

<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>26 JULY 2023</b>
<b>TITLE OF REPORT:</b>	<b>222314 - ERECTION OF A FREESTANDING RESTAURANT WITH DRIVE-THRU FACILITY, CAR PARKING, LANDSCAPING AND ASSOCIATED WORKS, INCLUDING CUSTOMER ORDER DISPLAYS (COD), GOAL POST HEIGHT RESTRICTOR, PLAY FRAME AND PUMPING STATION.</b>  <b>For: McDonald's Restaurants Ltd per Mr Benjamin Fox, St Andrews Castle, 33 St Andrews Street South, Bury St Edmunds, IP33 3PH</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=222314&amp;search-term=222314">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=222314&amp;search-term=222314</a>

**Reason Application submitted to Committee - Redirection**

**Date Received: 13<sup>th</sup> July 2022**

**Ward: Ross North**

**Grid Ref: 360829,225479**

**Expiry Date: 28<sup>th</sup> July 2023**

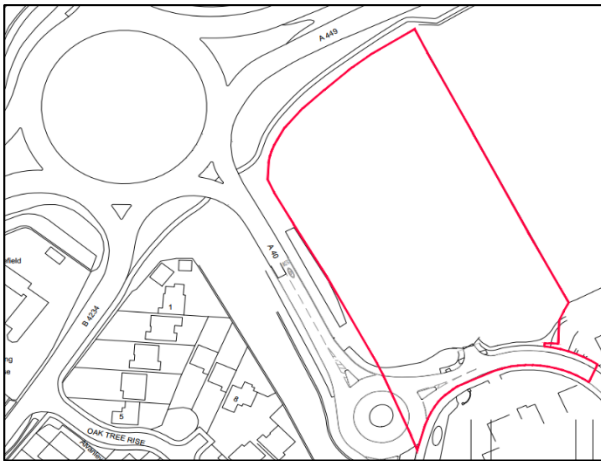
Local Members: Cllr Bartrum

**1. Site Description and Proposal**

- 1.1 The application site is located on land to the east of the A40 and south of the A449 and it is located about 1.6km to the north of the town centre of the market town of Ross on Wye. The site is located to the south east of the Over Ross Roundabout (A40/A449). The A449 meets the M50 Junction 4 roundabout 0.7m east of the Over Roundabout. The north part of the site is formed by the A449 and the western boundary is formed by the A40. To the south of the site is the A40 spine road roundabout which serves as the access to the residential development (partly under construction). The site covers an area of approx. 0.73ha and is currently farmland and is gently graded.
- 1.2 The wider area contains a range of uses, including residential to the west and south, with business uses to the north. To the east of the site there are a range of similar uses on either side of the A449, including a KFC, Burger King, Starbucks, Subway and Greggs.
- 1.3 To the east of the site is currently vacant land. The site is not located within a conservation area nor the AONB and is located within Flood Zone 1.
- 1.4 The proposal seeks full planning permission to erect a single storey drive through and restaurant. It is intended that the unit would be occupied by McDonalds. Amended plans have been received through the course of the applications. The proposal is a single storey restaurant (Class E b) with a drive thru (sui generis) with an area for customers to eat within or outside of the building or takeaway. The drive thru lane will wrap around the building in a clockwise direction, with the order point on the southwest side, and the payment and collection windows on the northwest side. The car park is to include designated "click and collect" and "grill bay" parking spaces, in addition to disabled parking and cycle hoops. Windows, doors, fascias and soffits will be finished in white and brown colours, boarding on the gable ends painted black, and cedar wood effect cladding applied to feature elevations.

- 1.5 Provision is made for takeaway customers, both from the counter and from the drive-thru lane. The proposed restaurant to be 377.3 sqm, and the GIA is 350 sqm, with a dining area of 78sqm. The kitchen/staff areas and back of house storage etc. 197.9 sqm<sup>3.3</sup>. The customer seating area comprises of 76 covers for visitors.
- 1.6 The proposal includes 50 car parking spaces including the provision of 5.no accessible bays, 2.no grill bays and 2.no electric vehicle charging bays. Furthermore, there are 4.no motorbike spaces, and 6 No Sheffield customer bike stands, for an overall provision of 12 cycle spaces and 4 double secure cycle lockers for staff. The site will also be accessible for cycle and pedestrian with access points being included to ensure the safe passage from the surrounding footpath network. Plan extracts are inserted below to assist.

The proposed signage does not form part of this application but is considered in three further separate advertisement consent applications.



**Fig 1: Site location plan (amended)**



**Fig 2: Aerial shot**



**Fig 3: Proposed site layout**



**Fig 4: Proposed block plan**

- 1.7 The application has been supported by the following:

- Ecological appraisal
- Flood Risk Assessment
- Application form
- Litter Management Plan
- Delivery Management Plan

- Transport Assessment and Travel Plan
- Environment Noise assessment
- Aboricultural Impact Assessment
- Construction Management Plan
- Habitat Management Plan
- Reptile Survey
- Preliminary Ecology Appraisal
- Sustainable Statement
- Air Quality Assessment

## 2. Policies

### 2.1 Herefordshire Local Plan – Core Strategy:

SS1	-	Presumption in favour of sustainable development
SS4	-	Movement and transportation
SS6	-	Environmental quality and local distinctiveness
SS7	-	Addressing climate change
RW1	-	Development in Ross on Wye
MT1	-	Traffic management, highway safety and promoting active travel
E5	-	Town Centres
E6	-	Primary shopping areas and primary and secondary shopping frontages
LD1	-	Landscape and townscape
LD2	-	Biodiversity and geodiversity
LD3	-	Green infrastructure
SD1	-	Sustainable design and energy efficiency
SD2	-	Renewable and low carbon energy
SD3	-	Sustainable water management and water resources
SD4	-	Waste water treatment and river water quality

The Herefordshire Local Plan Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

[https://www.herefordshire.gov.uk/info/200185/local\\_plan/137/adopted\\_core\\_strategy](https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy)

### 2.2 Ross on Wye Neighbourhood Development Plan (NDP)

- Policy EN1: Ross Design Policy
- Policy EN2: Shopfronts and Signage
- Policy EN3: Settlement Boundary
- Policy EN5: Eco-building
- Policy EN6: Solar/Photovoltaic Energy
- Policy E1: New Employment Development
- Policy E2: Resisting Out of Town Retail
- Policy A2: Walking and Cycling
- Policy A4: Provision of Electric Charging Points

The Ross-on-wye Neighbourhood Development Plan policies can be seen using the following link:-

<https://www.herefordshire.gov.uk/directory-record/3101/ross-on-wye-neighbourhood-development-plan>

## 2.3 **National Planning Policy Framework (2021) (NPPF):**

The following chapters are of particular relevance to this proposal:

- Chapter 4. Achieving sustainable development
- Chapter 5. Delivering a sufficient supply of homes
- 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

## 2.4 **National Planning Practice Guidance (NPPG) (As amended)**

### 3. **Planning History**

3.1 **213017:** Proposed erection of a freestanding restaurant with drive-thru facility, car parking, landscaping and associated works, including Customer Order Displays (COD), Goal Post Height Restrictor, Play Frame and Pumping Station. Application Withdrawn: Monday 9 May 2022.

3.2 **180155:** 9 dwellings proposed out of the 290 dwellings for phase 1: Granted 18<sup>th</sup> April 2019.

### 4. **Consultation Summary**

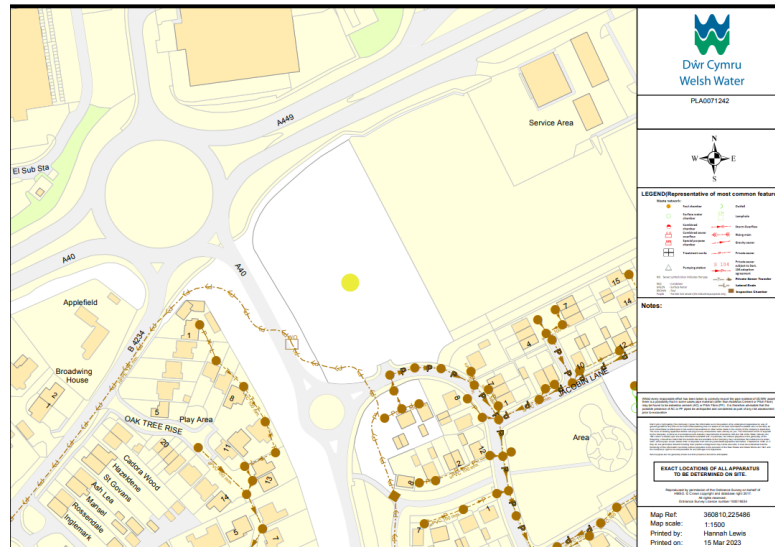
#### Statutory Consultations

#### 4.1 **Welsh Water: No objection**

##### **SEWERAGE**

The proposed development site is crossed by a public sewer, please see copy of indicative public sewer record attached (*inserted below*). No operational development is to take place within 3 metres either side of the centreline of the sewer. We request that prior to commencing any operational development the location of this asset is to be confirmed. Due to asset operating under pressure we would not permit third parties to attempt to locate this asset. We do offer a sewer location service to locate sewer assets. If operational development is to take place within 3 metres either side of works please stop works and contact us.

Under the Water industry Act 1991 Welsh Water has rights of access to its assets at all times. We can advise that Ross on Wye Lower Cleeve WwTW has a phosphate permit, this matter will need to be considered further by the Herefordshire Planning Authority. Notwithstanding this we have no concerns with capacity within the public sewerage network to accept domestic foul flows and would advise that the existing connection should be utilised if possible.



## SURFACE WATER

With respect to the disposal of surface water flows from the proposed development, the developer is required to explore and fully exhaust all surface water drainage options outlined under Sections 3.2 and 3.4 of Part H of the publication 'Building Regulations 2000. Disposal should be made through the hierarchical approach, preferring infiltration and, where infiltration is not possible, disposal to watercourses in liaison with the Land Drainage Authority, Natural England and/or the Environment Agency.

## WATER SUPPLY

We anticipate this development will require the installation of a new single water connection to serve the new premise. Capacity is available in the water supply system to accommodate the development. The applicant will need to apply to Dwr Cymru Welsh Water for a connection to the potable water supply system under Section 45 of the Water industry Act 1991. The applicant attention is drawn to our new water connection application guidance notes available on our website.

Notwithstanding this, we would request that if you are minded to grant Planning Consent for the above development that the Conditions and Advisory Notes listed below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

### **Conditions**

No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul, surface and land water, and include an assessment of the potential to dispose of surface and land water by sustainable means. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

### **Advisory Notes**

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers

and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com)

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011.

The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

In accordance with National Planning Policy Framework (Edition 11) and Technical Advice Note 12 (Design), the applicant is advised to take a sustainable approach in considering water supply in new development proposals, including utilising approaches that improve water efficiency and reduce water consumption. We would recommend that the applicant liaises with the relevant Local Authority Building Control department to discuss their water efficiency requirements.

The approved use should investigate an adequate grease trap to be fitted, in accordance with environmental health regulations, and maintained thereafter so as to prevent grease entering the public sewerage system.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

4.2 **Severn Trent:** The above site is out of Severn Trent's waste water area, and therefore we have no comment to make.

4.3 **National Highways: No objection.** August 2022  
Having reviewed the documentation submitted in support of this application, National Highways considers that the development will not result in either safety concerns or severe traffic impact upon the Strategic Road Network.

4.4 **Natural England: No objection**  
Thank you for your consultation on the above dated 26 April 2023 which was received by Natural England on 26 April 2023. Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

#### **Internationally and nationally designated sites**

The application site is within the catchment of the River Wye which is part of the River Wye Special Area of Conservation (SAC) and within close proximity of the Wye Valley Woodland SAC which are European designated sites, and therefore the proposed plan/project has the potential to affect their interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended), the 'Habitats Regulations'. The River Wye SAC is notified at a national level as the Choose an item. while the Wye Valley Woodland SAC is notified as Upper Wye Gorge SSSI. Please see the subsequent sections of this letter for our advice relating to SSSI features.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have. The Conservation objectives for each European site Requirements are set out within Regulations 63 and 64 of the Habitats Regulations, where a

series of steps and tests are followed for plans or projects that could potentially affect a European site. The steps and tests set out within Regulations 63 and 64 are commonly referred to as the 'Habitats Regulations Assessment' process.

### **SUMMARY OF NATURAL ENGLAND'S ADVICE: NO OBJECTION**

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.

Natural England's advice on other natural environment issues is set out below. explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has undertaken an Appropriate Assessment of the proposal, in accordance with Regulation 63 of the Regulations. Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process.

#### **River Wye SAC - No objection**

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

#### **Wye Valley Woodland SAC- No objection**

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

#### **River Wye SSSI – No objection**

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

#### **Upper Wye Gorge SSSI – No objection**

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

#### **Protected Landscapes – Wye Valley AONB**

The proposed development is for a site within or close to a nationally designated landscape namely the Wye Valley AONB. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. The policy and statutory framework to guide your decision and the role of local advice are explained below.

Your decision should be guided by paragraph 176 and 177 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For major development proposals paragraph 177 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape.

Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies. The Government has produced core guidance for competent authorities and developers to assist with the Habitats

Regulations Assessment process. This can be found on the Defra website. <http://www.defra.gov.uk/habitatsreview/implementation/process-guidance/guidance/sites/>

We also advise that you consult the relevant AONB Partnership or Conservation Board. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the AONB's statutory management plan, will be a valuable contribution to the planning decision.

Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.

The statutory purpose of the AONB is to conserve and enhance the area's natural beauty. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm that statutory purpose. Relevant to this is the duty on public bodies to 'have regard' for that statutory purpose in carrying out their functions (S85 of the Countryside and Rights of Way Act, 2000). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

#### **Other advice**

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondences to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

#### Internal Council Consultations

#### **4.5 Highways (Area Engineer): No objection (revised comments):**

Following my previous comments dated 11th April 2023 improvements have been made to the A40 (south) approach to the Over Ross Roundabout and the roundabout with these improvements has had a new capacity assessment undertaken. The improvements to the roundabout primarily consist of widening the approach lane to enable a longer two lane approach to the roundabout (ADL drawing 3166-SK-24) which, as the modelling evidences, has improved the operation of this approach significantly from an RFC of 0.70 in the AM peak without the improvements to 0.57 and 0.93 in the PM peak to 0.75 in 2028. The roundabout improvements should be undertaken via a S278 Agreement.

A further traffic survey has also been undertaken to check whether traffic flows have changed since the original 2019 surveys and a further assessment for the future year 2030 using these flows (growthed to 2030) has been undertaken. Flows on some arms of the Over Ross Roundabout were found to have increased, whereas some had decreased. The revised 2030 capacity assessments showed that without the roundabout improvements the A40 (south) arm of the Over Ross Roundabout would have an RFC of 0.71 in the AM peak and 0.58 with the improvements, similarly in the PM peak there would be an RFC of 0.84 without the improvements and 0.66 with the improvements.



Given this robust assessment the local highway authority (LHA) is of the view that the proposed improvements to the A40 (south) arm of the Over Ross Roundabout are acceptable and have the desired effect of reducing the impact to such a degree that the impact of the improvements ensures that the combination of the McDonald's traffic with the roundabout improvements has less of an impact when compared to no McDonald's traffic but the roundabout stayed as existing in both the 2028 and 2030 scenarios.

The fencing arrangements as set out on drawing 7194-SA-8492-P104 rev R are considered to be acceptable, however, should any hedging die or fencing need replacing it should be conditioned that it should be replaced.

Taking the above into account the LHA has no objection to the application subject to the below conditioned (and those detailed above).

Conditions: CAB (2.4m x 30m to the west and 2.4m x 43m to the east), CAE, CAJ, CAP (roundabout improvements (ADL drawing 3166-SK-24 via S278)), CAT, CB2, CB3

#### 4.6 **Principal Natural Environment Officer (Landscape) (Revised Comments): No objection**

I welcome the changes to the layout of the wildlife / pond area, including the additional wetland planting. I am concerned, however, about the negative visual impact of a plain, boring, intimidating 1.8m high close board fence being positioned on the top of the entrance mound. This will detract from the welcoming ornamental planting and increase the perceived height of this corner barrier and level change. A continuation of the 1.1m high post and rail fence would be preferable.

##### Previous comments

I note that common ivy has been added along the boundary to grow up the acoustic fencing.

I note that the trees around the wildlife area have been updated to include two larger species, with pin oak being an unusual choice compared to English oak but not completely out of place in what will become this urban green space.

In order for the full combination of development impacts to be assessed, these comments also apply to the advertisement proposals under application references 222308, 222309 and 222321.

##### **Introduction**

The site and setting was visited 1<sup>st</sup> September 2021 (for previous application ref 213017). Many of my previous comments stand and are reproduced here. The location is an important, key gateway on the edge of Ross-on-Wye. It is bound by two busy roads to the north and west. To the south is a new roundabout and residential development. To the east is a small field adjacent to a petrol filling service station and associated built form with car parking. It is a high point in the local landscape, with the ground levels dropping to the south.

The development proposals for a drive-thru facility, with associated infrastructure, including boundary signs that are detailed on separate advertisement applications. I have reviewed the Landscape and Visual Appraisal (LVA, by EDP Ltd), including the Detailed Landscape Design plans, which follows recommended guidance and covers all expected aspects. I have also reviewed relevant other drawings from all 4 applications in relation to external appearance of the development.

##### **Landscape character**

As the site itself is currently agricultural land, there will be a major magnitude of change due to this development. In the immediate setting of the busy roads and nearby commercial land uses, this proposal will actually be more intrusive than the existing structures. This is owing to the

commercial buildings to the north being less obvious as they are on sunken lower ground and those to the east are contained in a small section along the A40 strip so there is a sense of separation from the entrance of the town. The site also has a small degree of separation from the residential development to the south. In the wider setting of adjoining countryside to the north and east and urban development to the south and west, it is agreed with the LVA that there would be a minor / negligible effect overall. This would be due to the introduction of cars, movement, lighting and built development, but would be offset by retaining boundary vegetation and the new planting scheme and wildlife area.

The site is adjacent to the Wye Valley Area of Outstanding Natural Beauty and is considered part of its setting. The NPPF para 176 states that “...development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas”. In consideration of the adjoining major roads and other built infrastructure, it is not considered that the introduction of this unit would significantly alter the approach, views, setting or character of the AONB.

### **Visual amenity**

In other circumstances this gateway site on the approach to Ross-on-Wye could benefit from a unique, landmark building to enhance and compliment the beauty of the town. The proposals in this application do not achieve this, however, they are not considered to have a significant negative impact on visual amenity. This is described well in the final bullet point of para 6.7 in the LVA, where “Careful consideration has been given to the use of external colours, materials and non-reflective surfaces. The McDonald’s elevations features grey claddings, stone effect cladding and timber effect cladding. The use of natural and neutral colours help to blend the building into the landscape and the variety of finishes assist with visually breaking up the façade. Similarly the roof is finished in a visually dark recessive colour to diminish built form and break up its massing. This is also considered to be less reflective”

Clearly there are some bright yellow colours included in the signage, however these are considered to have a minor visual impact on the wider setting, particularly as in many views it is seen in the same context as nearby commercial buildings and highway signs. The play tower is also a tall new structure at 4.2m high, with some additional colours. But this will always be seen in close proximity to the building which is 5.8m high.

The signs and building may also be seen at night, particularly as the site is to be used 24 hours. A night view of existing site conditions would have been useful to be included with the application, however the LVA does seem to address this adequately in paras 7.27 – 7.31. This includes the use of beam control to minimise slight spill around the boundaries and consideration of the presence of existing lighting on the road boundaries, residential areas and nearby commercial developments.

It is noted, and also agreed, that the LVA has identified a major / moderate adverse long term effect for residential receptors who look directly north onto the site. While some tree planting is proposed in the very south west corner, around the pumping station, the level change means the development would likely still be visible, particularly from upper floors.

### **Landscape scheme**

The Detailed Landscape Design plans are welcome, as is the ‘wildlife area’ (previously a possible further development). This area will help to separate the commercial restaurant use from the housing to the south. It is a shame that it does not allow for public access. It is considered that larger tree species could be included here, such as oak, cedar or walnut or similar as appropriate to the site conditions. This would give the wildlife area a unique character, separate from the residential and commercial and make the most of the protected open space with long lived feature trees.

The landscape scheme does not pick up the new 2.2m high acoustic fence, fixed to the top of a retaining wall along the west boundary. It is a shame that there is not space on the restaurant side to plant a hedgerow or at least climbing species to soften this unattractive barrier from within the site. It is noted that the existing hedgerow and trees will provide some screening from public viewpoints to the west.

It is noted that a Habitat Management Plan has already been provided in a letter by Practical Ecology. This details suitable management and maintenance requirements for the long term establishment of this area.

### **Signage**

The signage applications seem to compliment the overall development proposals. The totem will be 12m, adjacent to the roundabout at the north east corner of the site, which seems appropriate in landscape terms. NOTE: A further totem proposed at the south west corner is not included in the development proposals this time (original app ref 213008).

### **Conclusion**

It would be welcome if the above comments on the landscape scheme could be given further consideration as part of this application.

Overall, however, the submitted application is in accordance with Core Strategy Policy LD1 and LD3. It has taken consideration of landscape character and provides a landscape scheme with new green infrastructure.

#### **4.7 Principal Natural Environment Officer (Trees) Comments: No objection**

Revised comments: October 202: 2The amendments which now include a watering schedule deal with my previous request for alterations.

The details can be secured with a condition that includes Detailed landscape plan - drawing number - edp6962\_d008g.

#### **Previous comments:**

The site, as it is pre construction does not put any significant constraints on existing trees, all of which will be retained, barring T08, a poor quality ash tree.

The proposed planting plan will provide an enhancement on the green infrastructure with a good mix of indigenous varieties.

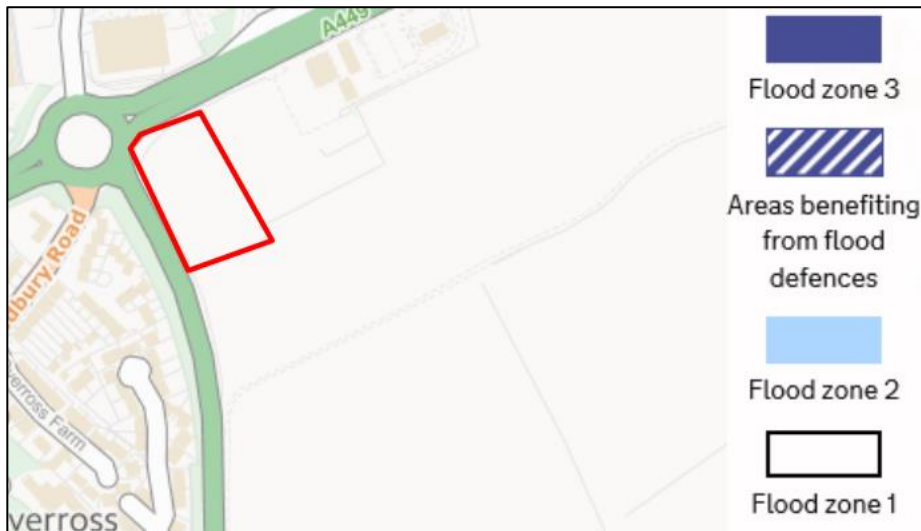
However, a common occurrence on new sites is a high mortality rate of young trees. The proposed planting pits and maintenance schedule is sufficient, but it would be useful to know if the pits and trees will be installed by professionals, specialised in doing such undertakings.

Also the frequency of watering is imperative for the trees to have an opportunity to survive. In my opinion we need this information to ensure the enhancement of GI, failure to do this is arguably a failure to comply with policy LD3 - Green Infrastructure.

#### **4.8 Land Drainage comments: No objection**

## Site Location

Figure 1: Environment Agency Flood Map for Planning (Rivers and Sea), April 2023



## Overview of the Proposal

The Applicant proposes the construction of a new drive thru restaurant with associated car parking, landscaped areas and pumping station. The site covers an area of approx. 0.73ha and is currently farmland. The site is gently graded.

## Flood Risk

### Fluvial and Surface Water Flood Risk

Review of the Environment Agency's Flood Map for Planning (Figure 1) indicates that the site is located within the low risk Flood Zone 1. There is some minor surface water flooding shown on the A449 to the north of the site, however the mapping does not take account of A449 highway drainage (managed by Highways England).

As the proposed development is located within Flood Zone 1 and is less than 1ha, in accordance with Environment Agency standing advice, the planning application does not need to be supported by a Flood Risk Assessment (FRA). This is summarised in Table 1.

Table 1: Scenarios requiring a FRA

Within Flood Zone 3	Within Flood Zone 2	Within Flood Zone 1
Site area less than 1ha	FRA required	FRA not required*
Site area greater than 1ha	FRA required	FRA required

\*except for changes of use to a more vulnerable class, or where they could be affected by other sources of flooding

### Other Considerations and Sources of Flood Risk

The Applicant has contacted Highways England to confirm that highway drains do not discharge inside the proposed development site. It is possible that there is a roadside ditch that runs along either the verge on the A40 or the A449.

Review of the EA's Groundwater map indicates that the site is not located within a designated Source Protection Zone, although one is nearby.

### Surface Water Drainage

There are no existing gravity public drainage system within the site boundary. Infiltration testing has been undertaken at the site which confirms that discharge of surface water runoff to ground is not viable. As the proposed development will increase the amount of impermeable area at the site, it is proposed to install a piped gravity system, which has been designed for a 1 in 100 year

+ 30% climate change event, that will connect to the adjacent private surface water sewer, at a restricted rate of 5 l/s, via a 98mm hydrobrake, serving the housing development located within the spine road to the south of the site, which ultimately discharges into Rudhall Brook.

The Applicant has confirmed that permission has been granted to connect into the neighbouring private surface water drainage system. Attenuation will be provided in an attenuation basin, which will have a maximum volume of 1668m<sup>3</sup> in a 1075m<sup>2</sup> area. Sufficient freeboard has been provided for a 1 in 100 year storm event.

#### Foul Water Drainage

It is proposed to pump foul water via an onsite Type 2 adopted pumping station and rising main foul sewer, which will be maintained by Welsh Water.

#### Overall Comments

Based on the reviewed documents stated above, provided there are no changes made to the proposed surface water and foul water drainage arrangements at any other planning stages and will be constructed in line with the design and plans under this application, in principle, we hold no objections to the proposed development

#### 4.9 **Public Health comments: October 2022: Objection**

Thank you for the opportunity for comment on an application for a MacDonald's drive through restaurant. The local authority has a statutory duty to improve the health of its local population and this duty has prompted the objection.

We would oppose this on the basis that it:

- Encourages car dependency at a time when the health harms of pollution and obesity which are associated with fuel emissions and a sedentary lifestyle are of particular concern locally and well documented in robust national scientific evidence
- Is in close proximity to a High School with high numbers of young people passing nearby on a daily basis
- Would contribute to an unhealthier living environment which would have a strong effect on the children and young people of the area, whose development into healthy adulthood is compromised by both pollution and obesity.

It should be noted that:

- Childhood obesity in Herefordshire is already of concern, and at above average levels in comparison with other areas
- Published evidence suggests a proliferation of fast food outlets is associated with higher levels of childhood obesity
  - Sedentary lifestyles with car dependency at their centre are a significant contributory factor in childhood obesity
- Eating high salt, fat, and sugar foods are a significant contributory factor in childhood obesity
- All these points apply to adults as well as to young people and children, but health harms during childhood and adolescence have particular significance in limiting the achievement of full potential in later adult life

#### 4.10 **Environmental Health Service Manager (Noise / Nuisance) (Noise): No objection**

I make comments further to my consultation submission dated 20/09/2022 in respect of noise and nuisance.

Environmental Health (EH) have no objections in principal with the above development from a noise and nuisance perspective subject to the following:

- The Local Planning Authority (LPA) makes it conditional to the development that it is in compliance with the outcomes detailed in the submitted AASW Environmental Noise Assessment dated 30th May 2022 (Rev.9).
- Concerns remain that lower early morning and late evening background noise levels (given as L90 in the AASW Environmental Noise Assessment dated 30th May 2022 (Rev.9)) are not consistent with operating times originally proposed. It is therefore proposed that the LPA conditions the development to operating times between 6am and 10pm and include a restriction
- to prevent servicing (including delivery and waste collection) between 10pm and 7am – as put forward in the email submission from AASW dated 12 December 2022 and the revised Delivery Management Plan (ADL/CC/3166/12A dated December 2022).
- EH ask the LPA to require an increased acoustic screen height along part of the western and most of the southern boundaries from 2.2m to 2.5m as detailed in the email submission and drawings from AASW dated 21 November 2022.

#### 4.11 **Principal Natural Environment Officer (Ecology): No objection**

The site is within the hydrological catchment which comprises part of the River Wye Special Area of Conservation (SAC); and the Wye Valley and Forest of Dean Bat Sites SAC (Bat core sustenance zone), habitats recognised under the Habitats Regulations, (The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations')) as being of international importance for its aquatic flora and fauna.

The LPA must complete a relevant Habitat Regulations Assessment process and have legal and scientific certainty that there are no adverse effects on the integrity of the designated site PRIOR to any grant of a planning consent. The LPA must as required submit any HRA appropriate assessment for formal consultation and approval by Natural England prior to any planning consent being granted.

The LPA requires all information to be beyond doubt and legally and scientifically certainty in order to complete the HRA process that must be completed with a precautionary approach.

Notes in respect of HRA appropriate assessment:

##### River Wye SAC

The proposed development is for the erection of a freestanding restaurant with drive-thru facility, car parking, landscaping and associated works; there will be no provision of overnight accommodation

- Foul water flows from the site will be from welfare and kitchen facilities and it is anticipated that the restaurant will generate a discharge rate of 2l/s with a daily flow of 9m3.
- Grease traps will be provided and maintained to prevent fats or grease being discharged to the public sewer system.
- The proposal is to manage all additional foul water through connection to the local DCWW mains sewer system
- At this location the mains sewer network is managed through DCWW's Lower Cleeve Wastewater Treatment works.
- DCWW have confirmed that their local mains sewer network has sufficient capacity to manage the additional foul water flows created by the proposed development.
- The Lower Cleeve WwTW discharges in to the 'English' section of the lower River Wye SAC.
- The proposed development will create impermeable areas within the site and as such will increase both the volume and run-off rate of the surface water without mitigation.
- Test results indicate that ground conditions are not conducive to the use of infiltration techniques for surface water management.

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Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

- It is proposed that the surface water drainage from the site connects to the private system serving the adjacent housing development. This system eventually discharges to the Rudhall Brook.
- The proposed discharge rate from the site and the new access road will be restricted by a flow control device to 5 l/s for all storm events up to the 1 in 100 year event plus 40% allowance for climate change which will ensure that the existing surface water piped network is able to effectively drain the site minimising the risk of flooding.
- The proposed attenuated flows will be stored in an attenuation basin which will accommodate all rainfall events up to and including a 1 in 100-year event with 40% allowance for climate change

The LPA has no reason to consider that the foul and surface water management schemes cannot be achieved at this location.

Subject to a no objection response by Natural England to the HRA appropriate assessment completed by the LPA there are no identified unmitigated effects from this development on the River Wye SAC.

#### Wye Valley Woodlands SAC

No changes proposed as part of development are identified as having any effect on local bat populations or 'core sustenance' zones associated with bat species that form part of the Wye Valley Woodlands SAC designation.

#### Suggested conditions:

##### Habitat Regulations (River Wye SAC) – Foul Water

Unless otherwise approved in writing by the planning authority, all foul water, created by the development approved by this permission shall discharge through connection to the local mains sewer system managed by Welsh Water

Reason: In order to comply with The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD2 and SD4.

##### Habitat Regulations (River Wye SAC) – Surface Water

Unless otherwise approved in writing by the planning authority, all surface water shall discharge through a private system serving the adjacent housing development. This system eventually discharges to the Rudhall Brook.

Reason: In order to comply with The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD2 and SD3.

#### Additional ecology comments:

The Preliminary Ecological Appraisal by Practical Ecology dated May 2022 is noted.

The site is comprised primarily of neutral grassland, a common and ubiquitous habitat, with hedgerows (predominantly hawthorn) along the northern and western boundaries. The hedgerows constitute Priority Habitats and are therefore important ecological features, but do not meet the criteria to be considered Important Hedgerows under the Hedgerow Regulations.

Records exist for at least nine species of bat locally to the site, including eight roosts although no suitable on-site roosting habitat were recorded and trees within the hedgerow were considered

too immature and small to present suitable roosting habitat or potential roost features. The site provides potential foraging and commuting resources for bats, although given the poor connectivity to the site and existing light levels from the streetlights and roads, it is considered likely that only light-tolerant species are likely to be utilising the site. Overall impacts on bats are considered to be low.

Great crested newts could utilise suitable terrestrial habitat such as grassland, which could be used for foraging and commuting, and the hedgerow, which could be utilised for shelter and hibernation. However, the lack of nearby ponds (none within 500m of the site) which could be utilised by great crested newts as breeding habitat precludes the likelihood of these habitats being used by great crested newts and it is considered unlikely that any great crested newts are present on site and any impacts are likely to be negligible.

Although dormice are known to use hedgerows for both foraging and nesting presence of this species on site is considered unlikely due to the site's isolation, particularly from any larger blocks of woodland. As there will only be limited impacts on the hedgerow on site associated with the development any potential impacts on dormice are considered to be negligible.

The on-site grassland is suitable habitat for common reptile species including common lizard, grass snake and slow worm, while the hedgerows provide shelter and potential hibernation habitat. It is considered that the site is of a size where it could support a small population of reptiles. However, the Reptile Survey Report by Practical Ecology dated May 2022 recorded no reptiles on site and concluded that reptiles are considered likely absent from the site.

#### Additional ecology comments:

From supplied and available information, the LPA has no reason to consider that there are unlikely to be any effects on 'protected' species from the proposed development. The applicant and their contractors in respect of all site preparation and construction works have their own legal duty of care to wildlife protection as afforded by the Wildlife & Countryside Act that lies above any conditions the LPA could include; with any breach being investigated by the local Wildlife Crime Officer from West Mercia police. A relevant informative and relevant conditions are suggested for inclusion on any planning consent granted.

#### Wildlife Protection Informative

The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended), with enhanced protection for special "protected species" such as all Bat species, Great Crested Newts, Badgers and other wildlife that are present and widespread across the County. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it is advised that further advice from a local professional ecology consultant is obtained.

Suggested conditions:

#### Ecological Protection

The ecological protection, mitigation, compensation and working methods scheme as recommended in the Preliminary Ecological Appraisal by Practical Ecology dated May 2022 shall be implemented and hereafter maintained in full as stated unless otherwise approved in writing by the local planning authority.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017),



National Planning Policy Framework, NERC Act (2006), Herefordshire Local Plan - Core Strategy policy LD2.

#### Ecological Protection & Protected Species

Prior to commencement of development a fully detailed and specified Biodiversity Enhancement Plan including a relevant location plan that is appropriate with the scale, nature and location of the development including provision of fixed habitat features and green and blue infrastructure shall be provided to the planning authority for approval. The approved scheme shall be implemented in full and hereafter maintained unless otherwise agreed in writing by the planning authority.

Reason: To ensure Biodiversity Net Gain as well as species and habitats enhancement having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), Herefordshire Local Plan - Core Strategy policies LD1, LD2 and LD3.

#### Construction Environmental Management Plan

The Construction Environmental Management Plan (CEMP) by Hydrock dated June 2022 shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have finally been removed; unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), Herefordshire Local Plan - Core Strategy policies LD1, LD2 and LD3.

The site is located on the urban fringe and is characterised by predominantly dark landscape that benefits local amenity and nature conservation, including nocturnal light sensitive species known to be present in the area. A condition to ensure all external lighting is kept to the essential minimum and any systems installed compliant with current best practice is requested:

#### Protected Species and Lighting (Dark Skies)

All external lighting and radiated light created must clearly demonstrate that it will not create a net increase in local night time illumination levels and no additional 'light glare' in local skies created. The LiAS Design Notes are noted, although these are not final construction design. It is requested as a preconstruction condition that full detailed lighting scheme shall be provided to the planning authority for approval. The approved scheme shall be implemented in full and hereafter maintained unless otherwise agreed in writing by the planning authority.

Reason: To ensure that all species and local intrinsically dark landscape are protected having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife & Countryside Act (1981 amended); National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1-3.

#### 4.12 **Council's Retail Consultants comments: No objection**

##### Updated comments: December 2022

This letter is in response to your email of 14 December 2022 including a supplementary 'Sequential Test' report from the Applicants. The applicant's report dated October 2022 is based upon the earlier July 2022 report, but contains an addendum (paragraphs 8.8–8.16) providing further information on retail impact matters. This further information is in response to the request made by JWPlanning in their letter to the Council of 21 September 2022.

This letter focusses on the further retail impact information

### **Policy-Related Matters**

1. Since submission of the application, the Government has published consultation proposals for amendments to the NPPF, but there do not appear to be changes proposed in Section 7 'Ensuring the vitality of town centres'.

2. Also, since submission of the application, the Council has published the Herefordshire Town Centre and Retail Assessment, Nexus, September 2022. This report provides a detailed analysis of Herefordshire centres, including Ross on Wye (as well an analysis of existing shopping patterns and shopping forecasts, etc). The report's key findings in respect of Ross-on-Wye are that the centre's comparison goods offer, including specialist traders, has remained consistent for a town of its size, which reflects the town's attraction to tourists. The report also states (paragraph 10.22) that Ross-on-Wye is a highly vital and viable centre which is reflected in a declining vacancy rate since 2012.

3. The Ross-on-Wye Neighbourhood Plan June 2021 made amendments to the town centre boundary. The Nexus report (paragraph 10.43) recommends some contraction of this boundary where there are significant proportions of residential use.

4. It is appropriate to have regard to Nexus's findings on the vitality and viability of Ross-on Wye town centre. Other than this, we do not consider that the above policy-related changes have a material bearing on the matters under consideration for this application.

### **Sequential Approach**

5. In our letter of 21 September 2022, we stated:

"We recall there being areas of underutilised land around Ross town centre. We believe that potential sites within and on the edge of the town centre need to be identified specifically and commented upon individually by the applicants. Officers will have a greater knowledge than us of the sites that require to be investigated. In short, it does not appear to us that sequential approach site search requirements have yet been undertaken adequately by the applicants."

6. The applicants stated in paragraph 7.18 of their report:

"Should the council, or a third party suggest any other sites, we would of course be willing to assess them in terms of the sequential preference."

We are not aware whether Officers consider that there are town centre sites that should be investigated by the applicants.

7. Paragraph 7.3 of the applicant's report states:

"The majority of Ross on Wye Town Centre is inherently inappropriate for a drive-thru business model by the very nature of its size and accessibility to the road network".

We are not wholly in agreement with this statement. We accept the commercial advantages of the application site adjacent to the A49, but do not consider that this automatically rules out any town centre site. By way of example, the large Morrisons' foodstore attracts much of its trade from outside the town centre, but is able to trade viably from the town centre.

8. We indicated in our earlier letter that as Wolf Business Park site is within an out-of-centre location we do not believe that it needs be considered as a potential alternative location.

This remains our view. However, we do not fully accept the view expressed by the applicant in para 7.11 of their report that "this site would not be commercially viable for the proposal due to

the lack of visibility and required passing trade on this part of the A40". The site has been pursued vigorously by Lidl, who clearly find it to be a viable location for a retail use.

### **Impact**

9. The further information required on retail impact is set out in our letter of 21st September, paragraphs 21-23. The applicant's response to this request is contained within paragraphs 8.8 - 8.16 of their updated report. Their response is based mostly on a 'walk around' of the town centre in early October 2022. The only quantitative information provided is from the submitted Transport Assessment, which indicates that "32% of trips are classified as additional trips, likely originating from Ross on Wye, via Ledbury Road or the A40 south". The applicant does not indicate how this transport information can be translated into diversions of trade from the town centre. Furthermore, no estimate is provided of the likely order of turnover of the proposed McDonald's restaurant (for confidentiality reasons). It is therefore impossible to make any estimate of the likely diversion of turnover from the town centre.

10. The report makes reference to some of the existing restaurants in the town centre - "fish and chips, Indian, pizza, kebab, Gurkha and Chinese takeaways". We accept that there would be differences between the offer and trading format of most of the existing town centre restaurants and the proposed McDonald's restaurant, and that this would reduce the likely scale of any competitive impact.

11. In summary, the level of information provided by the applicants, in response to the request in our letter of 21st September is very limited and disappointing. However, even in the absence of adequate information from the applicants on the likely scale of impact that would be caused by the proposed restaurant, it appears to us that it would be unlikely to be of a scale to seriously affect the town centre's vitality and viability. Our expressed view has regard to the findings of Nexus in their recent retail study that Ross on Wye is a highly vital and viable centre.

### **Original comments:**

This letter is in response to your email to us of 8 August 2022 requesting advice on the proposals for a McDonald's restaurant and drive-thru at Ross-on-Wye. It also follows a telephone discussion with you on 1 September. Our comments relate only to the retail policy and tests applicable to the proposal.

The application has been submitted with separate Supporting Statement and Sequential Test documents.

### **Policy**

1. As noted by the Applicant, the proposal is for the sale of food and drink for consumption on and off the premises, which is a mix of Class E and sui generis uses within the Use Classes Order.

2. 'Main town centre uses' are defined in the Annex 2 Glossary of the National Planning Policy Framework July 2022 (NPPF). The list of uses includes "drive-through restaurants". The application proposal therefore falls to be considered under the requirements of paragraph 87 of the NPPF "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. ...."

3. The application proposal also falls to be considered under the requirements of General Policy E5 and Place Making Policy RW1 of the Adopted Herefordshire Core Strategy 2015.

4. Policy E5 states that:

"Town centres will be the focus for retail, commercial, leisure, cultural and tourism uses. ...."

"Proposals for development outside the town centres will only be permitted if it can be demonstrated that the requirements of the sequential test, as set out in paragraph 24 (now 87) of

the NPPF, have been met and that the proposal would not have a significant adverse impact on the vitality and viability of the centres. ....”

5. Policy RW1 encourages development proposals in Ross-on-Wye that: “maintain and enhance the vitality and viability of the town centre. Proposals for new retail, leisure, or office development of over 400m2 gross floor space and located outside the town centre will need to be supported by an impact assessment to determine whether there could be any adverse impacts on the town centre”

6. Policy E2 of the Ross-on-Wye Neighbourhood Development Plan 2021 (NDP) states “Further edge-of-centre and out-of-centre retail development, especially large scale, will normally be resisted.” This policy refers to retail development; we presume with the former Class A1 retail use in mind.

It appears to us therefore that it is not directly applicable to a restaurant use.

7. NDP Policy E3 states: The town centre will continue to be a focus for retail, commercial, leisure, cultural and tourism uses. ....The application proposal does not appear to us to be consistent with this policy.

8. The principal policy tests arising from the combined requirements of the above policies are: the sequential approach and impact.

9. We consider below the applicability of these tests to the application proposal.

#### Sequential Approach

10. In the ‘Sequential Test’ document submitted with the planning application the applicants describe sequential approach policy requirements, precedent cases, and their view of relevant requirements in this case.

11. They state that the drive-thru facility is an intrinsic part of the proposed restaurant in this particular location (paragraph 2.7). They also state that a site of approximately 0.3 hectares is required to support the proposed restaurant with drive-thru facilities and associate parking. This is a large reduction from the application site area of 0.93, but the application site does include a large area of open space.

12. In Section 3 of their report, the applicants describe relevant case law. In summary the quoted case law indicates that, notwithstanding the policy requirement to apply a flexible approach, a sequentially preferable alternative site must be suitable for the commercial requirements of the developer. We accept the applicant’s interpretation of the above case law findings. We also accept that the drive-thru facility would be an integral part of the proposed restaurant in this location, and therefore cannot reasonably be segregated from it.

13. The applicant’s site search is set out in Section 7 of their report. Commentary on possible sites within or on the edge of the town centre is limited to a general comment that the majority of the town centre is inherently inappropriate for a drive-thru business model, and that the majority of sites out of the town centre are either already developed, allocated for housing, or safeguarded for employment or open space and allotments.

14. We recall there being areas of underutilised land around Ross town centre. We believe that potential sites within and on the edge of the town centre need to be identified specifically and commented upon individually by the applicants. Officers will have a greater knowledge than us of the sites that require to be investigated. In short, it does not appear to us that sequential approach site search requirements have yet been undertaken adequately by the applicants.

15. Land at Wolf Business Park is referred to in the applicants' assessment. As this site is within an out-of-centre location, we do not believe that it needs be considered as a potential alternative location.

### **Impact**

16. The applicant's consideration of retail impact is set out in Section 8 of their report.

17. Retail impact tests set out in local planning policy pre-date the new Class E Use Class and therefore are less easily applied to this application for a restaurant with drive-thru facilities.

This applies in particular to the locally set impact floorspace threshold of 400 sq.m gross, which was clearly defined with a Class A1 retail use in mind. The applicants indicate that the gross floorspace of the restaurant facility is only very marginally above this policy threshold - 403 sq.m gross.

18. In paragraph 8.2 of the report the applicants state that there is no accepted or proven methodology that measures the impact of quick service restaurants (QSR). We accept this.

19. The applicants go on to describe the business model of QSRs. They also note that the main existing like-for-like operators are located close-by on the A449, rather than in Ross on-Wye town centre.

20. We accept that the offer of restaurants is so diverse in terms of distinctiveness, quality, price, and distances customers are prepared to travel, that making a quantitative assessment of available expenditure levels and impact would be almost meaningless. In our opinion a more pragmatic / qualitative approach is required.

21. The questions that need to be addressed are:

Will the proposal draw some trade that is wholly new to the area?

Which facilities will the restaurant compete with most strongly, on a like-for-like' basis?

Which of these facilities are in the town centre?

22. In order to address these issues, we believe that it would be reasonable to require the applicants to provide the following further information: estimates of the proportion of the restaurants turnover that would be from passing trade new to the area; estimates of the proportion of the restaurants turnover that would be abstracted from non-town centre restaurants, e.g., those close-by on the A449; estimates of the proportion of the restaurants turnover that would be abstracted from town centre restaurants.

23. In respect of the latter, a survey of specific town centre cafe/restaurant facilities would be useful, grouping them into at least two categories, covering: those that have an offer with which MacDonald's would be competitive, and those that have an offer with which that McDonald's would not be competitive.

24. We propose this form of further analysis, in order to provide a clearer picture of what impact there could be on town centre facilities and the vitality and viability of the town centre as a whole. It may of course be that the applicants will wish to suggest other additional analysis that would also address these issues.

## **5. Representations**

### **5.1 Ross on Wye Town Council**

Updated comments: 1<sup>st</sup> March 2023

Thank you for this, Ross-on-Wye Town Council have nothing further to add to their previous representations.

## Updated comments: 7<sup>th</sup> December 2022

Ross-on-Wye Town Council have considered the amended documentation and would like to confirm that the objections made previously still stand. In addition, the Town Council is extremely concerned about the adverse impact this application would have on town centre retail. There are also significant issues regarding pedestrian safety, particularly children from John Kyrle High School.

## Comments 17<sup>th</sup> August 2022

Application no. 222314: Ross-on-Wye Town Council objects to this application and recommends refusal.

Member's concerns are mainly about the impact on the Town Centre should these applications be approved, the increased traffic in the local area and related issues these applications are likely to cause which haven't been addressed and the change of use of the site will result in the loss of required housing already granted approval. The application contravenes many policies within Ross-on-Wye Neighbourhood Development Plan and these are detailed as follows:

Planning Policy EN1: Ross Design Policy All new development should be of good design and make a positive contribution to the character of Ross. Development should have regard to the Ross-on-Wye Character Assessment Portfolio (2017) and respond to its surroundings in terms of scale, materials, form, details, layout, public realm and historic character. Planning Policy EN2:

Shopfronts and Signage Shopfronts, signs and advertisements requiring planning permission must respect local character and should make a positive contribution to their surroundings.

Planning Policy EN4: Infill and Backland Development Infill development, where small gaps in an otherwise built-up frontage are developed, will be supported where:

- i. Development has regard to the character of the surrounding townscape.
- ii. The proposed development reflects the density, form and pattern of existing development in Ross (as addressed in the Ross-on-Wye Character Assessment Portfolio), or otherwise enhances character. Backland development will be supported where:
  - i. It is not contrary to the character of the area (as addressed in the Ross-on-Wye Character Assessment Portfolio),
  - ii. It is well related and appropriate in height, scale, mass and form to the frontage buildings,
  - iii. The proposal respects the character, appearance and safety of the frontage development,
  - iv. The proposal respects residential amenity. Planning Applications should demonstrate how infill or backland development contributes positively to Ross with reference to the criteria above and utilising the Ross-on-Wye Character Assessment Portfolio.

Planning Policy EN7: Key Views Development proposals likely to affect Key Views should assess the effect of the proposals on the view(s) and demonstrate how any adverse impacts have been addressed.

Planning Policy EI: New Employment Development New employment development, including but not limited to the provision of starter units and/or shared service accommodation and the development of offices will be supported. Tourism and leisure development that enhances the offer and which does not detract from the vitality and viability of the town centre will be supported. All employment development should respect local character, residential amenity and highway safety.

Planning Policy E2: Resisting Out of Town Retail Further edge-of-centre and out-of-centre retail development, especially large scale, will normally be resisted. If applications are forthcoming, all schemes with a gross floorspace of 400 sq. metres (or more) must be accompanied by a Retail Impact Assessment (RIA) in addition to the normal sequential testing.

Planning Policy A1: Active Travel Major development proposals should demonstrate how they will contribute to encouraging active travel - more and safer walking, cycling, disabled access and/or use of public transport. The provision and/or enhancement of safe walking and cycling routes and/or networks and cycle parking facilities will be supported.

## 5.2 Marstow Parish Council

The Parish Council object to this application.

The A40 from the intended location to Pencraig and beyond to the Monmouthshire border is already a disgrace with litter from the existing cafes and services operation along this road.

We are regrettably a dirty society with no regard for the AONB gateway where motorists simply throw all their empty drinks containers and food packaging onto the roadside. Litter picks show that by far the majority of the present litter is from the fast food outlets and coffee brands purchased by motorists on the available A40 outlets / services.

A McDonalds outlet on the A40 will result in a huge amount of extra litter making what is a tourist area looking like an overspill dustbin. The litter thrown onto the A40 by motorists from this single outlet will not be able to be controlled nor the huge costs of clearing safely - cones and specially insured and trained teams - will never be available due to the high costs involved for such an operation nor will the frequency needed for clearance operation be realistically possible.

This proposal will ruin this AONB gateway

## 5.3 To date there have been 333 objections and 417 letters of support as well as 6 letter which are non-committal have been received.

These representations can be viewed online at:

[https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=222314&search-term=222314](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=222314&search-term=222314)

The comments are summarised as below and received over 3 rounds of Public Consultation

Summary of representations

### Objection:

- Traffic generation. Queueing traffic, backflow of traffic to roundabout and back into the estate
- Cars will still be the primary source of transport
- Accessed from an unadopted residential road
- Highway safety
- Boundary issue – plot 13
- Don't want to see it from my house
- Application on a green field site: residential
- Signage on the A449 for location then be more traffic and customers to visit the site
- Do we need another fast food Outlet? No need as several other fast food units in close proximity
- Number of takeaways already in Ross on Wye
- No pedestrian access to the site from service station. Increase pedestrian pavements.
- Opening hours- needs to close at 2200. Local residents. Need to look at early and late night noise from both operating and customer visit to limit the impact

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Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

- Wrong location – traffic management. Should be at the Whitchurch Junction. More suitable locations for this development.
- Litter – applicant only pick 100m of the restaurant.
- Noise and smell from the pumping station
- Smell of cooking oil
- Threat of anti social behaviour. Parking up on the streets to eat their McDonalds
- Rat run within St Marys Garden Village being used to avoid queues. Children at risk.
- Signage and traffic levels is not in keeping with the Garden Village.
- Move the entrance so it's not in the housing estate/lack of consideration to the access
- Not promoting healthy eating/impact on community
- Town does not need a McDonalds – not for a small town
- Animal habitats?
- Value of houses – would never have bought house if known restaurant outside it
- Repugnant eyesore
- Detrimental impact on Ross On Wye.
- Not benefit the town only passers by using the A40

#### **Support:**

- Would come to Ross/attract visitors to Ross/bring people into the area.
- Good for Ross/welcome addition to the area. Safer to get to than other units
- Relieve Hereford traffic: reduce emissions and queues in Hereford and Gloucester. Help with over use of the drive thru in Hereford.
- Building not offensive
- More job opportunities for young people/area
- Already got existing fast food outlets in area
- The town needs to attract younger people and local economy needs younger people trade
- More food choice. Includes healthy options now
- Good addition to Ross. More convenient
- McDonalds invest in localities/support local projects and support the community. Support local charities
- Helping agriculture farms with produce
- Community service opportunity to clean up rubbish
- More housing means more demands for food outlets
- Existing houses on the estate are already close to the road and other food chains
- Reduce carbon emissions

It is noted that a large number of the letters for both support and objection are not from the immediate vicinity of the site.

#### 5.4 Comments also submitted from Ridge and Partners on behalf of Edenstone homes

Summary of comments:

- The application includes an inadequate retail impact assessment.
- The proposed access is deemed unsafe

#### 5.5 **St Marys Garden Village Action Group: March 2023**

This document has been prepared to list the planning issues and concerns that have still not been addressed by McDonald's in response to requests for further information.

We do not consider that there have been material changes to the submitted plan and therefore our previous objections still stand. However, we would like to draw your attention to the unsuitability of the application under the Core Strategy and NPPF. Specifically: Herefordshire



Local Plan Core Strategy RW1, RW2 MT1 para 1, 2, 3, 4, SS4, SS7, Policy E5 and Vision, Objectives and Spatial Strategy 3.68 & 3.69.

National Planning Policy Framework (NPPF) 90a, 90b, 91, 93d, 104a, 104d, 105, 110b, 111, 124c, and 124d.

This document will go into detail on the specifics against these policy points however we would first like to comment on the latest responses from McDonald's and their agents.

## **1. Comments from further consultation period**

### **a. Traffic Volume Data / Traffic Survey Data**

A new traffic survey was requested by LHA to provide assurances over capacity concerns at the junctions of the A40 and A449 roundabouts. The response did not provide a new traffic survey however, modelling based on their previously submitted figures growthed to 2028 have been provided.

We have already highlighted the numerous issues around using such modelling techniques and these figures based upon an outdated survey. SMGV commissioned an updated Traffic Survey conducted by PCC Traffic Information Consultants Ltd in Sept 22. The output of this survey has shown that traffic is up to 30% higher than the stated volumes within the original traffic assessment provided by McDonald's. The actual traffic volumes in the 2022 survey are still up to 10% higher than the remodelled calculations of ADL for 5 years up to 2028 + committed flows. The modelling figures provided are in contradiction to the findings of the physical 2022 survey and serves to put in doubt the confidence that can be obtained when using modelling data and the figures being provided for this application.

This fact is supported by users of the transport network in this area at peak times who regularly experience over capacity issues. This is prior to the addition of the McDonald's predicted visitor numbers of nearly 1 million vehicles per year.

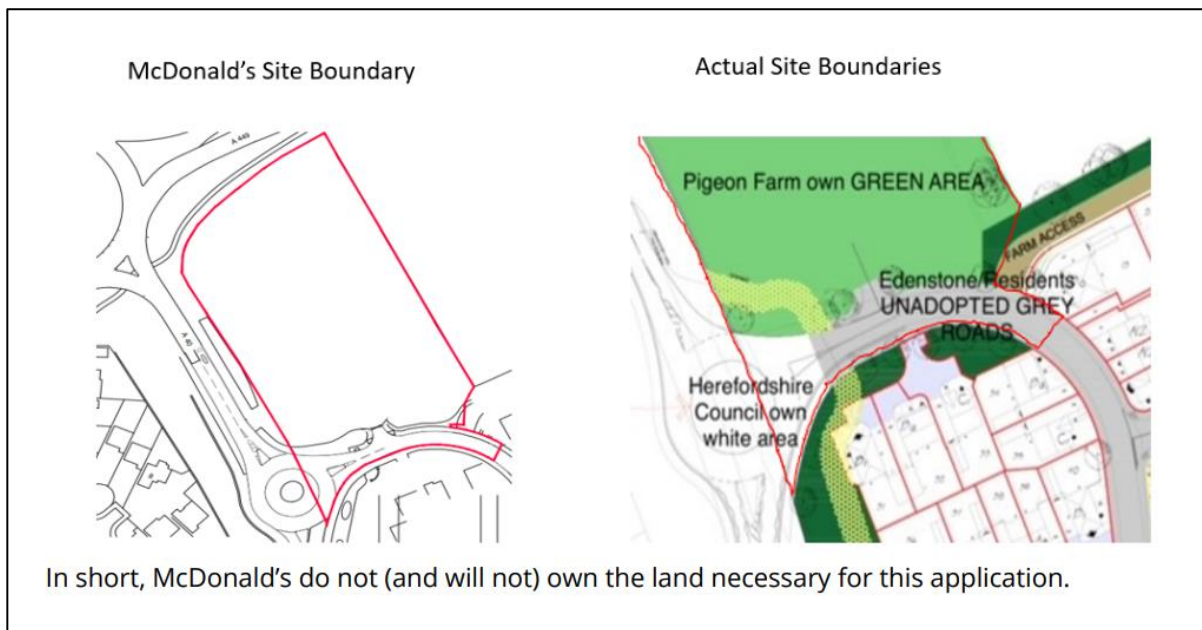
### **b. Application Site Boundary / Land Ownership**

The application boundary which has been included to support the application includes land owned by St Mary's Garden Village Ltd / Edenstone Homes and Herefordshire County Council, and is outside the limits of the actual site boundary.

The boundary has been increased as part of this application to meet the requirements in terms of access and use. The plans include the necessary engineering works to meet planning requirements and building regulations. Without these works, it would be impossible to build the proposed facility.

The diagram below clearly shows the site location, the application boundary submitted by McDonald's and the breakdown of landownership within the boundary area.

In short, McDonald's do not (and will not) own the land necessary for this application.



## 2. Issues that conflict with County and National Planning Policies

This section provides the details of clear conflict between the application and the current County and National Planning policies as listed at the head of this letter.

a. Traffic Management / Road Network Core Strategy MT1: Traffic Management, Highway Safety and Promoting Active Travel. "Safe and Sustainable transport network and improved traffic schemes".

Core Strategy MT1 – Safe Entrance/Exit: "Ensure that developments are designed and laid out to achieve safe entrance and exit, have appropriate operational and manoeuvring space, accommodate provision for all modes of transport, the needs of people with disabilities and provide safe access for the emergency services".

Core Strategy MT1 – Active Travel: "Encourage active travel behaviour to reduce numbers of short distance car journeys through the use of travel plans and other promotional and awareness raising activities". Core Strategy Objective: "To improve access to services in rural areas and movement and air quality within urban areas by ensuring new developments support the provision of an accessible, integrated, safe and sustainable transport network and improved traffic management schemes".

SS4: "New developments should be designed and located to minimise the impacts to the transport network". The examples provided below detail how this application contradicts the above requirements:

- I. Located within a residential development which does not have the capacity to accommodate almost 1 million vehicles visiting the site per year. This needs to be considered in the context of MT1 Safe Entrance/Exit and the Core Strategic Objective.
- II. Starling Road is an unadopted single lane residential road, it does not have sufficient capacity to accommodate this level of traffic and will dramatically increase congestion already experienced at peak times on the A40, A449, B4234 and make vehicle access to and from properties within SMGV impossible. This contravenes Core Strategy MT1 para 1, 3, 4, 6, SS4, RW1, NPPF 104a, 104d, 105, 110b, 111 and 124c.
- III. No consideration has been given for traffic diverted to the site via SMGV at the A40/Old Tannery Way roundabout, nor to fly-parking on these roads. This needs to be considered in the context of MT1.

- IV. No right turn filter lane at the A40/Starling Road roundabout, nor the ability to widen the road to include such a lane and ease congestion. Application 181448 (Leominster) was unsuccessful in part due to the 'right turn' traffic being shown to be of a volume to significantly impact MT1, as is the case here. This precedent must also apply in this instance.
- V. The Traffic Management Plan is based upon the restaurant operating at 100% staffing levels. No account or plan has been made for running at a reduced capacity and the impact this would have on the transport networks due to delays in service at the drivethru. Again, this should be considered in context of MT1 and therefore NPPF 110b, 111, and 124c.
- VI. Active travel – The core business model of any drive-thru facility is for the use of vehicles to visit the site. McDonald's figures themselves predict nearly 1 million vehicles expected to use the facility each year. The analysis that has been conducted on representations made on this application clearly shows the majority of those supporting would be making visits by vehicle and not by other means of public transport or active travel. This is in stark contradiction to the active travel requirements within MT1.
- VII. The private unadopted roads required to access this site would require extensive engineering works to support the enormous traffic volumes predicted by McDonald's themselves. These roads are privately owned by SMGV Ltd and therefore the required works will be unable to be conducted and therefore in conflict with MT1 – Safe Entrance/Exit requirements.

#### b. Landscape / Townscape

Core Strategy Policy LD1.1: "demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, protection and enhancement of the setting of settlements and designated areas".

Core Strategy Policy LD1.2: "conserve and enhance the natural, historic, and scenic beauty of important landscapes and features, including Areas of Outstanding Natural Beauty, nationally and locally designated parks and gardens and conservation areas; through the protection of the area's character and by enabling appropriate uses, design and management".

Core Strategy SD1 5.3.30: "High quality design can significantly enhance the environment and amenity for new residents. Equally, the amenity and quality of life for existing residents can be adversely affected... and includes consideration of the impacts of noise and artificial light, ground conditions and air quality"

- I. Loss of Privacy – Any passenger vehicle accessing the site will be able to see directly into the surrounding residential dwellings both when entering and exiting the site. This will also apply to any pedestrian accessing the site on foot. The volumes of up to 1 million visitors (strangers) included in McDonald's figures provide a totally unacceptable loss of privacy and loss of residential amenity to residents of SMGV. This is in context of SD1 5.3.30
- II. Litter – McDonald's and litter are synonymous. Despite operating litter management plans, it is evident across the country that these are not sufficient to deal with the issue. The plan to introduce such a facility within a garden village, with dedicated green areas, play areas and walking routes will only be to the detriment of the residents who will inevitably be the ones responsible for clearing these areas of McDonald's litter. This is in stark contrast to Core Strategy Policy

LD1.2 Conserve and enhance landscapes and features.

- III. Design and appearance of buildings – This site is located within a residential development of a garden village. The current approved planning for this site is for 2, 3, and 4 bedroom residential dwellings (P180155/RM, P140684/0). The introduction of a drive-thru restaurant facility is in stark contrast not only to the design and appearance of the houses but is also not in keeping with a garden village community. This is in context of Core Strategy Policy LD1.1, 1.2 and SD1 5.3.30 and RW1.

#### c. Economic Prosperity

Core Strategy Policy E5 Town Centres: “Town centres will be the focus for retail, commercial, leisure, cultural and tourism uses. Proposals for such uses which contribute to the vitality and viability of the town centres of Hereford and the market towns will be supported provided that they:

1. do not adversely affect the primary function of the town centres as shopping destinations; and;
2. are of a scale and design appropriate to the size, role, character and heritage of the centre.

Proposals for development outside the town centres will only be permitted if it can be demonstrated that the requirements of the sequential test, as set out in paragraph 24 of the NPPF, have been met and that the proposal would not have a significant adverse impact on the vitality and viability of the centres. An application will be refused if it fails the sequential test or an impact assessment.

I. Retail Impact Assessment – No detailed Retail Impact Assessment has been conducted. McDonald’s have consistently refused to provide adequate replies and data on their impact on the town centre despite being over the threshold for an impact assessment. The council’s planning retail consultant having reviewed the application and a Nexus retail study, provided a summary which was contradictory of itself. In para 9 it states it is “impossible to make an estimate of the likely diversion of turnover from the town centre” however para 11 states “it appears to us that it would be unlikely to be of a scale to seriously affect the town centre’s vitality and viability”. Not only does this contradict it’s own summary, it also contradicts the Nexus study stating “a development of 300sq m and over is a significant development and could severely impact a town centre”. This confusion is borne out of the lack of a detailed Retail Impact Assessment which is contrary to Core Strategy Policy E5: Town Centres.

#### d. Addressing Climate Change

Core Strategy Policy SS7.2: “delivering development that seeks to reduce the need to travel by private car”

Core Strategy Policy SS7.3 “designing developments to reduce carbon emissions and use resources more efficiently”

- I. A drive-thru facility is modelled on the basis of using private vehicles. This is in direct conflict to Core Strategy Policy SS7.2.
- II. The introduction of this site would completely undermine the council's stated aim of helping people "choose alternatives to car travel". Using McDonald’s figures, visitors to the site (at a minimum) will contribute an extra 45 metric tonnes of CO2. Thus meaning that it would be impossible for the councils stated aim for being Carbon Zero by 2030 and contradicts Core Strategy Policy SS7.3.

### **3. Other items**

In addition to the serious conflicts of planning policy raised above, there have been numerous objections and concerns raised not only from local residents but also from town and parish councils, utilities companies, and other government departments.

- a. Ross Town Council – objection on the following Policy Points: EN1, EN2, EN4, EN7, Planning Policy E1, E2 and A1.
- b. Public Health – Objection due to encouraging car dependency, the close proximity to a high school, and the contribution to an unhealthier living environment compromised by both pollution and obesity.
- c. Welsh Water – No Capacity. Have objected stating that there is insufficient capacity to service the development. They also confirmed that there are “no works planned within our current capital investment programme”.
- d. Marstow Parish Council – objection due to litter and the impacts to the Area of Natural Beauty gateway.
- e. Herefordshire Committee to Protect Rural England – objection due to considerable concerns relating to the application relating to SS1, SS6, SS7, RW1, MT1 and E5.

#### **4. Summary**

The serious concerns raised within this document, in addition to objections already raised by SMGV on the core planning grounds of; increased traffic volumes and congestion, land ownership, loss of privacy, noise & disturbance, design of a building, and over development provide clear and definitive evidence to the degree in which this application conflicts with both local council and national planning policies.

The fact that there are so many conflicts supports the view that a facility of this kind does not belong within a residential garden village development. Indeed, there is no precedent for such an undertaking. McDonald’s own supporting data confirms that these facilities are only to be found in retail parks and service stations. The huge impact that this would have on residents of the garden village would be intolerable. Current approved planning on this site is for residential dwellings. In support of Policy RW1, priority cannot and must not be given to a fast-food outlet over much needed housing. This application must be refused.

Previous comments can be viewed on line: see link below:

2<sup>nd</sup> Letter:

<https://myaccount.herefordshire.gov.uk/documents?id=852442c9-761e-11ed-9064-005056ab11cd>

1<sup>st</sup> Letter (dated 26<sup>th</sup> August 2022) :

<https://myaccount.herefordshire.gov.uk/documents?id=6aa95205-2aac-11ed-905c-005056ab3a27>

#### **5.6 Herefordshire Campaign to Protect Rural England**

I am writing on behalf of the Committee of the Herefordshire Branch of the Campaign to Protect Rural England to object to this application.

Although the site is not in the Open Countryside it is very close to the Wye Valley Area of Outstanding Natural Beauty (AONB) which encompasses most of the central and western parts of Ross on Wye and extends to the north of the town including the John Kyrle High School and environs which lies to the west of the A4149. To the north of the town the AONB area continues on the west side of the A449, with that road as the boundary, on to the Travellers Rest roundabout where the A449 turns north-east for Ledbury and the dual carriageway becomes the M50 eastwards. The Wye Valley AONB is a designated area which should be protected and views in and out of the AONB are also protected. NPPF Policy 15 ‘Conserving and enhancing the natural environment’ para 176 reiterates this priority.

In addition to the protection of the countryside we, with many others, have considerable anxiety about the wisdom of permitting a food 'drive-thru' outlet so near to the notoriously dangerous A40/A449 junction / roundabout to the north of Ross on Wye and which will be very close to the large new housing complex of St. Mary's Garden Village(c. 400 + new houses) to the east of the A40. Also the proximity of the proposed development to the John Kyrle High School where there are c. 1400 pupils aged between 11 and 18. Inevitably some of those pupils will attempt to cross the A40 to reach the restaurant for snacks etc.; this will not only cause stress to motorists and residents/callers of St. Mary's Garden Village but could prove fatal to those youngsters dashing across the road and hazardous for road users. Policy 95 of the NPPF notes that 'planning policies and decisions should promote public safety...' Have the Police been consulted as the wisdom of building this facility in this location?

There are additional insalubrious consequences from 'fast food' outlets where greasy litter, food remnants etc. are dropped and blown around, which can cause a hygiene risk and encourage rats. One could ask...what is the biodiversity net gain from an increase in takeaway litter? We think that the proposed site for such a food outlet is inappropriate and potentially dangerous. There are already six 'fast food' outlets on either side of the A449 just to the north-east of this junction: a KFC, Burger King, Greggs, Subway, Starbucks Coffee, and a cafe.

In addition to these basis objections there are concerns that such an 'out of town 'development will adversely affect the Ross on Wye town centre retail businesses; this was one of the reasons for the Refusal of Planning application ref. P140684/O in 2017.

The current impact assessment does not provide sufficient information on the effect the current proposal, if permitted, will have on the town and it is noted that Ross Town Council are objecting on these grounds, along with others. We believe that a more detailed, carefully researched Retail Impact Assessment is required. Additionally the Core Strategy Policy SS7, 'Addressing climate change', stresses the need to design developments to reduce carbon emissions and the use of private cars; is a 'drive-thru' in line with Herefordshire Council's Declaration for Ecological and Climate Emergency?

Summarising, HCPRE has considerable concerns about the adverse effect on the amenity of the nearby residents in the new homes in St. Mary's Garden Village if this development is permitted; also the potential danger to road users and pedestrians using the proposed food outlet sited so close to a roundabout and the entrance to the housing complex along with the adverse effect on the countryside with its proximity to the Wye Valley Area of Outstanding Beauty (AONB). The proposal also disregards several of the Policies in the Ross on Wye Neighbourhood Development Plan and in the Herefordshire Local Plan Core Strategy Policies SS1, SS6, SS7, RW1, MT1, and E5: the latter, Policy E5, notes that 'proposals for development outside the town centres will only be permitted if it can be demonstrated that the requirements of the sequential test, as set out in paragraph 24 of the NPPF, have been met.....An application will be refused if it fails the sequential test or an impact assessment' We trust that this proposed development will not be permitted.

- 5.7 The consultation responses listed and summarised above can be viewed on the Council's website by using the following link:-

[https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=222314&search-term=222314](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=222314&search-term=222314)

Internet access is available at the Council's Customer Service Centres:-

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpag>

## 6. Officer's Appraisal

### ***Legislative background/ Policy context and Principle of Development***

6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:

*"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*

*The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy was made on 9th November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application.*

6.2 The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 set out the procedure for identifying those projects which should be subject to an Environmental Impact Assessment, and for assessing, consulting and coming to a decision on those projects which are likely to have significant environmental effects. This application is not considered to be EIA development.

6.3 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (Core Strategy). It is also noted that the site falls within the Ross Neighbourhood Plan Area. The National Planning Policy Framework 2021 is a significant material consideration, but does not hold the statutory presumption of a development plan.

### **Herefordshire Core Strategy**

6.4 **Policy RW1: Policy RW1: Development in Ross-on-Wye** states new development proposals will be encouraged, as relevant to the proposal where they:

- allow for suitable employment sites, including live-work opportunities within or adjoining the town;
- maintain and enhance the vitality and viability of the town centre. Proposals for new retail, leisure or office development of over 400m<sup>2</sup> gross floor space and located outside the town centre will need to be supported by an impact assessment to determine whether there could be any adverse impacts on the town centre;
- improve accessibility within Ross-on-Wye by walking, cycling and public transport, particularly where they enhance connectivity with local facilities, the town centre and existing employment areas;
- contribute towards new or improved community facilities and/or allow for infrastructure improvements in the town to promote sustainable development;
- reflect and enhance the characteristic natural and built historic elements of Ross-on-Wye, such as its red sandstone and timber framed Tudor buildings and boundary walls, the medieval plan form, conservation area and natural setting overlooking the River Wye;
- enhance green infrastructure and biodiversity, particularly the Wye Valley Area of Outstanding Natural Beauty and the River Wye; and have demonstrated engagement and consultation with the community including the town/parish council.

6.5 **Core Strategy Policy E5 – Town Centres** sets out these areas are the primary location and focus for retail, commercial, leisure, cultural and tourism uses and seeks to protect this position. The policy sets out how development outside of this area will be assessed, expectations on

applications and a requirement for an assessment on the town centre's vitality and viability to support any such proposals

- 6.6 **Core Strategy Policy SS4 – Movement and transportation** states New developments should be designed and located to minimise the impacts on the transport network; ensuring that journey times and the efficient and safe operation of the network are not detrimentally impacted. Furthermore, where practicable, development proposals should be accessible by and facilitate a genuine choice of modes of travel including walking, cycling and public transport.
- 6.7 The policy sets out development proposals that will generate high journey numbers should be in sustainable locations, accessible by means other than private car. Alternatively, such developments will be required to demonstrate that they can be made sustainable by reducing unsustainable transport patterns and promoting travel by walking, cycling and public transport. Proposals to provide new and improved existing public transport, walking and cycling infrastructure will be supported. Where appropriate, land and routes will be safeguarded as required in future local or neighbourhood development plans and developer contributions, which meet the statutory tests, sought to assist with the delivery of new sustainable transport infrastructure, including that required for alternative energy cars.
- 6.8 **Core Strategy policy SS6** describes proposals should conserve and enhance those environmental assets that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity and heritage assets and especially those with specific environmental designations.
- 6.9 Policy SS6 then states in its list of criteria states Development proposals should be shaped through an integrated approach and based upon sufficient information to determine the effect upon landscape, townscape and local distinctiveness, especially in Areas of Outstanding Natural Beauty.
- 6.10 **Core Strategy Policy SS7 – Addressing climate change** states Development proposals will be required to include measures which will mitigate their impact on climate change.

At a strategic level, this will include:

- focussing development to the most sustainable locations;
  - delivering development that seeks to reduce the need to travel by private car and which encourages sustainable travel options including walking, cycling and public transport;
  - designing developments to reduce carbon emissions and use resources more efficiently;
  - promoting the use of decentralised and renewable or low carbon energy where appropriate;
  - supporting affordable, local food production, processing and farming to reduce the county's contribution to food miles\*;
  - protecting the best agricultural land where possible
- 6.11 Key considerations in terms of responses to climate change include:
- taking into account the known physical and environmental constraints when identifying locations for development;
  - ensuring design approaches are resilient to climate change impacts, including the use of passive solar design for heating and cooling and tree planting for shading;
  - minimising the risk of flooding and making use of sustainable drainage methods;
  - reducing heat island effects (for example through the provision of open space and water, planting and green roofs);
  - reduction, re-use and recycling of waste with particular emphasis on waste minimisation on development sites; and
  - developments must demonstrate water efficiency measures to reduce demand on water resources.



6.12 **Core Strategy Policy MT1 – Traffic management, highway safety and promoting active travel** states Development proposals should incorporate the following principle requirements covering movement and transportation:

1. demonstrate that the strategic and local highway network can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts can be managed to acceptable levels to reduce and mitigate any adverse impacts from the development;
2. promote and, where possible, incorporate integrated transport connections and supporting infrastructure (depending on the nature and location of the site), including access to services by means other than private motorised transport;
3. encourage active travel behaviour to reduce numbers of short distance car journeys through the use of travel plans and other promotional and awareness raising activities;
4. ensure that developments are designed and laid out to achieve safe entrance and exit, have appropriate operational and manoeuvring space, accommodate provision for all modes of transport, the needs of people with disabilities and provide safe access for the emergency services;
5. protect existing local and long distance footways, cycleways and bridleways unless an alternative route of at least equal utility value can be used, and facilitate improvements to existing or provide new connections to these routes, especially where such schemes have been identified in the Local Transport Plan and/or Infrastructure Delivery Plan; and
6. have regard to with both the council's Highways Development Design Guide and cycle and vehicle parking standards as prescribed in the Local Transport Plan - having regard to the location of the site and need to promote sustainable travel choices.

Where traffic management measures are introduced they should be designed in a way which respects the character of the surrounding area including its landscape character. Where appropriate, the principle of shared spaces will be encouraged.

6.13 **Core Strategy Policy E5 – Town Centres** sets out these areas are the primary location and focus for retail, commercial, leisure, cultural and tourism uses and seeks to protect this position. The policy sets out how development outside of this area will be assessed, expectations on applications and a requirement for an assessment on the town centre's vitality and viability to support any such proposals. Policy E5 has been informed by the findings of the Town Centres Study Update 2012 which outlines the retail, office and leisure needs of Hereford and the five market towns, of which Ross on Wye is one, to 2031. The report identifies limited requirement for further retail and leisure development and advises that there is no need for out of centre retail allocations in Hereford or in the market towns. Where town centre uses are proposed in edge of centre or out of centre locations, a sequential approach to selecting sites will be adopted in accordance with the National Planning Policy Framework. Evidence will be required to demonstrate that all available town centre opportunities have been thoroughly assessed, and transparent reasons provided as to why the town centre sites are not suitable and available, before land and/or buildings in edge of centre and then out of centre locations are considered. The sequential approach will also apply to large scale extensions to existing retail and town centre uses, as well as proposals to vary or remove conditions restricting the range of goods that can be sold, where the site is located in an edge of centre or out of centre location. In considering the suitability and availability of sites, applicants will be required to demonstrate how they have adopted a flexible approach to the size, design and format of the proposal.

6.14 **Core Strategy Policy LD1 – Landscape and townscape** criteria requires new development must achieve the following:

- demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, including protection and enhancement of the setting of settlements and designated areas;
- conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including Areas of Outstanding Natural Beauty, through the protection of the area's character and by enabling appropriate uses, design and management

- 6.15 **Core Strategy Policy SD1 – Sustainable design and energy efficiency** states Development proposals should create safe, sustainable, well integrated environments for all members of the community. In conjunction with this, all development proposals should incorporate the following requirements:
- ensure that proposals make efficient use of land - taking into account the local context and site characteristics,
  - new buildings should be designed to maintain local distinctiveness through incorporating local architectural detailing and materials and respecting scale, height, proportions and massing of surrounding development. while making a positive contribution to the architectural diversity and character of the area including, where appropriate, through innovative design;
  - safeguard residential amenity for existing and proposed residents;
  - ensure new development does not contribute to, or suffer from, adverse impacts arising from noise, light or air contamination, land instability or cause ground water pollution;
  - create safe and accessible environments, and that minimise opportunities for crime and anti-social behaviour by incorporating Secured by Design principles, and consider the incorporation of fire safety measures

### **Neighbourhood Plan**

- 6.16 The Neighbourhood Development Plan known as the Ross on Wye Neighbourhood Development Plan was made on 7 June 2021. It now forms part of the Development Plan for Herefordshire.
- 6.17 **Policy EN1: Ross Design Policy** states The design of all new development within the town, while being clearly of its time, should demonstrate its relationship and applicability to its site, setting and context in terms of scale, materials, form, details, layout, public realm and historic character. This is of particular importance within the Conservation Area and Town Centre.
- 6.18 **Policy EN2: Shopfronts and Signage** states that shopfronts, signs and advertisements requiring planning permission must respect local character and should make a positive contribution to their surroundings..
- 6.19 **Policy EN3: Settlement Boundary.** Development in the Neighbourhood Area will be focus within the Ross on Wye Settlement boundary
- 6.20 **Policy EN5: Eco-building:** Eco-building methods such as low carbon and renewable energy, water use reduction, waste water management, waste reduction and the use of locally sourced materials, will be supported.
- 6.21 **Policy EN6: Solar/Photovoltaic Energy:** The use of solar/photovoltaic panels requiring planning permission will be supported where such development respects local character and residential amenity.
- 6.22 **Policy E1: New Employment Development.** New employment development, including but not limited to the provision of starter units and/or shared service accommodation and the development of offices will be supported. Tourism and leisure development that enhances the offer and which does not detract from the vitality and viability of the town centre will be supported. All employment development should respect local character, residential amenity and highway safety.
- 6.23 **Policy E2: Resisting Out of Town Retail:** Further edge-of-centre and out-of-centre retail Development, especially large scale, will normally be resisted. If applications are forthcoming, all schemes with a gross floorspace of 400 sq metres (or more) must be accompanied by a Retail Impact Assessment in addition to the normal sequential testing.

- 6.24 **Policy A2: Walking and Cycling:** The protection and/or enhancement of the Neighbourhood Area's public rights of way network will be supported.
- 6.25 **Policy A4: Provision of Electric Charging Points:** Provision should be made for charging of electric vehicles for all new houses where this can be achieved on plot. The addition of charging facilities to places of work or leisure will be supported.

#### **National Planning Policy Framework**

- 6.26 The NPPF has 'sustainable development' central to planning's remit and objectives. The NPPF also seeks positive improvements in the quality of the built, natural and historic environment and in regards people's quality of life. The National Planning Policy Framework has been considered in the assessment of this application. The following sections are considered particularly relevant:
- 2. Achieving sustainable development
  - 7. Ensuring the vitality of town centres
  - 11. Making effective use of land
  - 12. Achieving well-designed places
  - 15. Conserving and enhancing the natural environment
- 6.27 Paragraph 11 of the Framework sets out the presumption in favour of sustainable development. For decision-taking this means where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of date, granting permission unless the application of policies of the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 6.28 Chapter 7 sets out the Governments' strategy for ensuring the vitality of town centres. The NPPF recognises the wider role town centres play for their communities and planning decisions should support this. NPPF paragraph 91 states where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 90, it should be refused. Referenced Paragraph 90 b) states the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).
- 6.29 NPPF Paragraph 126 states The creation of high quality 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. Paragraph 130 outlines Planning decisions should ensure that developments:
- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
  - are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
  - are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
  - establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
  - optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
  - create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience

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Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

- 6.30 The key considerations in the assessment of this application are:
- Principle of development
  - Design: townscape and visual impact
  - Public Health: Health and Wellbeing
  - Transportation, Access and Parking
  - Impact on neighbouring residential amenity noise and smell
  - Drainage
  - Landscape and Trees

### Principle of Development

6.31 Chapter 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.

6.32 Chapter 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.

6.33 Where development proposals involving main town centre uses located outside of town centres are made, the NPPF requires applicants to supply a Sequential Assessment. The applicant as part of the submission has supplied this and reviewed by officers and the Council's retail expert. Further clarification was sought which led to the submission of an updated report. In regards to the sequential test there is tension that the Wolf Business Park has been disregarded, however it is noted that this is an out of town site. As part of the submission the applicant has advised it is not commercially viable due to the lack of visibility and required traffic on the A40.

6.34 The proposal use on the site falls within Class E (b) is and sui generis uses within the Use Classes Order as the application is seeking the sale of food and drink for consumption on and off the premises.

6.35 As identified in the retail officer comments 'Main town centre uses' are defined in the Annex 2 Glossary of the National Planning Policy Framework July 2022 (NPPF) includes "drive-through restaurants". As such when looking at the principle the application proposal needs to be considered under the requirements of paragraph 87 of the NPPF which says:

*'Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.'*

6.36 At a local level the application proposal also falls to be considered under the requirements of Core Strategy policies E5 and RW1.

6.37 Policy E5 states that: "Town centres will be the focus for retail, commercial, leisure, cultural and tourism uses. ...." "Proposals for development outside the town centres will only be permitted if it can be demonstrated that the requirements of the sequential test, as set out in paragraph 24 (now 87) of the NPPF, have been met and that the proposal would not have a significant adverse impact on the vitality and viability of the centres. ...."

6.38 Policy RW1 encourages development proposals in Ross-on-Wye that: "maintain and enhance the vitality and viability of the town centre. Proposals for new retail, leisure, or office development of over 400m2 gross floor space and located outside the town centre will need to be supported by

an impact assessment to determine whether there could be any adverse impacts on the town centre”.

- 6.39 When looking at the Ross-on-Wye Neighbourhood Development Plan 2021 (NDP) Policy E2 states “Further edge-of-centre and out-of-centre retail development, especially large scale, will normally be resisted.” As highlighted in the retail officer in their comments this policy refers to retail development; and when written presumably related to the former Class A1 retail use in mind and such is not in your officers opinions directly applicable to a restaurant use.
- 6.40 NDP Policy E3 states: The town centre will continue to be a focus for retail, commercial, leisure, cultural and tourism uses. There is tension with this policy as the Class E and drive through use is not on the town centre.
- 6.41 As such the principal policy tests arising from the combined requirements of the above policies are: the sequential approach and retail impact. As highlighted above ensuring the Vitality of Town Centres Paragraph 86 of the NPPF states that planning policies and decisions should support the role that town centres play at the heart of local communities and sets criteria for achieving this. Paragraph 87 requires a sequential assessment for main town centre uses that are not in a centre and not in accordance with an up-to-date development plan (which applies to the application proposal). Paragraph 88 requires that when considering edge-of-centre and out-of-centre proposals, preference should be given to accessible sites that are well connected to the town centre; and that applicants and local planning authorities should demonstrate flexibility on issues such as format and scale. Paragraph 90 specifies impact assessment requirements, but in this case we accept that the application proposal is of insufficient scale to require an impact assessment, and the CS policies are relevant here (see below). Paragraph 91 requires that: *“Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused.”* Planning Practice Guidance includes more detail on interpretation of NPPF.
- 6.42 Policy E5 of the Core Strategy sets out a policy for town centres, stating: “Town centres Town centres will be the focus for retail, commercial, leisure, cultural and tourism uses. Proposals for such uses which contribute to the vitality and viability of the town centres of Hereford and the market towns will be supported provided that they:
1. do not adversely affect the primary function of the town centres as shopping destinations; and
  2. are of a scale and design appropriate to the size, role, character and heritage of the centre.
  3. Proposals for development outside the town centres will only be permitted if it can be demonstrated that the requirements of the sequential test, as set out in paragraph 24 of the NPPF (NPPF Feb 2019 paragraphs 87-89), have been met and that the proposal would not have a significant adverse impact on the vitality and viability of the centres. An application will be refused if it fails the sequential test or an impact assessment.
- 6.43 The sequential test approach requires the above-mentioned uses to be located within town centres. Where it is proven there are no available and suitable town centre sites, preference will be given to edge of centre sites before any out of centre site is considered. Where a sequential test adequately demonstrates that the only suitable and available site is an edge of centre or an out of centre location, preference will be given to sites that are well connected to the town centre and are easily accessible by sustainable transport modes. An impact assessment for retail, leisure and commercial proposals outside of the town centres to assess their impact on investment in the area and on the vitality and viability of the town centre may be required depending on the scale and location of the proposal as specified in the policies in the Place Shaping section. ....”
- 6.44 The principal retail policy test that the application proposal is required to satisfy is the sequential test. However, both national guidance and local planning policy requires consideration to be given

to the effect of proposals in supporting town centres and in not adversely affecting their primary function.

- 6.45 In regards to retail impact the Council has also engaged the services of an independent professional retail consultant (JWP Planning) who was commissioned on the above with regards this proposal. This forms the Council's position on retail impact.
- 6.46 The site is an out-of-centre location albeit noted the site is located within Ross NDP settlement boundary, the gross internal floorspace of the proposed drive thru restaurant is circa. 403 square metres so a sequential test/site identification and assessment has been undertaken and submitted alongside the planning application. The sequential test and assessment considered potential sites within the Ross on Wye town centre, their availability as well as the site size requirements. The assessment concluded that of the potentially available sites in and on the edge of Ross on Wye town centre, none were found to be sequentially preferable sites that could accommodate the proposed development. As such the application is not considered to have failed to satisfy the sequential test requirement of the NPPF which directly directs to a refusal (para 91) as the submission has demonstrated that there are no sequentially preferable sites that would be capable of accommodating this road side/drive through use business.
- 6.47 The current vitality and viability of Ross on Wye town centre is an important consideration. Officers consider that the proposed restaurant use is likely to cater for customers who are 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. Also as concluded by the retail officer the likely scale of the impact that would be caused by the proposed restaurant is unlikely to seriously affect the town centre's vitality and viability.
- 6.48 An extensive list of available properties have been submitted and considered. On the basis of the detailed assessment of the retail impact of the proposals, it is clear the proposal would not have a significant adverse impact on the town centre and would not materially harm the vitality of town centre based restaurant and as such is adheres to Core Strategy and NPPF policies. The sequential assessment has been undertaken in support of the application and this has been reviewed and officers are satisfied there are no sequentially preferable sites that are available, suitable and able for the proposed use.
- 6.49 On balance the principle of Class E (for the sale of food and drink and its consumption on the premises) and a sui generis drive through development on this site, which is on the edge of Ross on Wye in a sustainable location is considered to be acceptable. It is considered that there are no sequentially preferable sites, and the proposal will not result in a significant adverse impact on Ross on Wye Town centre, the vitality and viability of the town centre or the trade within the town centre or wider area.

## **Employment Creation**

- 6.50 The proposed development will create approximately 30 full time jobs and 90 Part time (total full equivalent of 62 jobs) and these positions will be at varying skill and experience levels. The site is capable of being accessed by a choice of transport modes and thus is consistent with policy E1 which gives preference to locations that are accessible by a choice of sustainable modes of transport. 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 the aims of NDP policy E1.

Turning to other matters of detail:

## Design: townscape and visual impact

6.51 Core Strategy Policy SD1 relates to sustainable design and energy efficiency and states development proposals should create safe, sustainable, well integrated environments for all members of the community. In conjunction with this, all development proposals should incorporate the following requirements:

- ensure that proposals make efficient use of land - taking into account the local context and site characteristics,
- new buildings should be designed to maintain local distinctiveness through incorporating local architectural detailing and materials and respecting scale, height, proportions and massing of surrounding development, while making a positive contribution to the architectural diversity and character of the area including, where appropriate, through innovative design;
- safeguard residential amenity for existing and proposed residents;
- ensure new development does not contribute to, or suffer from, adverse impacts arising from noise, light or air contamination, land instability or cause ground water pollution;
- create safe and accessible environments, and that minimise opportunities for crime and anti-social behaviour by incorporating Secured by Design principles, and consider the incorporation of fire safety measures.

6.52 Paragraph 126 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. Paragraph 130 (a) of the NPPF states that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development.

6.53 Policy SD1 is engaged in the first instance. This states that proposals should be designed to maintain local distinctiveness through detailing and materials, respecting scale, height, proportions and massing of surrounding development. The proposal should also safeguard the amenity of existing and proposed residents in terms of overlooking, overshadowing and overbearing.

6.54 The design of the building is driven by its functional requirements, however within the submission it advises:

*'the design of the new building has been directly influenced by sustainability and the standard practices to enable the reduction in their carbon footprint. Approximately, 90% of new restaurants are built using modular construction techniques, which use considerably less energy, inclusive of the reduction of the total number of deliveries to site during the build'*

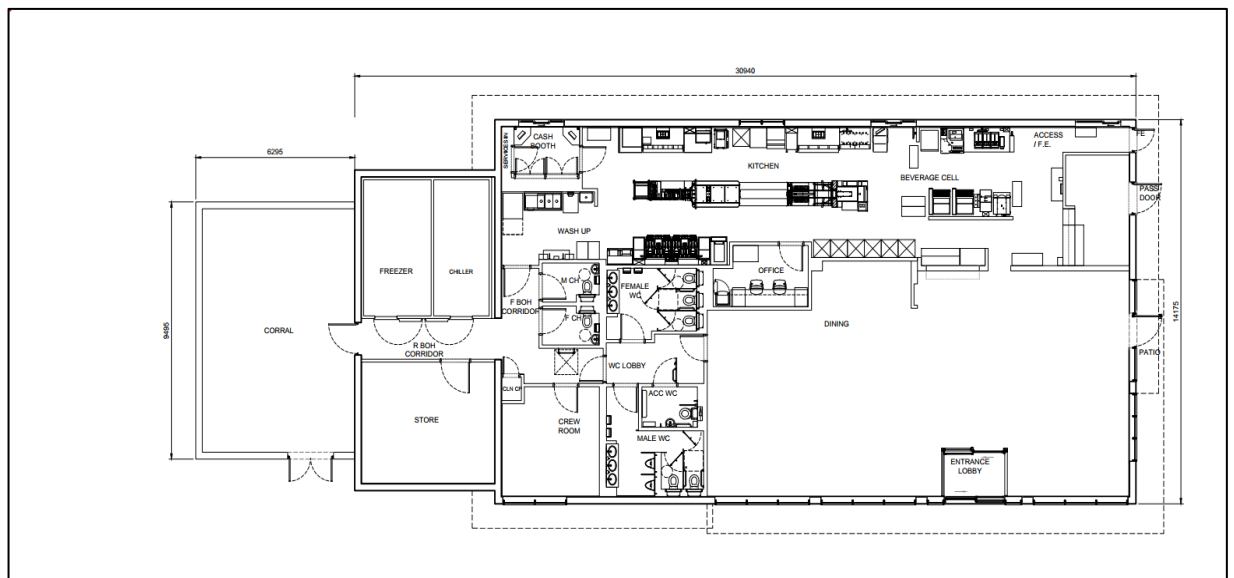
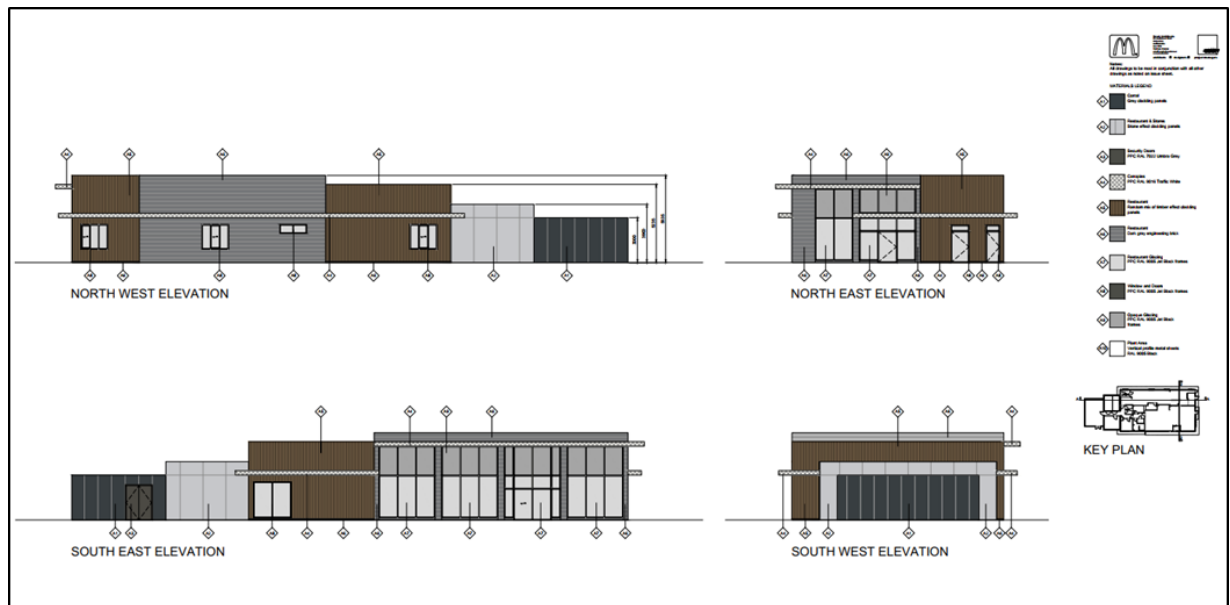
6.55 The proposed building is of a scale, mass and design that is considered appropriate to its immediate context. It would be single storey building and built out of natural and neutral colours and materials. As such the building within the site will integrate easily with the surroundings. The scale and design of the building would be consistent with a number of other drive-through style units within the immediate area. The final details of the materials have been conditioned.

6.56 It is acknowledged that a number of representations have highlighted that the site could be considered to be a prominent location and a gateway to the market town of Ross on Wye and this matter has been carefully considered.

6.57 Officers do acknowledge that this slightly elevated site is a gateway site on the edge of Ross-on-Wye but when looking at its context it is bound by two busy roads to the north and west. To the south is a new roundabout and residential development. To the east is a petrol filling service station and associated commercial buildings. However, due to the existing road side uses in close

proximity officers are satisfied that the new building would not be out of place. Officers concur with the landscape officer's opinion that even though the proposed building design is not bespoke or a landmark building the proposal is not considered to have a significant negative impact on visual amenity. The use of suitable coloured cladding, stone effect cladding and timber effect cladding would all assist to help blend the structure into the landscape. Officers also acknowledge that the site adjoins the Edenstone residential development, but consider the siting of the building to the north of the site and its accompanying landscaping to be acceptable and appropriate in regards to siting in both scale and its context as a road side use.

6.58 The proposed elevations and floor plan of the restaurant are shown below:



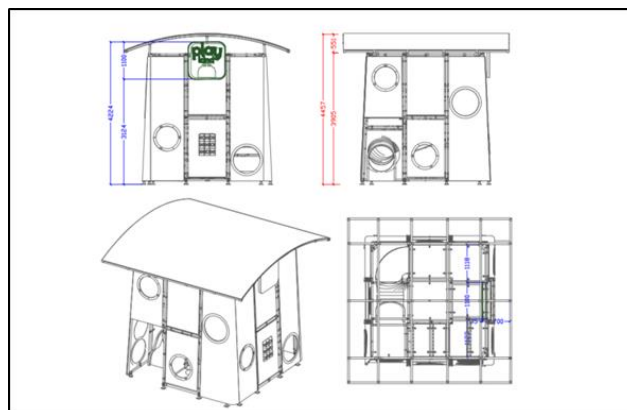
6.59 As detailed on the plans and supporting information the proposal also includes a 'fast forward lane', this allows a customer to pull forward to a third booth, if there is a small delay in the order, rather than driving through to the 'Grill Bays' allowing the traffic flow to be maintained through the drive-thru lane. The proposed Layout of the site is shown on the plan below.





6.60 The layout and siting of the building has been chosen with the overall context of the site taken into consideration. The building is located to the north of the site with associated car parking located in the in front. The integration of the drive thru lane complements the operation of the store, wrapping around the building in a clockwise orientation. Included within the layout and site is an external play area located on a patio area, with facilities for younger customers to climb and explore. This is to be located at the north eastern part of the site. The play tower structure at 4.2m high, although it is considered that this is tall it will always be seen in close proximity to the building which is 5.8m high.

6.61 The specification of the play tower structure can be seen below:.



6.62 A corral for rubbish storage is proposed at the south west of the building, where the rubbish and recycling will be stored in large containers. The design and proposed appearance is considered acceptable given its location as a road side use in its immediate context.

6.63 In general the development would not be unacceptable from a visual or character appearance satisfies Herefordshire Core Strategy policies SS6, RW1, LD1 and SD1, the design policy (EN1) of the Ross on Wye NDP and relevant aims and objectives of the NPPF.

## Transportation, access and Parking

- 6.64 Core Strategy Policy SS4 relates to movement and transportation and states new developments should be designed and located to minimise the impacts on the transport. Core Strategy Policy MT1 relates to traffic management, highway safety and promoting active travel. The policy sets out, amongst other things, development should demonstrate that the strategic and local highway network can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts can be managed or mitigated. Additionally, to ensure safe entrance and exit and have appropriate manoeuvring facilities.
- 6.65 NPPF sets out at paragraph 110 that applications for development should ensure opportunities to promote sustainable transport have been taken, safe and suitable access to the site can be achieved for all users and any significant impacts from the development on the transport network or highway safety can be mitigated. Policy MT1 of the Core Strategy is reflective of this approach, as it seeks to promote active travel and development that without adversely affecting the safe and effective flow of traffic on the highway network. Further at paragraph 111 the NPPF sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe.
- 6.66 The applicant has provided a detailed Transport Statement and following discussions with the Councils Local Highway Authority Officer, a road safety audit was initially provided. Significant concerns have been raised by respondents and the Local Highways Authority and as such further amended plans and additional information has been submitted to address these. Concerns which were raised included the traffic modelling method in respect to the effect on the primary routes of the A449 and A40 as well as the modelling of the Herefordshire council road network. Queries were identified in regards to deliveries and parking as well as home deliveries and the need for delivery driver parking. Pedestrian connectivity and highway safety have also been raised as issues of concern due to the existing boundary treatments and pedestrian being able to breach these to enter the site.
- 6.67 A revised layout was submitted in regards to acoustic fencing as well as a 1.8m high close board fence on the inside of the bund. Details in regards to the traffic modelling and additional information on the assessment of the over roundabout and A40/spine road roundabout were also supplied to demonstrate that the proposal would not have a material impact on the existing position of the Over Ross roundabout or the A40/spine road. Additionally a further traffic survey had been undertaken to check whether traffic flows have changed since the original 2019 surveys and a further assessment for the future year 2030 using these flows (growthed to 2030) has been undertaken. Flows on some arms of the Over Ross Roundabout were found to have increased, whereas some had decreased. The revised 2030 capacity assessments showed that without the roundabout improvements the A40 (south) arm of the Over Ross Roundabout would have an RFC (Required Flow Capacity) of 0.71 in the AM peak and 0.58 with the improvements, similarly in the PM peak there would be an RFC of 0.84 without the improvements and 0.66 with the improvement
- 6.68 The Highway Officer reviewed the additional modelling and was satisfied that it demonstrated that the proposal can be accommodated within the existing road network albeit with improvements to the junction. Also the highway officer further reviewed revisions and confirmed that improvements have been made to the A40 (south) approach to the Over Ross Roundabout. The improvements to the roundabout primarily consist of widening the approach lane to enable a longer two lane approach to the roundabout (ADL drawing 3166-SK-24) which, as the modelling demonstrates, has improved the operation of this approach. The proposed roundabout improvements are to be secured via an Agreement under S278 of the Highways Act. A condition has been added to secure those works.

- 6.69 Given this robust assessment the local highway authority (LHA) is of the view that the proposed improvements to the A40 (south) arm of the Over Ross Roundabout are acceptable and have the desired effect of reducing the impact to such a degree that the impact of the improvements ensures that the combination of the McDonald's traffic with the roundabout improvements has less of an impact when compared to no McDonald's traffic but the roundabout stayed as existing in both the 2028 and 2030 scenarios.
- 6.70 Highway officers have also confirmed the proposed fencing arrangements as set out on drawing 7194-SA-8492-P104 rev R are considered to be acceptable and recommended that, should any hedging die or fencing need replacing it should be conditioned that it should be replaced.
- 6.71 National Highways have been consulted and have confirmed no objection when assessing the proposal due to the vicinity of the A449 which forms part of the Strategic Road Network.
- 6.72 To conclude the proposal has been reviewed by the Local Highways Authority Area Engineer who confirmed that subject to conditions the proposal was considered to adhere to Core Strategy MT1 and the published highways design guidance. Any vehicular uplift is not considered to be severe in accordance with the NPPF, the local network having capacity to accommodate the movements, as such this does not direct the decision-maker to refusal.
- 6.73 It is recognised in the submitted comments from neighbours that there is a local concern in regards to the local traffic levels and movements and commissioned and submitted an independent traffic survey which has been reviewed and this information was considered by the local highway authority before they submitting their final comments and conclusion.
- 6.74 Areas of concern have been addressed and additional information submitted to address the potential of vehicles stacking back onto the A40 and connectivity concerns, traffic modelling and traffic flows have been reviewed by both highway officers and National Highways and they have confirmed acceptance. The requested conditions address the need for a travel plan, construction management plan, provision of electric charging points as well as cycle provision. Overall, the proposal is considered to be acceptable and in accordance with Core Strategy Policies SS4 and MT1 and alongside NDP Policies A2 and A4.

## **Health and Wellbeing**

- 6.75 Paragraph 8 of the NPPF stipulates that the planning system has three overarching objectives, including a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being.
- 6.76 Furthermore, paragraph 92 of the NPPF stipulates that planning policies and decisions should aim to achieve health, inclusive and safe places which enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.
- 6.77 Planning Practice Guidance (PPG) (Health and Wellbeing) also stresses in paragraph 001 that Planning and health need to be considered together in two ways: in terms of creating environments that support and encourage healthy lifestyles, and in terms of identifying and securing the facilities needed for primary, secondary and tertiary care, and the wider health and care system (taking into account the changing needs of the population). Paragraph 001 sets out that Public health organisations, health service organisations, commissioners, providers, and local communities can use this guidance to help them work effectively with local planning

authorities to promote healthy and inclusive communities and support appropriate health infrastructure.

- 6.78 Specifically in relation to food environments, paragraph 004 of the PPG (Health and Wellbeing) stipulates that planning proposals may need to have particular regard to evidence indicating high levels of obesity, deprivation, health inequalities and general poor health in specific locations as well as over-concentrations of certain uses within specified areas.
- 6.79 At a local level both within the Core Strategy and the Ross Neighbourhood Development Plan there are no prescriptive policies relating to health or public health linked with food outlets and how development could give rise to significant adverse effects on health and wellbeing. The Public Health Officer has commented on the proposal, indicating that they object to the development as the local authority has a statutory duty to improve the health of its local population and this duty has prompted the objection.
- 6.80 The main concerns they raise relate to the proposal will encourages car dependency at a time when the health harms of pollution and obesity which are associated with fuel emissions and a sedentary lifestyle are of particular concern locally and well documented in robust national scientific evidence. The development is in close proximity to a High School with high numbers of young people passing nearby on a daily basis and the proposal would contribute to an unhealthier living environment which would have a strong effect on the children and young people of the area, whose development into healthy adulthood is compromised by both pollution and obesity.
- 6.81 Officer acknowledge that the proposal is relatively close to John Kyrle High School, albeit officers are of the understanding the school's operating policies would not allow school/sixth form pupils to leave the premises alone during lunch breaks (unless have pass/permission from parents). It should be remembered that planning permission is being sought for a Use Class E outlet. The end user could therefore be for example, a 'salad bar' and then could later be converted into a fast food outlet without planning permission.
- 6.82 It could be argued that land use planning decisions should be just that, and that it is not the role of the planning system to seek to govern or control the availability of certain types of food or to try and address a short-coming in some people's eating habits, dietary education or levels of exercise. It is also apparent that there are also a number of other 'fast food outlets' within the vicinity of this proposed development. It is not the case that the proposed restaurant serves only unhealthy food, nor would the facility be the only eatery in the area: dietary choice exists. Similarly its construction does not result in the loss of any leisure/recreation facilities and therefore does not result in a direct impact on people's ability to remain healthy and fit.
- 6.83 Although designed and located primarily to serve passing vehicular traffic, access via non-car transport is made available and the site is not so remote that such access is unrealistic. On balance therefore, it is considered that the proposed restaurant will not lead directly to increased poor health in the local area.
- 6.84 Also, the proposal is not within an area where hot food takeaway have been excluded there is no clear policy basis for restricting the development of a Class E unit with a drive thru on the grounds of obesity demographics. It is also noted that this application is sited within an area where there is a number of fast-food restaurants in close proximity (Burger King and KFC).
- 6.85 It is clear that this proposal would increase the access for citizens of this particular ward and wider area residents to unhealthy food. As indicated above, the objection by Public Health colleague's forms part of a broader strategy by the Council to reduce obesity, promote healthy and inclusive communities and support appropriate health infrastructure consistent with the provision of the NPPF and PPG.

- 6.86 Officers acknowledge that 'The Council' has a responsibility to try and address the problems caused by poor diet and try and promote healthy living, however do not consider there is legitimate planning reason to refuse this application on these grounds. It is also noted that the site has good pedestrian and cycle connectivity and located in a sustainable location.
- 6.87 To conclude recommending approving officers are satisfied that it would not constitute a significant adverse effect on public health. The proposal is considered to be acceptable in line with the provisions of the NPPF and PPG.

### **Renewable/Sustainable energy**

- 6.88 Core Strategy policy SS7 requires focus on measures to address the impact that new development in Herefordshire has on climate change, outlining how development proposals should include measures which will mitigate their impact on climate change, with policy SD1 also seeking to support these measures. Herefordshire Council has unanimously passed a motion declaring a Climate Emergency, signalling a commitment to ensuring that the council considers tackling Climate Change in its decision-making, with this resolution came a countywide aspiration to be zero carbon by 2030; and a Climate Change Checklist to aid the consideration of development proposals.
- 6.89 Within the supporting statement additional information has been supplied in regards to the applicant and sustainability practices and their practices to reduce their carbon footprint. The proposal includes electric charging points and a condition has been added to ensure electric vehicle charging points will be incorporated as part of the Development this in line with NDP policy A4.

### **Drainage**

- 6.90 Policy SD3 of the Core Strategy states that measures for sustainable water management will be required to be an integral element of new development in order to reduce flood risk, avoid an adverse impact on water quality, protect and enhance groundwater resources and to provide opportunities to enhance biodiversity, health and recreation and will be achieved by many factors including developments incorporating appropriate sustainable drainage systems to manage surface water. For waste water, policy SD4 states that in the first instance developments should seek to connect to the existing mains wastewater infrastructure. Where evidence is provided that this option is not practical alternative arrangements should be considered in the following order; package treatment works (discharging to watercourse or soakaway) or septic tank (discharging to soakaway).
- 6.91 The site is located in low risk Flood Zone 1 and the proposed development is less than 1 hectare, as such a Flood Risk Assessment is not required. In regards to fluvial and Surface Water Flood Risk drainage officers have confirmed that there is some minor surface water flooding shown on the A449 to the north of the site, however the mapping does not take account of A449 highway drainage (managed by Highways England). It has been confirmed National Highways have advised that the highway drains do not discharge inside the proposed development site.
- 6.92 In regards to Surface water drainage there are no existing gravity public drainage system within the site boundary. Infiltration testing has confirms that discharge of surface water runoff to ground is not viable. As the proposed development will increase the amount of impermeable area at the site, it is proposed to install a piped gravity system that will connect to the adjacent private surface water sewer, serving the housing development located within the spine road to the south of the site, which ultimately discharges into Rudhall Brook. The applicant has confirmed that permission has been granted to connect into the neighbouring private surface water drainage system. Attenuation of the surface water will be provided in the attenuation basin to allow a controlled release to the brook. In regard to is foul water this will be pumped via the on-site pumping station and rising main foul sewer, which will be maintained by Welsh Water.

6.93 Welsh Water have raised no objection to the proposal, however have recommended conditions and advisory notes. The requirement of a condition requiring a drainage scheme for the site to be submitted to and approved in writing by the local planning authority is not recommended in this instance as the Council's Land Drainage officer is satisfied with the information provided as confirmed in their response above that concludes no objections to the drainage scheme as submitted. As such, officers would conclude that the application aligns with both Core Strategy policies SD3 and SD4.

### **Residential Amenity/ impact on Living Conditions**

- 6.94 Core Strategy Policy SD1 and NPPF Core Planning Principles require good standards of amenity. It is acknowledged that there are residential properties in close proximity. In terms of noise, odour and light pollution, the nearest residential property on Starling Road
- 6.95 The proposed drive thru element is to be located to the north side of the site and west of the Restaurant building. The nearest residential estate comprising of Bellway Close is to the east of the site and south. Due to the intervening distances and proposed mitigation the proposed development would not give rise to any significant impacts on residential amenity by reason of loss of light or overlooking.
- 6.96 When reviewing the proposal in regards to the potential effect of noise, vibration, smell, and other pollution, the proposal has been assessed by officers and technical officers within the Environmental Health Team.
- 6.97 As part of the submission a noise assessment (AASW Environmental Noise Assessment) and Delivery Management Plan has been submitted to support the application, which has reviewed the impacts of the development and the necessary mitigation measures this has been reviewed by Council officers as well as additional supporting detail sought and reviewed by technical officers.
- 6.98 As part of the application it is noted that: *Trading hours to be 06:00 – 00:00 as well as limiting servicing hours to 06:00 – 23:00*
- 6.99 However, following consultation with Environmental Health colleagues who raised concerns about early morning and late evening background noise the hours of operation have been amended and will be secured by a planning condition. As such the proposed operating times are between 6am and 10pm and include a restriction to prevent servicing (including delivery and waste collection) between 10pm and 7am.
- 6.100 Additionally as well as controlling hours of use and deliveries there will also be the installation of an acoustic fence to the southern and western boundaries (2.5m high as recommended by the Environmental Health Officer).
- 6.101 In regards to odour, officers are mindful that this has been raised in representation received. As part of the submission high specification extraction equipment will be required to mitigate odour problems. This includes a ducted extraction system to be fitted. The discharge point will be in excess of 1m above eaves level and level with the top of the roof screening to achieve good dispersion.
- 6.102 In addition to odour and noise, the installation of external lighting of the development could also potentially give rise to nuisance to occupiers of the dwellings to the east and south of the site, as security/flood lighting if poorly installed and set-up could cause unwarranted glare to occupiers. A condition is recommended for the submission of external lighting details such that all reasonable mitigation measures can be assessed and implemented.

6.103 Conditions shall be imposed to control the hours of working during the construction period and for the submission of a construction management plan, to limit impacts of dust and noise upon surrounding occupiers to satisfactory levels during construction. However it is noted that the proposed building will be on a modular construction which reduces the build out time and potentially should minimise disruption. For the reasons and proposed conditions given above it is considered that the proposal accords with Policy SD1 of the Herefordshire Core strategy and the NPPF in terms of safeguarding amenity.

#### **Landscaping and Trees:**

6.104 Core Strategy policy SD1 requires that new buildings should be designed to maintain local distinctiveness through incorporating local architectural detailing and materials and respecting scale, height, proportions and massing of surrounding development, while making a positive contribution to the architectural diversity and character of the area including, where appropriate, through innovative design.

6.105 The Core Strategy seeks, via policy LD1, to ensure development proposals demonstrate how the character of the landscape and townscape has positively influenced the design, scale, nature and site selection of the proposal. Development should be integrated appropriately through the use of landscape schemes and their management. Furthermore LD1 seeks to and extend tree cover where important to amenity.

6.106 As part of the submission a Landscape and Visual Appraisal (LVA, by EDP Ltd) and the Detailed Landscape Design plans have been submitted. The site is not located within any locally or nationally designated landscapes, however, it does lie adjacent to the boundary of the Wye Valley Area of Outstanding Natural Beauty (AONB) which covers approximately half of the settlement of Ross-on-Wye.

6.107 The landscape officer identifies that the landscape character as the site itself is currently agricultural land, there will be a major magnitude of change due to this development. In the immediate setting of the busy roads and nearby commercial land uses, this proposal will actually be more intrusive than the existing structures. This is owing to the commercial buildings to the north being less obvious as they are on sunken lower ground and those to the east are contained in a small section along the A40 strip so there is a sense of separation from the entrance of the town. The site also has a small degree of separation from the residential development to the south.

6.108 The landscape officer however has confirmed in their comments in the wider setting of adjoining countryside to the north and east and urban development to the south and west, it is agreed with the LVA that there would be a minor / negligible effect overall. This would be due to the introduction of cars, movement, lighting and built development, but would be offset by retaining boundary vegetation and the new planting scheme and wildlife area.

6.109 The site is adjacent to the Wye Valley Area of Outstanding Natural Beauty and is considered part of its setting. The NPPF para 176 states that “...*development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas*”. In consideration of the adjoining major roads and other built infrastructure, it is not considered that the introduction of this unit would significantly alter the approach, views, setting or character of the AONB as the AONB already covers the industrial and commercial development area to the north of the site. and represents very few of the special qualities of the Wye Valley AONB in this immediate area

6.110 Is it noted that the landscape officer has suggested that the site could ‘benefit from a unique, landmark building to enhance and compliment the beauty of the town’, however they go on to state that the proposals are not considered to have a significant negative impact on visual amenity. As the landscape officer advised ‘This is described well in the final bullet point of para

6.7 in the LVA, where' *"Careful consideration has been given to the use of external colours, materials and non-reflective surfaces. The McDonald's elevations features grey claddings, stone effect cladding and timber effect cladding. The use of natural and neutral colours help to blend the building into the landscape and the variety of finishes assist with visually breaking up the façade. Similarly the roof is finished in a visually dark recessive colour to diminish built form and break up its massing. This is also considered to be less reflective"*.

- 6.111 The landscape officer has also highlighted that the building may also be seen at night, but notes that proposed use of beam control to minimise slight spill around the boundaries and consideration of the presence of existing lighting on the road boundaries, residential areas and nearby commercial developments is satisfactory. As above, a condition is recommended to control external lighting.
- 6.112 The proposal also shows that there will be planting of new native trees and hedgerows around the site boundaries to improve habitat connectivity and within the site itself to soften the appearance of the built form to ensure it is integrated into its surrounding. There is also a 'wildlife area' which helps to separate the commercial restaurant use from the housing to the south. Amended site plans have been submitted in line with the recommendations of the Landscape Officer. This includes changes to the layout of the wildlife/pond area and the inclusion of additional wetland planting. As well as securing amendments and a 1.1m high post and rail fence on the top of the entrance mound. These amendments are considered an improvement by officers.
- 6.113 A tree survey, arboricultural impact assessment, method statement and tree protection plan have been submitted as part of the proposal. The tree officer has reviewed the proposal and supporting information. The tree officer has identified that as it is pre construction build this does not put any significant constraints on existing trees, all of which will be retained, except one, poor quality ash tree. The proposed planting plan will provide an enhancement on the green infrastructure with a good mix of indigenous varieties. A watering schedule condition has been added to ensure the trees to have an opportunity to survive. The tree officer has raised no objection.
- 6.114 The proposed development is not considered to result in any result in any material landscape or visual effects and also due to the existing topography, vegetation and existing large-scale built form in the immediate wider context this would serve to restrict inter visibility with the proposed development. However, it would be seen by the PRoW users and vehicle receptors travelling on short-sections of the A40 and A449. The landscape officer has raised no objection and concluded that the proposal is in accordance with Core Strategy Policy LD1 and LD3 due to taking into consideration landscape character and provides a landscape scheme with new green infrastructure.

## **Ecology**

- 6.115 In terms of ecology, Policy LD2 is of direct pertinence. This generally requires that proposals protect, conserve and enhance the county's biodiversity assets and make adequate provision for protected species.
- 6.116 The site is located within the hydrological catchment which comprises part of the River Wye Special Area of Conservation (SAC); and the Wye Valley and Forest of Dean Bat Sites SAC (Bat core sustenance zone), habitats recognised under the Habitats Regulations, (The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations')) as being of international importance for its aquatic flora and fauna. Natural England have been consulted and raise no objection to the conclusions. The application is supported by a Preliminary Ecological Appraisal by Practical Ecology dated May 2022 as well as a reptile survey and habitat management plan.



6.117 Ecology colleagues have raised no objection to the findings and the mitigation and enhancement measures within are secured by condition. Conditions restricting lighting to protect dark skies and securing submission of Construction Environmental Management Plan are included as per the Ecology recommendations. The proposal, subject to conditions is therefore considered acceptable, according with policy LD2, SD4 and SS6 of the Core Strategy.

## **Other Matters**

### **Litter**

6.118 The matter of litter is covered by separate Environmental Protection Act legislation, however, Paragraph 174 of the NPPF does require planning proposals to enhance the local environment by improving local environmental conditions, In response to this matter at a local level, the Applicant has stated that they will carry out three litter pick patrols every day, and are content for details of this to be conditioned on any approval. In the event of the application was minded for approval, the matter could be considered further between the Council and the Applicant

### **Vermin/pest Control**

6.119 A condition has been added for a pest management plan to be submitted to safeguard the local amenity.

### **Lighting**

6.120 A lighting plan has been provided as part of the submission and planning conditions have been added to secure details in light with consultee comments.

### **Boundary issue**

6.121 Representation has been received in regards to Plot 13 in regards to a boundary matter. This is a civil matter and the Local Authority Planning department does not intervene in these matters. It is a private matter beyond the purview of the overarching purpose of the planning system, and does not amount to a matter which can properly be taken into account as a material consideration in determining the application. Officers would also note that the applications form includes a declaration (Certificate B) in respect of ownership matters and that the applicants have confirmed that this notification has been correctly served.

### **Anti-social behaviour**

6.123 As detailed within the supporting information the restaurant shall maintain a strict protocol for ensuring noise and disturbance is kept to a minimum as well as ensuring staff deal effectively with noise or anti-social behaviour.

### **Loss of View/other non-material planning considerations**

6.124 Perceived loss of property value, loss of views, and personal opinions about the 'applicant' are not considered to be material planning considerations.

### **Existing planning use on site**

6.125 As detailed within the planning history the application site has permission for 9 dwellings which was granted under the wider consent for phase 1 for the 290 dwellings adjacent to the application site. This existing consent does not exclude a fresh application been submitted and determined on this area of land.

## Advertisements

6.126 Three further applications have been submitted for signage related to the proposed restaurant. These cover signage on the building itself, various smaller signs around the building and a free standing totem sign. The signage is not therefore a matter to be considered under this application and it would not therefore be justified to refuse this application on the basis that the signage is not acceptable. The advertisement consent applications are currently pending under consideration. The applications are:

- 222308: Installation of 6 no. fascia signs, 3 no. booth lettering signs and 1
- 222309: Various site signage including 4 no. freestanding signs, 2 no. banner
- 222321: Installation of a freestanding totem sign.

## Conclusions

6.127 The application seeks full planning permission to erect a single storey drive through and restaurant. A significant number of comments, both in support of the proposal and in objection, have been reported above. It is considered that the matters raised have been addressed in the report.

6.128 In conclusion, the applicant has justified that there is no sequentially preferable location for a drive-through restaurant. The impact of the proposal on the vitality and viability of Ross on Wye Town Centre is considered to be minimal. The design of the building is considered to be acceptable, taking into account its wider setting and the features of landscape in the immediate locality, as well as the existing residential development on the adjacent land. This takes into account the landscaping proposals to be implemented as part of this proposal. On this basis, the proposal is considered to comply with the requirements of policy SD1, LD1, RW1 and E5 and NDP policy EN1 and E2.

6.129 The impact on residential amenity is considered to be acceptable. The strategic and local highway networks can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network, that the proposals as before us now are designed and laid to achieve safe entrance and exit and have appropriate operational and manoeuvring space. The pedestrian access is acceptable as are the proposed parking arrangements. The proposed restaurant can offer a range of food choices, and other outlets are available in the wider area. Responsible adults will be able to make informed choices about their eating, lifestyle and travel habits, and to educate those entrusted to their care to do likewise. The proposal brings welcomed employment opportunities. The proposed development will result in a change to the landscape character, however the impact on visual amenity is only considered to be minor, and there are opportunities for tree and other green infrastructure retention and enhancement alongside biodiversity enhancement. . On this basis, the proposal is considered to comply with the requirements of policies LD1, SS6, MT1 and SS4 and NDP policies E2 and A4.

6.130 Matters raised can either be addressed through the imposition of conditions, or have been through revisions to the scheme throughout the application process. Overall therefore, the scheme is considered to accord with the policies of the Development Plan and is hence found to be representative of sustainable development. As such the proposal is recommended for approval subject to the appropriate conditions detailed below.

## RECOMMENDATION

That planning permission be granted subject to the following conditions and any other further conditions considered necessary by officers named in the scheme of delegation:

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

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

- 2 The development shall be carried out strictly in accordance with the approved plans:

- 7194-SA-8492-AL01E Site Location Plan
- 7194-SA-8492-AL03C Site Layout Plan - As Existing
- 7194-SA-8492-P102F Block Plan
- 7194-SA-8492-P104R Site Layout Plan - As Proposed
- 7194-SA-8492-P105A Elevations and Section
- 7194-SA-8492-P106B Ground Floor and Roof Plan
- edp6962\_d008-H-Plan EDP 7\_ Detailed Landscape Design
- 15570-HYD-XX-XX-DR-C-1600\_Drainage Strategy-P11-S2
- 15570-HYD-XX-XX-DR-C-2100\_Levels Strategy-P02
- D-461206\_CALC\_McDonalds Ross-On-Wye (R4) – Lighting
- Goal Post and McDigit COD Canopy brochure
- Standard Patio Area Supporting Specifications booklet
- E09-004 PLAY FRAME 3X3 Planning

And supporting reports

- V2 PEA Report - Land at Gloucester Road Ross-on-Wye
- V3 Habitat Management Plan Letter
- Ross on Wye Reptile Report V2
- L210820 Biodiversity Checklist
- 15570-HYD-XX-XX-RP-C-1000\_Drainage Strategy-P09-S2
- Ross on Wye - Litter Patrol Plan
- McDonalds Ross on Wye J12499C F1 – Air Quality
- McD Ross-on-Wye LZC Report (Iss.3) 05-08-22\_with Appendices – Energy Efficiency
- Climate change compliance checklist completed 16.8.21
- edp6962\_r001-E-LVA – Landscape Visual Appraisal
- 7458 McDonalds Ross on Wye ENA 10-6-21v9(30-5-22) – Noise Assessment
- 15570- 3001 -McD Ross - CEMP - P310MB
- 8600-D-AIA - Over Ross Roundabout A449 and A40 Ross-on-Wye - Rev B
- 8600 - AIA - Over Ross Roundabout A449 and A40 Ross-on-Wye - Rev B
- 3166 Travel Plan (May 2022) 26A
- 3166 Ross on Wye TA Rev A (May 2022) 26A Part 1
- 3166 Ross on Wye TA Rev A (May 2022) 26A Part 2
- 3166 Ross on Wye TA Rev A (May 2022) 26A Part 3
- 3166 Ross on Wye DMP (May 2022) 26A
- Ross on Wye Sequential Test October 2022
- Delivery Management Plan (ADL/CC/3166/12A dated December 2022)

except where otherwise stipulated by conditions attached to this permission.

Reason. To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

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Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

### **Pre-Commencement Conditions**

**3 Development shall not begin until details and location of the following have been submitted to and approved in writing by the Local Planning Authority, and which shall be operated and maintained during construction of the development hereby approved:**

- **A method for ensuring mud is not deposited onto the Public Highway**
- **Construction traffic access location**
- **Parking for site operatives**
- **Construction Traffic Management Plan**
- **Site compound location**

**The development shall be carried out in accordance with the approved details for the duration of the construction of the development.**

**Reason: In the interests of highway safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

**4 Prior to the commencement of the development**

- **details of the tree and hedge protection plan in accordance with BS5837:2012.**
- **details of the site levels and location of the soil storage**

**shall be submitted and approved in writing by the Local Planning Authority and thereafter implemented in accordance with the approved details for the duration of the construction.**

**Reason: To safeguard all retained trees during development works and to ensure that the development conforms with Policies LD1 and LD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

### **Pre Occupation Conditions**

**5 Prior to the first use of the development hereby permitted full details of a scheme for the provision of covered and secure cycle parking facilities shall be submitted to the Local Planning Authority for their written approval. The covered and secure cycle parking facilities shall be carried out in strict accordance with the approved details and available for use prior to the first use of the development hereby permitted. Thereafter these facilities shall be maintained.**

**Reason: To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy and to conform with the requirements of Policies SD1 and MT1 of Herefordshire Local Plan – Core Strategy, Ross NDP policy A2 and the National Planning Policy Framework.**

**6 Prior to the first occupation of the development hereby permitted full details of a Pest Management plan shall be submitted to the Local Planning Authority for their written approval. Pest control shall be carried out in accordance with the approved details.**

**Reason: To safeguard the amenity of the area and to ensure that that the development conforms with Policies LD1,SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

## Other stage conditions

- 7 No works in relation to any boundary treatments required by this condition shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the position, type, design and materials of any boundary treatment to be erected. The boundary treatment shall be completed before the use hereby permitted is commenced and shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity, to ensure the development has an acceptable standard of privacy and to conform to Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 8 Before any other works hereby approved are commenced, visibility splays, and any associated set back splays at 45 degree angles shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site 2.4m x 30m to the west and 2.4m x 43m to the east along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above. The construction of the vehicular access shall be carried out in accordance with a specification to be submitted to and approved in writing by the Local Planning Authority, at a gradient not steeper than 1 in 12.

Reason: In the interests of highway safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 9 Development shall not begin in relation to any of the specified highways works until details of the roundabout improvements (ADL drawing 3166-SK-24 via S278) have been submitted to and approved by the local planning authority in writing following the completion of the technical approval process by the local highway authority.

The development shall not be occupied until the scheme has been constructed in accordance with the approved details.

Reason: To ensure the safe and free flow of traffic on the highway and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy Plan and the National Planning Policy Framework.

- 10 With the exception of any site clearance and groundwork, no further development shall take place until details or samples of materials to be used externally on walls and roofs have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure that the materials harmonise with the surroundings so as to ensure that the development complies with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy, Ross NDP policy EN1 and the National Planning Policy Framework.

## Compliance Conditions

- 11 The Construction Environmental Management Plan (CEMP) by Hydrock dated June 2022 shall be implemented and remain in place until all work is complete on site and all

equipment and spare materials have finally been removed; unless otherwise agreed in writing by the local planning authority.

**Reason:** To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), Herefordshire Local Plan - Core Strategy policies LD1, LD2 and LD3.

- 12 The Travel Plan which contains measures to promote alternative sustainable means of transport for staff and visitors with respect to the development hereby permitted shall be implemented, in accordance with the approved details, on the first occupation of the development.

A detailed written record shall be kept of the measures undertaken to promote sustainable transport initiatives and a review of the Travel Plan shall be undertaken annually. All relevant documentation shall be made available for inspection by the local planning authority upon reasonable request.

**Reason:** In order to ensure that the development is carried out in combination with a scheme aimed at promoting the use of a range of sustainable transport initiatives and to conform with the requirements of Policies SD1 and MT1 of Herefordshire Local Plan – Core Strategy, Ross NDP policy A2 and the National Planning Policy Framework.

- 13 The use hereby permitted shall not be operational / open to customers outside of the following times of

- 06:00 - 22:00 hours daily

**Reason:** To avoid the risk of disturbance to neighbouring dwellings from noise during unsocial hours and safeguard the amenities of the locality and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 14 No deliveries or waste collection shall be taken at or despatched from the site between

- 22.00 and 07:00 hours daily

**Reason:** To avoid the risk of disturbance to neighbouring dwellings from noise during unsocial hours and safeguard the amenities of the locality and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 15 All mitigation set out in the AASW Environmental Noise Assessment dated 30th May 2022 (Rev.9) be installed in full prior to the first use of the development hereby permitted and shall be maintained in good working order in perpetuity.

**Reason:** To ensure that noise outside the premises are minimised in the interests of the amenity of occupiers of nearby properties and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 16 All surface water shall discharge through a private system serving the adjacent housing development. This system eventually discharges to the Rudhall Brook.

**Reason:** In order to comply with The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), National Planning Policy Framework,

**NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD2 and SD3.**

- 17 The hard and soft landscape works shall be carried out in accordance with the approved details as shown in the detailed landscape plan - drawing number - edp6962\_d008g including the watering schedule before any part of the development is brought into use in accordance with the agreed implementation programme.**

**The completed scheme shall be maintained in accordance with an approved scheme of maintenance which shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development.**

**Reason: To ensure implementation according to the hard and soft landscape works plan agreed with local planning authority and in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.**

- 18 All foul water, created by the development approved by this permission shall discharge through connection to the local mains sewer system managed by Welsh Water.**

**Reason: In order to comply with The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD2 and SD4.**

- 19 The ecological protection, mitigation, compensation and working methods scheme as recommended in the Preliminary Ecological Appraisal by Practical Ecology dated May 2022 shall be implemented and hereafter maintained in full as stated unless otherwise approved in writing by the Local Planning Authority prior to the occupation of the development.**

**Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), Herefordshire Local Plan - Core Strategy policy LD2.**

- 20 At no time shall any external lighting be installed on the site without the written approval of this Local Planning Authority.**

**No external lighting should illuminate any boundary feature, adjacent habitat or area around the approved mitigation and biodiversity enhancement features.**

**No external lighting should illuminate any enhancement or boundary feature.**

**Reason: To ensure that all species and Dark Skies are protected having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), Herefordshire Local Plan - Core Strategy policies SS6, LD1, LD2 and LD3 and the Dark Skies initiative (DEFRA-NPPF 2013/18).**

- 21 The electric vehicle charging points as shown on drawing no 7194-SA-8492-P104R Site Layout Plan - as proposed shall be installed prior to first occupation and be maintained and kept in good working order thereafter as specified by the manufacturer.**

**Reason: To address the requirements policies in relation to climate change SS7, MT1 and SD1 of the Herefordshire Local Plan Core Strategy, to assist in redressing the Climate**

Emergency declared by Herefordshire Council, Ross NDP policy A4 and to accord with the provisions at paragraphs 108 and 110 of the National Planning Policy Framework.

- 22 No additional external flues or extractor equipment shall be installed at the premises without the prior written approval of the Local Planning Authority.

Reason: In the interests of the amenity of the area and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 23 The submitted scheme for the ventilation of fumes and odours arising from the use hereby permitted as detailed with supporting statement (common ducted extraction system) shall be installed and made fully operational before the development is operational, and thereafter it shall be operated and maintained, as long as the use continues.

Reason: In order to ensure that fumes and odours are properly discharged and in the interests of the amenities of residential property in the locality so as to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 24 The premises shall be used for a restaurant and a drive through/hot food takeaway (Sui Generis) use and for no other purpose (including any other purpose in the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: The Local Planning Authority wish to control the specific use of the land/premises, in the interest of local amenity and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

#### INFORMATIVES:

- 1 Application Approved Following Revisions (IP2)
- 2 The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991).

The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com)

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times. In accordance with National Planning Policy Framework (Edition 11) and Technical Advice Note 12 (Design), the applicant is advised to take a sustainable approach in considering water supply in new development proposals, including utilising approaches that improve water efficiency and reduce water consumption.



We would recommend that the applicant liaises with the relevant Local Authority Building Control department to discuss their water efficiency requirements. The approved use should investigate an adequate grease trap to be fitted, in accordance with environmental health regulations, and maintained thereafter so as to prevent grease entering the public sewerage system.

- 3 This permission does not authorise the display of any advertisements on the site (including any shown on the plans accompanying the application). Separate application should be made to Herefordshire Council in accordance with the Town and Country Planning (Control of Advertisements)(England) Regulations 2007.
- 4 The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended), with enhanced protection for special “protected species” such as all Bat species, Great Crested Newts, Badgers and other wildlife that are present and widespread across the County. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it advised that further advice from a local professional ecology consultant is obtained.
- 5 This permission does not authorise the display of any advertisements on the site (including any shown on the plans accompanying the application). Separate application should be made to Herefordshire Council in accordance with the Town and Country Planning (Control of Advertisements)(England) Regulations 2007.
- 6 In connection with Condition 12 the applicant is advised that in the case where a Travel Plan currently exists the Condition will require a full review of the Plan and a revised submission to the Council. Travel Plan reviews and for this a request should be made to the Sustainable Transport Officer, Herefordshire Council Transportation Unit, PO Box 236, Plough Lane, Hereford, HR4 0WZ

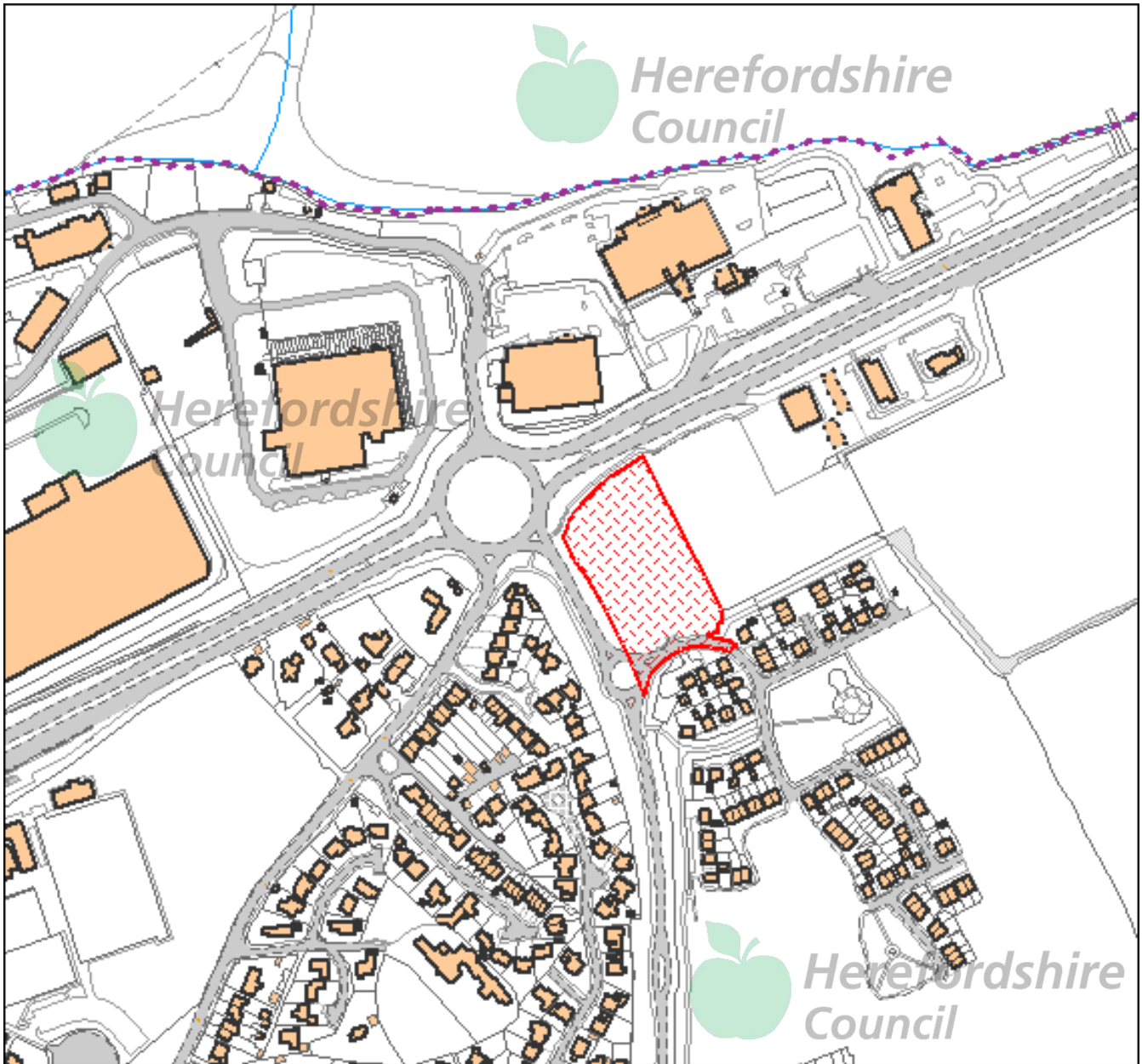
Decision: .....

Notes: .....

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**Background Papers**

None identified.



This copy has been produced specifically for Planning purposes. No further copies may be made.

**APPLICATION NO:** 222314

**SITE ADDRESS :** LAND AT GLOUCESTER ROAD (A40 A449 JUNCTION), ROSS ON WYE, HEREFORDSHIRE

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