there are any potential / defensible reasons for refusal at that time. If he reaches that view – i.e. that the application should potentially be refused - then the application would be reported back to Committee.

Suggested Conditions:

1. Time limit to three years
2. To accord with the approved plans
3. External materials
4. In accordance with the hard and soft landscaping plan
5. In accordance with the landscape management plan
6. On site car parking etc.
7. Offsite improvement works
8. Accord with the Arboricultural Impact Assessment
9. Retain eastern hedgerow at a minimum 3 m.
10. Submission of a CEMP (Biodiversity)
11. In accordance with Biodiversity Enhancement Plan
12. Method statement to control *Cotoneaster horizontalis* and *Buddleia davidii*.
13. BNG
14. Kitchen Extract Systems
15. Noise/ dust/ odour control
16. Contamination
17. Opening hours for the public
18. Hours of Servicing
19. Construction hours
20. Litter Management Plan
21. Solar panels
22. External lighting
23. In accordance with Drainage Strategy
24. In accordance with the Construction Management Plan
25. Provision of a fire hydrant